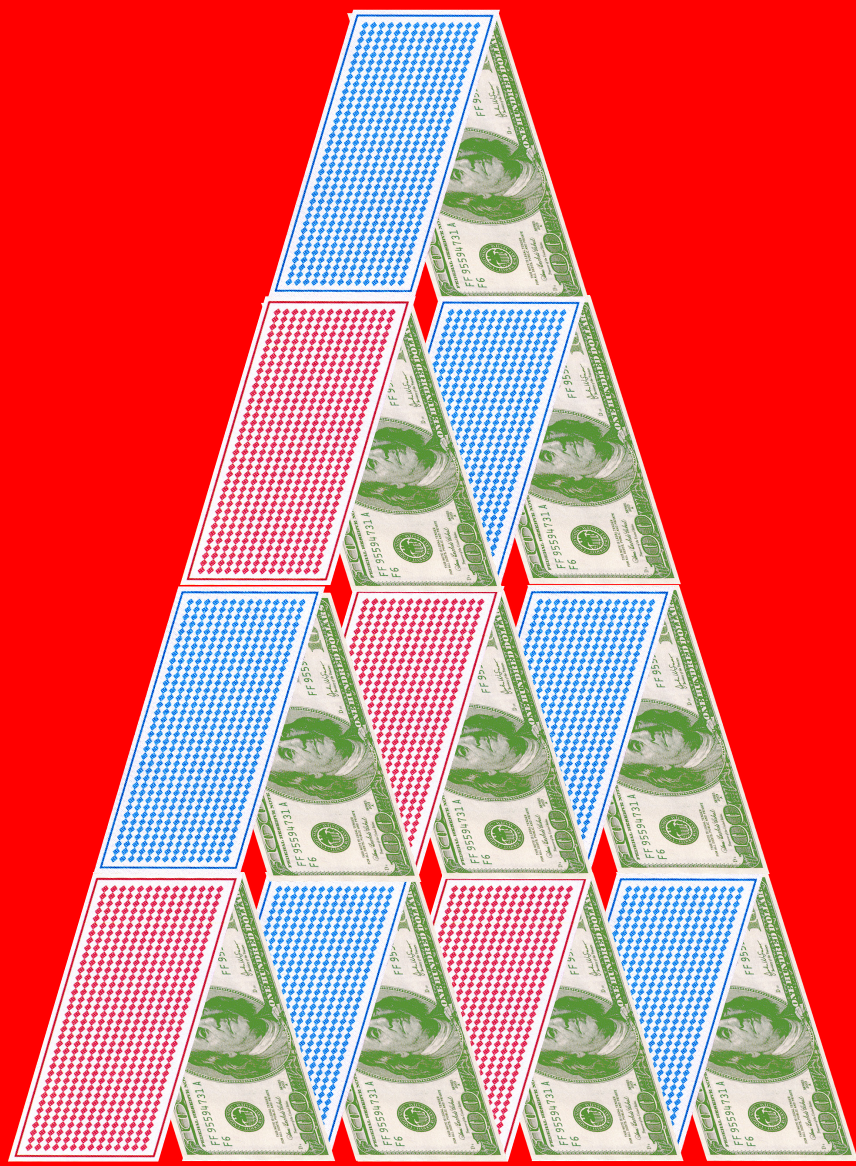


Dēmos

# Stacked Deck

## How the Racial Bias in Our Big Money Political System Undermines Our Democracy and Our Economy

*by* ADAM LIOZ

### About Demos

Demos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy.

### Acknowledgments

This paper was a true collaborative effort with several colleagues at Demos and beyond. The author would like to acknowledge the following people for providing invaluable feedback and insight, substantial research assistance, or design and layout: Demos President Heather McGhee; Demos Vice President for Policy & Research Tamara Draut; Demos Vice President for Legal Strategies Brenda Wright; Demos Vice President for Policy & Outreach Lenore Palladino; Demos Communications Director Elektra Gray; Demos Director of Advocacy Jodeen Olguin-Tayler; Demos Policy Analyst Karen Shanton; Demos Senior Policy Analyst Amy Traub; Demos Senior Policy Analyst Mark Huelsman; Demos State Affairs Manager Emmanuel Caicedo; Demos Counsel Liz Kennedy; Demos Digital Manager Joseph Hines; Demos Digital Communications Associate Gwyn Ellsworth; Demos Research Assistant Sean McElwee; Demos Legal Fellow Seth Endo; Demos Legal Intern Imre Ilyes; Demos Emerging Voices Fellow Reniqua Allen; Demos Senior Fellow and John H. Boalt Professor of Law at the University of California, Berkeley Ian Haney López; PolicyLink Associate Director (and former Demos Policy Analyst) J. Mijin Cha; Democracy Initiative Executive Director Marissa Brown; Democracy Initiative Senior Advisor Greg Moore; Public Campaign Research Director Tam Doan; Race Forward President Rinku Sen; Prison Policy Initiative Executive Director Peter Wagner; Common Cause Policy Counsel Steve Spaulding; Center for Responsible Lending Vice President & Director of Federal Policy Gary Kalman; Prison Legal News Managing Editor Alex Friedmann; Brennan Center Jurisprudence Fellow and Yale Law School Arthur Liman Public Interest Program Director Johanna Kalb; Piper Fund Program Director Melissa Spatz; Piper Fund Program Officer Trellis Stepter; Sierra Club Democracy Program Director Courtney Hight; Lawyers' Committee for Civil Rights Under Law Director of Public Policy Tanya Clay House; Asian Pacific Islander American Health Forum Policy Director Priscilla Huang; National Latino Farmers and Ranchers Trade Association President and Rural Coalition/Coalición Rural Board Member Rudy Arredondo; Rural Coalition/Coalición Rural Legal Intern Gary Redding; and AFL-CIO Program Coordinator Rebecca Apostol. The positions taken in the paper are Demos' and the mistakes are the author's alone; neither should be ascribed to any of the reviewers or contributors who gave so generously of their time and expertise.

**demos.org**

220 Fifth Avenue, 2nd Fl.
New York, NY 10001

**Media Contact**

EGRAY@DEMOS.ORG
212.633.1405 EXT. 551

# TABLE OF CONTENTS

## FOREWORD

Dear Readers,

Demos means "the people" of a nation, and it is the root word of democracy. Yet the diverse members of our extraordinary American demos have never enjoyed equal access to the rights and freedoms of democracy. Our founders set out the aspiration for a democracy where everyone had an equal say, but it has taken movements of people over generations to expand the promise of full citizenship to all Americans, from the Reconstruction Amendments, through women's suffrage, the Voting Rights Act, the 26th Amendment, and beyond. In many ways, America's history has been a march towards greater political equality.

Today, that struggle continues. After the election of our first African American president and record levels of voting by people of color, reactionary politicians have erected more barriers for citizens than we have seen in 40 years. Today, voting freedoms of millions of Americans are unduly burdened or denied altogether and millions of aspiring citizens await their own chance to have a vote—leaving America with an electorate that is not at all representative of our diverse demos.

At the same time that the rights of citizenship are becoming more difficult to attain, the Supreme Court's dismantling of campaign finance rules has led to the hollowing out of the ultimate promise of citizenship: a say over the policies that shape our lives. Demos' 2013 report *Stacked Deck: How the Dominance of Politics by the Affluent and Business Undermines Economic Mobility in America* revealed that the dominance of politics by the wealthy and organized business interests has left the majority of Americans with little to no independent influence over policy, particularly unable to win reforms that would improve economic mobility at a time of worsening inequality. *Stacked Deck* sounded the alarm about a growing class of super-citizens, whose increasing influence contrasted jarringly with the diminished citizenship rights of so many Americans of color.

This follow-up report, *Stacked Deck: How the Racial Bias in Our Big Money Political System Undermines Our Democracy and Our Economy*, reveals how the distortions of money in politics also hold back the policies that would advance racial equity and fulfill the promise of a multiracial democracy. It finds that a campaign system dominated by a narrow set of donors who are overwhelmingly (at least 90 percent) white diminishes the importance of communities of color to our elected officials as a whole. Underrepresented in government and among the wealthy interests with the most access to government, African Americans, Latinos, Asian Americans and Native Americans are less able to win policies that would improve their communities, on issues from fair lending to criminal justice. A provocative implication of the report's findings is that the leadership of the movement for a representative democracy must itself be more representative, a challenge that we at Demos are taking up directly through new partnerships with racial and economic justice organizations.

At Demos, we believe that our great diversity is what makes the experiment of American democracy a beautifully radical one, and one that is far from finished. The conclusions of this report call on us to admit that designing a system of campaign finance that is not biased by race or class is not only fair, but it is the only way that America can truly be a democracy—with a government of, by, and for *all* the people.

Heather C. McGhee
*President*

# EXECUTIVE SUMMARY

One hundred and fifty years after the Reconstruction Amendments and more than a generation after the civil rights revolution, achieving true racial equity remains a central challenge of our time. Both structural barriers and racially biased policies contribute to a racial wealth and income gap that is higher today than at any point since the Federal Reserve began tracking it 30 years ago. And the drive for racial equity in America faces a serious headwind: the role of private wealth and big business in our political system. The undemocratic role of big money is especially exclusionary for people of color, who are severely underrepresented in the "donor class" whose large contributions fuel campaigns and therefore set the agendas in Washington and state capitals across the country.

Race intersects with our big money system in two important ways. First, because donor and corporate interests often diverge significantly from those of working families on economic policies such as the minimum wage and paid sick leave, people of color are disproportionately harmed because a larger percentage are poor or working class. Second, and more profound, our nation's legacy of racism and persistently racialized politics depresses the political power of people of color, creating opportunities for exploitation and targeting—exemplified by the subprime lending crisis, mass incarceration, and voter suppression laws. The dominance of big money in our politics makes it far harder for people of color to exert political power and effectively advocate for their interests as both wealth and power are consolidated by a small, very white, share of the population.

Summarized below are this study's findings on (1) the racial bias inherent in our big-money political system; (2) our policy recommendations on how to make government more responsive to all people; and (3) five case studies detailing the real-world impact of money in politics on people of color and examples of how to shift power from wealthy interests to all voters.

## THE RACIAL BIAS INHERENT IN OUR BIG-MONEY POLITICAL SYSTEM

- Recent research has demonstrated that a) the rich have different policy preferences than the general public; and b) the government is sharply more responsive to the preferences of the wealthy than to those of the average voter.
- The *economic* bias in our political system creates and sustains similar *racial* bias because the donor class as a whole and campaign contributors specifically are overwhelmingly white; and because the policy preferences of people of color are much more similar to those of the rest of the general public than to those of the rich.

    - The top 10 percent of wealth holders are more than 90 percent white, whereas the rest of the country is less than 70 percent white.
    - A significant majority of campaign money at the federal and state levels comes from a small number of elite donors (less than 1 percent of the population) making large contributions (of $1,000 or more).
    - More than 90 percent of $200+ federal contributions in the 2012 election cycle came from majority white neighborhoods.
    - When asked whether it's more important to create jobs or hold down the deficit, people of color agree with lower-income Americans that creating jobs is the clear priority, whereas the wealthy have the opposite view.

- Elections funded primarily by wealthy, white donors mean that candidates as a whole are less likely to prioritize the needs of people of color; and that candidates of color are less likely to run for elected office, raise less money when they do, and are less likely to win. Ultimately, people of color are not adequately represented by elected officials.

    - A recent study of black candidate success concluded that "the underrepresentation of blacks is driven by constraints on their entry onto the ballot" and that the level of resources in the black community is "an important factor for shaping the size of the black candidate pool."

- Candidates of color raised 47 percent less money than white candidates in 2006 state legislative races, and 64 percent less in the South.
- Latino candidates for state House raised less money than non-Latinos in 67 percent of the states where Latinos ran in the 2004 election cycle.
- In a typical election cycle, 90 percent or more of the candidates who raise the most money win their races.
- Ninety percent of our elected leaders are white, despite the fact that people of color are 37 percent of the U.S. population.
- Latinos and Asians are more than 22 percent of the population, but hold fewer than 2 percent of the elected positions nationwide.
- In 2009, just 9 percent of all state legislators were African American and 3 percent Latino, compared with 13.5 percent and 15.4 percent of the total population, respectively.
- In a 2011 study, researchers found that white state legislators of both major political parties were less likely to reply to letters received from assumed constituents with apparently African American names (like “DeShawn Jackson”).
- Record corporate political spending on election campaigns and lobbying has amplified the political exclusion of people of color.
- The policy outcomes resulting from this big-money campaign finance system fail to address the needs of people of color, and in some cases actively restrict progress on racial equity in America.

## POLICY RECOMMENDATIONS

The pathway to a fairer country is through a stronger democracy. A key to promoting economic mobility and racial justice for people of color is to give these communities more say over the decisions that affect their daily lives.

To accomplish this we need to both curb the influence of the wealthy, white "donor class" and amplify the voices of all Americans, including people of color, so that elected officials will listen to and work for all of their constituents, not just a privileged few. This requires reclaiming our Constitution from a runaway Supreme Court and matching small political contributions with public funds.

### *Restoring Our Constitution*

In cases such as *Buckley v. Valeo*, *Citizens United v. FEC*, and *McCutcheon v. FEC*, the Supreme Court has stepped in to dismantle democratically-enacted policies intended to prevent wealthy interests from translating economic might directly into political power.

- We can transform the Supreme Court's approach to money in politics so the Court overturns its own bad decisions—just like the justices have reversed course on New Deal economic protections, racial segregation, LGBT rights, and more. We can accomplish this by developing and promoting robust interpretive frameworks that go beyond fighting corruption as compelling values that our Constitution protects; mobilizing allies across the political spectrum and within the legal community to support these ideas; ensuring that newly appointed justices share the public's common-sense understanding of the role that money should play in our electoral system; passing cutting-edge laws at the state and local levels; and fighting back in the courts to establish an enduring interpretation of the Constitution that empowers the people to pass sensible limits on the use of big money.
- We can amend the Constitution to clarify that the people have the power to rein in the influence of big money.

### *Matching Small Contributions with Public Funds*

The best way to encourage candidates to listen to constituents and help people of color have their voices heard in the political process is to match small contributions with public funds.

- Matching small contributions six-to-one or more and providing a voucher or tax credit to small donors can encourage millions of Americans to participate through $25 or $50 contributions that actually matter, providing the incentive for candidates to reach out to—and listen to—average voters, not just big donors.
- Studies of New York City's matching system and similar grant-based systems in Arizona and Connecticut have shown that such programs can significantly increase the diversity of the donor base and help more candidates of color run for office and win elections.
- The Government By the People Act (H.R.20) and the Fair Elections Now Act (S.2023) are leading proposals to bring a small donor matching system to the federal level.

## GROWING MOMENTUM

Fundamental change is always difficult to achieve, but momentum is growing for several reasons. The silver lining of the Supreme Court's extreme interventions on money in politics has been unprecedented public awareness and concern. A growing list of civil rights, environmental, workers' rights and other progressive organizations are coming together to embrace the insight that enacting transformative change around their first priority issues requires strengthening our democracy and reducing the role of big money. Public support for common sense solutions remains exceptionally strong across party and ideological lines. There have been important recent victories, with the prospects for bigger wins on the horizon. Together, these factors provide real cause for optimism in the face of a daunting problem.

## CASE STUDIES ON MONEY IN POLITICS AND RACIAL EQUITY

Three case studies demonstrate how big money thwarts progress on racial equity; a fourth shows how a fairer system for electing public officials can lead to policies that better serve our communities; and a fifth tells the story of how a community-based organization is building the power of people of color to fight back. And, the stories illustrate the two basic ways race interacts with our big money system. The first two case studies examine how the power of big money combined with systemic racism has fueled two of the most destructive policies targeted toward people of color: the prison industrial complex and predatory mortgage lending. The third and fourth case studies examine two ostensibly race-neutral policies—the minimum wage and paid sick days—that have disproportionate impact on the lives of people of color, who are over-represented among the working class.

- *Private Prisons and Incarceration.* Incarceration in the U.S. has increased by 500 percent over the past three decades, with people of color vastly over-represented in our nation's prisons and jails. This is the result of policies that have put more people in jail for longer sentences despite dropping crime rates, policies boosting the bottom line of the growing private prison industry.
- *The Subprime Lending Crisis.* Because of rampant discriminatory lending practices, the subprime-lending crisis hit people of color especially hard. Banks and other mortgage lenders used millions of dollars of political contributions and lobbying to weaken and circumvent consumer-friendly regulations, resulting in the largest loss of wealth in communities of color in American history.
- *The Minimum Wage.* The federal minimum wage has remained stagnant, losing real value over the past several decades. Raising the wage to $10.10 an hour would lift more than 3.5 million workers of color out of poverty, but Congress has instead prioritized policies favored by the wealthy.
- *Paid Sick Leave.* The U.S. is one of the only prosperous democracies that does not guarantee even minimal paid sick leave to all employees, which would improve public health and disproportionately benefit Latino workers. A paid sick leave proposal was bottled up in the Connecticut legislature until the state passed a "fair elections" system that enabled candidates to run for office without depending upon wealthy donors and special interests. Following this change, Connecticut became the first state in the nation to guarantee paid sick leave.
- *Voting Rights in Minnesota.* TakeAction Minnesota recently demonstrated how organizing in communities of color can help defeat restrictions on the freedom to vote. Now, as they turn to expanding the franchise for formerly incarcerated people, TakeAction and its allies are building power for a multi-year strategy that connects voting rights and money in politics, breaking down silos and continuing to build the movement for a fairer and more inclusive democracy.

# INTRODUCTION

The one ideal that nearly all Americans can agree upon is that through hard work and determination everyone should have a chance to improve her life circumstances regardless of race, gender, or class. At the same time, Americans strongly believe in political equality—the notion that civic life should be a level playing field and everyone should have an equal voice in the decisions that affect their lives. Yet today, there is widespread recognition that our nation is not living up to either of these cornerstone ideals.

New research demonstrates that economic inequality is deepening[1] and that this trend is likely to continue without aggressive intervention.[2] This widening gulf between the rich and the rest of us, combined with lax rules that facilitate the direct translation of economic might into political power, has produced a system in which our government is sharply more responsive to the needs and priorities of the wealthy than to the public as a whole—a system that appears to more closely resemble a plutocracy or an oligarchy than a government of, by, and for the people.[3]

People of color experience this gap between our ideals and our reality even more sharply than do white Americans, as the historical legacy of exclusion from both our economy and our democracy remains deeply embedded in current social and economic structures. Both structural barriers and biased policies contribute to a racial wealth and income gap that is higher today than at any point since the Federal Reserve began tracking it 30 years ago.[4] Mass incarceration—driven by a misguided drug war—has ravaged entire communities.[5] And, people of color face daily indignities from racist "stop and frisk" style policing,[6] with the increasing militarization of local law enforcement driving up the stakes of each encounter.[7] One hundred and fifty years after the Reconstruction Amendments and more than a generation after the civil rights revolution, achieving true racial equity remains a central challenge of our time.

But the drive for racial equity in America faces a serious headwind: the role of private wealth and big business in our political system. The undemocratic role of big money is especially exclusionary for people of color, who are severely underrepresented in the "donor class"[8] whose large contributions fuel campaigns and therefore set the agendas in Washington and state capitals across the country.

Money and politics have been linked since the beginning of our republic. Concentrated private wealth has long played an outsized role in our electoral and political systems, and politics has long been a rich man's game. For example, over the past two centuries only two percent of members of Congress have come from working class backgrounds.[9] And, in 2002, congressional candidates received the majority of the money they raised from individuals in contributions of at least $1,000—from just 0.09 percent of the population.[10]

The American people are well aware of the undemocratic role of big money in our political system and throughout our history have taken concerted action to mitigate its effects.[11] But, time and again, the Supreme Court has stepped in to eviscerate basic protections against translating wealth directly into political power.[12] In 1976, the Court struck key provisions of Congress's post-Watergate reform law and signaled its skepticism of policies intended to limit the role of big money.[13] Two recent rulings, *Citizens United v. FEC*[14] and *McCutcheon v. FEC,*[15] have opened the door to unlimited outside spending by billionaires and corporations, and shifted the balance of power in candidate fundraising even more sharply towards the elite "donor class" and away from ordinary citizens.[16] These cases have made a bad situation far worse, with large majorities of Americans correctly perceiving that government is far more responsive to the priorities of the narrow donor class than to the needs of the general public.[17]

The consequences have been severe. In our 2013 report *Stacked Deck: How the Dominance of Politics by the Affluent and Business Undermines Economic Mobility in America*, Demos examined how deficits in our democracy lead to policies that benefit the already-rich, stalling economic mobility and undermining basic economic security for working families struggling to stay afloat.[18] This report focuses specifically on how our big money system holds back the cause of racial justice, by examining the disproportionate damage political and economic inequality has wrought in communities of color.

Race intersects with our big money system in two important ways. First, race intensifies the exclusion of people of color because they are less affluent, on average, than whites. The interests of large donors and major corporations often diverge significantly from those of working families on core economic policies, and when government is more responsive to the donor class, people of color are disproportionately harmed. Second, and more profound, our nation's legacy of racism and persistently racialized politics creates opportunities for exploitation. The dominance of big money in our politics restrains the political power of people of color, making it harder to push back successfully against attacks on historically marginalized communities.

We begin the report by analyzing how our big money campaign finance system entrenches political inequality for people of color, marginalizing the voices of communities that have already faced countless barriers to full and equal participation in our political system. We then provide concrete policy recommendations for forging a democracy in which the strength of one's voice does not depend upon the size of her wallet.

Finally, we examine the role that money in politics plays in five specific areas of policymaking that have profoundly and disproportionately affected people of color: 1) the growth of the private prison industrial complex; 2) the subprime lending crisis; 3) the stagnant minimum wage; 4) the recent passage of paid sick leave legislation in Connecticut after the enactment of publicly funded elections; and 5) the fight to protect basic voting rights.

These case studies illustrate the distinct ways in which race intersects with our big money system. The first two examine how the power of big money combined with systemic racism has fueled two of the most destructive policies targeted toward people of color. The third and fourth stories examine generally applicable policies that may not be a direct result of clear racial targeting and yet have had disproportionate impact on the lives of people of color, who are over-represented among the poor and working class. In addition, the Connecticut paid sick days example shows what we can accomplish when our elected officials have the opportunity to run for office by appealing to ordinary voters, not just wealthy donors and special interests; and the final story demonstrates how organizing in communities of color to protect the freedom to vote can build long-term power to address the role of money in politics.

The goal is to connect the dots and make explicitly clear what many already suspect or feel: that our political system underserves communities of color; that the outsized role of large campaign contributions from a small number of wealthy, white contributors is a key reason; and that solving this problem is a critical component in the larger drive for racial equity in America.

Let us be clear: people of color have always been underserved by the political structures in the United States; that is nothing new. What is novel, and dangerous, is how comprehensively wealth has come to dominate our politics, how easily and smoothly business elites and other wealthy interests are able to translate economic might into political power. We are caught in a vicious cycle in which the rich pour money into elections; secure political power; and write rules that keep themselves wealthy and the rest of us struggling to get ahead. This is a cycle that builds upon itself in a dangerous feedback loop. And, it's a cycle that freezes out people of color and entrenches existing hierarchies based upon centuries of race-based oppression.

This is an old problem with new urgency. Solving it remains part of the unfinished business of the civil and voting rights movement.[19]

## THE RACIAL BIAS INHERENT IN OUR BIG-MONEY POLITICAL SYSTEM

The initial *Stacked Deck* report highlights how affluent and business interests dominate both political participation and campaign spending, and as a result are able to set the policy agendas in Congress and state capitols, and translate their priorities into actual legislation—policies that benefit the already-wealthy at the expense of building a strong and diverse middle class. The key elements of this story are that a) the rich have different policy preferences than the general public, and do not prioritize policies that support economic mobility; and b) the government is sharply more responsive to the preferences of the wealthy than to those of the average voter.

Princeton scholar Martin Gilens examined the connection between public preferences and policy outcomes in his important 2012 book Affluence and Influence, and he concluded that:

> *The American government does respond to the public's preferences, but that responsiveness is strongly tilted toward the most affluent citizens. Indeed, under most circumstances, the preferences of the vast majority of Americans appear to have essentially no impact on which policies the government does or doesn't adopt. . . . .The complete lack of government responsiveness to the preferences of the poor is disturbing and seems consistent only with the most cynical views of American politics . . . . [M]edian income Americans fare no better than the poor when their policy preferences diverge from those of the well-off.*[20]

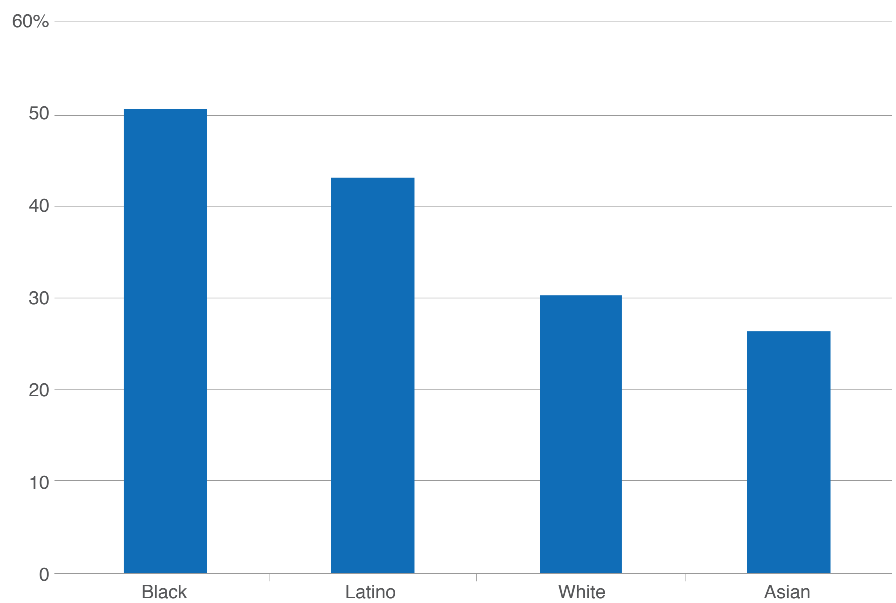
Strikingly, when the preferences of the top 10 percent of income earners diverge from the rest of us, the 10 percent trumps the 90 percent. And, as Larry Bartels wrote in his 2008 study Unequal Democracy, "the preferences of people in the bottom third of the income distribution have no apparent impact on the behavior of their elected officials."[21]

More recent research by Gilens and the Northwestern political scientist Benjamin Page has confirmed this troubling conclusion. Gilens and Page find that "economic elites and organized groups representing business interests have substantial independent impacts on U.S. government policy, while mass-based interest groups and average citizens have little or no independent influence."[22] They conclude that "[i]n the United States…the majority does not rule—at least in the causal sense of actually determining policy outcomes."[23]

## THE DONOR CLASS IS OVERWHELMINGLY WHITE

While this bias toward the rich is troubling for all Americans, the concern is amplified for communities of color. Due to historical and persistent structural inequalities, people of color are underrepresented among the wealthy who drive policy outcomes and over-represented in the bottom third of the income distribution—the millions of people who Bartels finds have no discernable influence on the policies that affect their lives. More than half of African American households and close to half of Latino households have incomes that put them at the bottom third of the income distribution (see Figure 1).

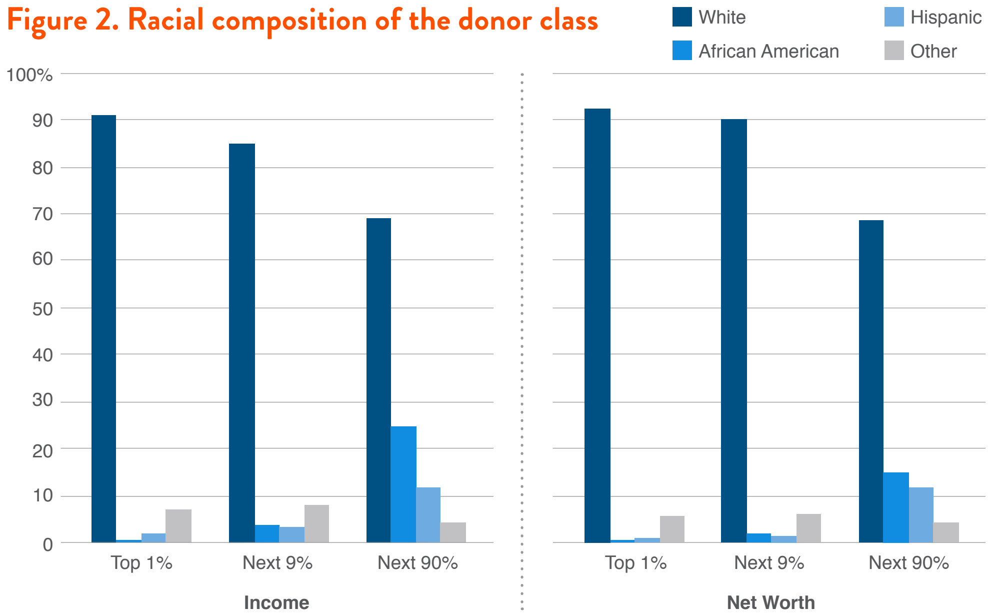
**Figure 1. Share of US households in the lowest third of the income distribution**




**Source:** Demos calculations of Current Population Survey, 2013

In contrast, the top income strata are overwhelmingly white. The top one percent of income earners are more than 90 percent white, and the top 10 percent are approximately 85 percent white (compared to 63 percent of the population).[24] The same goes for total wealth, which is likely a better reflection of the ability to influence politics (see Figure 2).[25]

**Figure 2. Racial composition of the donor class**




**Source:** Lisa Keister, The One Percent, 40 Ann. R. of Sociology 347 (2014)

## THE WHITE DONOR CLASS DOES NOT SHARE THE VIEWS OR PRIORITIES OF PEOPLE OF COLOR

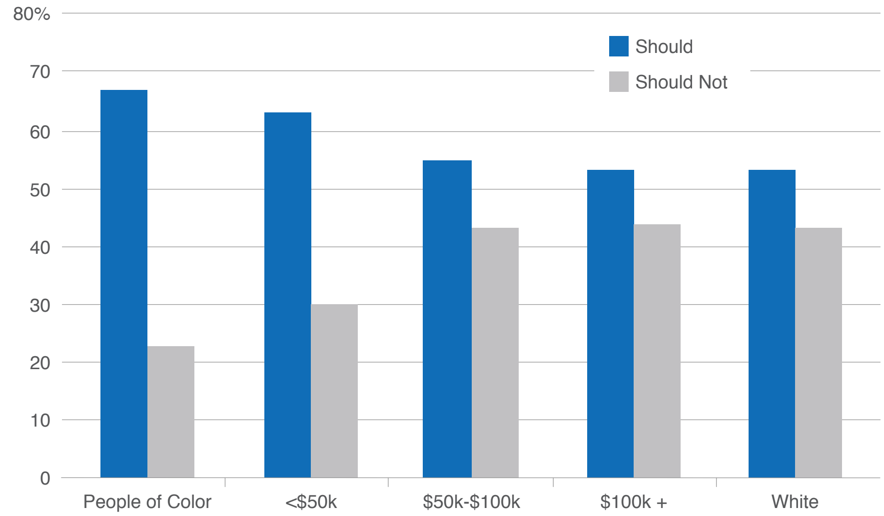
Race and class are not the same; but in the United States they are inextricably intertwined. Not surprisingly, on key issues, the views of people of color have more in common with the policy preferences of the rest of the general public than with those of the rich.

These differences are very clear on questions of how to structure the economy and what role the government should play. For example, in December 2013 the *Washington Post* asked "Do you think the federal government should or should not pursue policies that try to reduce the gap between wealthy and less well-off Americans?"[26] White respondents held very similar views to those earning at least $100,000 per year—in both groups a bare majority (53 percent) said the government should try to reduce inequality.[27] Respondents who were people of color, however, supported government fighting inequality at a much higher rate; fully two-thirds backed government action to reduce the wealth gap (see Figure 3).[28]

Seventy percent of people of color surveyed felt that government policies favor the wealthy over less well-off Americans.[29] Those making more than $100,000 still believed policy favors the wealthy but not by nearly as much—58 percent to 36 percent believing it favors the less well-off.[30]

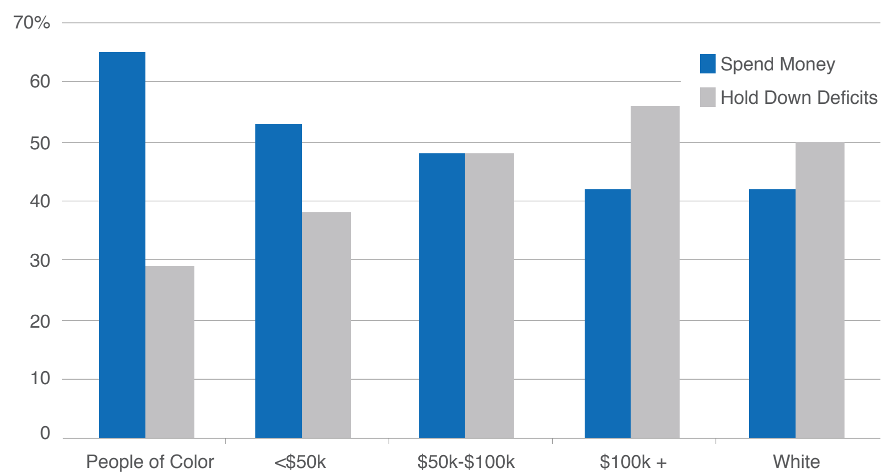
When asked whether it is more important to create jobs or hold down the deficit, people of color list creating jobs as the clear priority, whereas the wealthy have the opposite view (see Figure 4).[31]

**Figure 3. Views on government policy to reduce the wealth gap by race and income** *Do you think the federal government should or should not pursue policies that try to reduce the gap between wealthy and less well-off Americans?*




**Source:** Post-ABC Poll: December Monthly (2013)

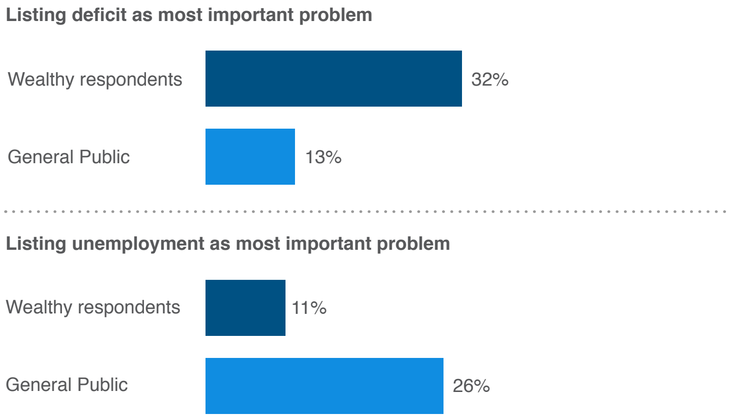
**Figure 4. Views on creating jobs versus holding down deficit by race and income** *Which is more important, spending money to create jobs or holding down the federal budget deficit?*




**Source:** Post-ABC Poll: December Monthly (2013)

The differences are even more pronounced on this issue between the general public and the very rich. A survey of Americans with a median wealth of $7.5 million and an average income of more than $1 million revealed that they list reducing the deficit as the nation's top priority in an open-ended question much more often than do members of the general public, who more often listed unemployment (see Figure 5).[32]

## Figure 5. Wealthy individuals have different priorities than average-earning Americans



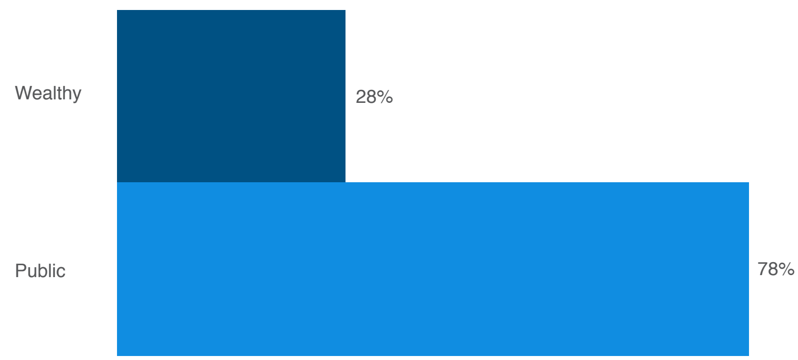

**Source:** Wealthy respondent numbers from Page, Bartels, and Seawright (2013); general public numbers from Gallup average of January to May 2011.

The preference gap plays out on issues beyond the economy, and in some cases touches directly upon issues of racial equity. For example, a majority of whites believe that "blacks and other minorities receive equal treatment as whites in the criminal justice system" as do half of those making more than $100,000 per year.[33] Yet only 41 percent of those making less than $50,000 believe this, and only 26 percent of people of color.[34] And, when asked what is most important to help them achieve the American dream, wealthy and white respondents listed lower taxes as their first priority, whereas people of color listed access to an affordable college education as their top choice.[35]

But, access to college without family wealth is also being thwarted by the gap in priorities between the wealthy and the rest of us, and our debt-for-diploma system disproportionately affects people of color. Seventy-eight percent of the public believes that the federal government should make sure that everyone who wants to go to college can afford to do so, but just 28 percent of the very wealthy agree (see Figure 6).[36] Meanwhile, college costs have risen far beyond inflation and family income over the past few decades.[37] This is due in part to policy shifts at both the state level—where states have cut student funding by 22 percent over the past decade[38]—and federal level, where grant aid has failed to keep pace with increasing need.[39]

This helps explain a persistent gap in college graduation rates by race. The most recent data show that of those who entered college in 2005, 62 percent of white students earned degrees within six years, versus 51 percent of Latino students and just 40 percent of black

**Figure 6. Should the federal government make sure that everyone who wants to go to college can do so?**




**Source:** Page, Bartels, and Seawright (2013)

students.[40] These figures underestimate gaps because they do not include community college and part-time students—populations that are both less likely to graduate and comprised of a higher proportion of students of color.[41]

Students of color are also more likely to take on debt to pay for college. Over four-in-five (81 percent) of African American bachelor's degree recipients borrow at public four-year schools, compared to 63 percent of white students.[42] Latino and African American students are also far more likely than white students to borrow at private non-profit schools as well. At every type of institution and for every type of degree (including associate's degrees), African American graduates in particular are forced to borrow more to attain a degree or credential.

The clear differential in policy preferences between the wealthiest Americans and people of color on critical issues means that when Congress focuses on the priorities and preferences of the wealthy, it enacts policies that cater far more to the interests of white households and ignores the priorities of the diverse and vibrant communities of color throughout the United States.

## WEALTHY, WHITE INDIVIDUALS DOMINATE CAMPAIGN FUNDING

As we noted in *Stacked Deck*, this differential responsiveness is caused by skewed rates of political participation of all kinds across the income spectrum, but particularly the influence of campaign contributions. These same factors are at play for people of color.

Due to historic marginalization, unnecessary barriers to voting,[43] and restrictive voting laws,[44] voter registration rates and turnout have typically been lower for people of color than for white citizens.[45] Solving these problems is rightfully an urgent priority for civil rights and pro-democracy organizations.[46] But, this is a critical yet incomplete part of the recipe for political equality. Ensuring that every vote counts only goes so far if the choices voters face at the polls are limited and skewed.

Ensuring real, functional political equality requires addressing the role of money in politics. As with the differential influence of the rich over working families, wealthy white Americans are able to multiply their impact on public policy most significantly when they break out their checkbooks, spending large sums to shape the electoral, and hence policy, landscape in America. So, the lack of attention given to people of color is in part due to the racial disparity in campaign contributions and the resulting relative lack both of candidate focus on these communities' priorities and of elected officials of color.

### *Large Donor Dollars Fuel Campaigns*

Election campaigns in the U.S. are financed predominantly by a small number of elite donors making large contributions.[47] Far less than one percent of Americans gave $200 or more to a federal candidate, party, or PAC in the 2014 election cycle, and yet these contributions represent more than two-thirds of the total money these entities raised.[48]

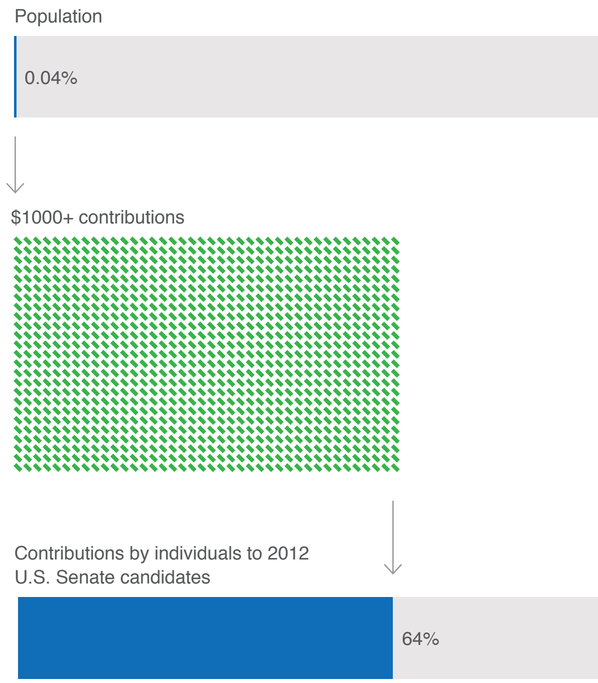
The sharp increase in "outside spending" in recent elections has been fueled by unlimited contributions to Super PACs, non-profits, and trade associations.[49] Fundraising by federal candidates—while subject to contribution limits—is not much more democratic. Candidates for the U.S. Senate in the 2012 election cycle, for example, received 64 percent of the funds they raised from individuals in contributions of at least $1,000—from just 0.04 percent of the population (see Figure 7). These crucial direct contributions help determine who can mount an effective campaign for office and who has the best chance to win.

Combining outside spending with candidate, party, and PAC fundraising paints a grim picture. The Sunlight Foundation calculated that more than one-quarter (28%) of the money fueling the 2012 federal elections came from one ten-thousandth (0.01%) of the population.[50]

State and local campaign finance rules vary, but in most places an elite donor class is responsible for a large majority of campaign funds as well.[51] In the 2012 elections, state-level candidates raised

## Figure 7. Large donors dominate congressional fundraising

**Just 0.04% of the population made $1000+ contributions to 2012 U.S. Senate candidates, accounting for 64% of the funds these candidates raised from individual donors.**




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

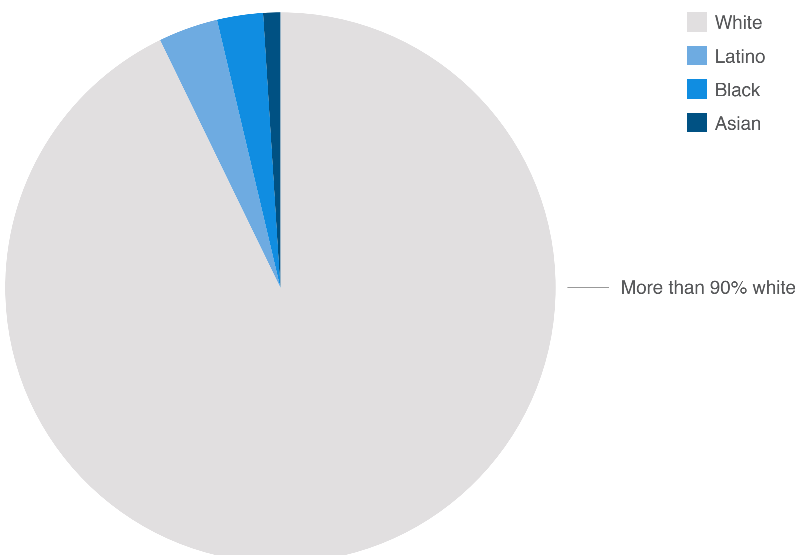
nearly two-thirds of their funds in $1,000+ contributions from individuals and PACs, while less than one percent of the population contributed any funds at all.[52] Small donors gave just 16 percent of candidates' funds.[53]

### *Large Donors Are Overwhelmingly White*

We have long known that large donors are more likely to be wealthy, male, and white than the rest of the population. According to a nationwide survey funded by the Joyce Foundation during the 1996 congressional elections, 81 percent of those who gave contributions of at least $200 reported annual family incomes greater than $100,000.[54] This stood in stark contrast to the general population at the time, where only 4.6 percent declared an income of more than $100,000 on their tax returns.[55] Ninety-five percent of contributors surveyed were white and 80 percent were men.[56]

And, while a comprehensive analysis of the race of individual campaign donors is not available, there are some useful proxies. First, Census Bureau data on the racial composition of communities across the country can tell us how communities of color are represented—or underrepresented—among large donors. In the 2004 presidential election, for example, the vast majority of individual contributions of at least $200 came from majority non-Hispanic white neighborhoods.[57] President Bush raised 91.7 percent of his $200+ contributions from majority white neighborhoods and Senator Kerry raised 89.3 percent from majority white neighborhoods.[58] This trend continues, as more than 90 percent of $200+ contributions in the 2012 election cycle came from majority white neighborhoods.[59] Of the $1.38 billion in itemized contributions to 2012 presidential campaigns, less than four percent came from Latino neighborhoods, less than three percent came from African American neighborhoods and less than one percent came from Asian neighborhoods (see Figure 8).[60]

**Figure 8. Contributions to 2012 presidential campaigns by race**
*Contributions of at least $200 by neighborhood*



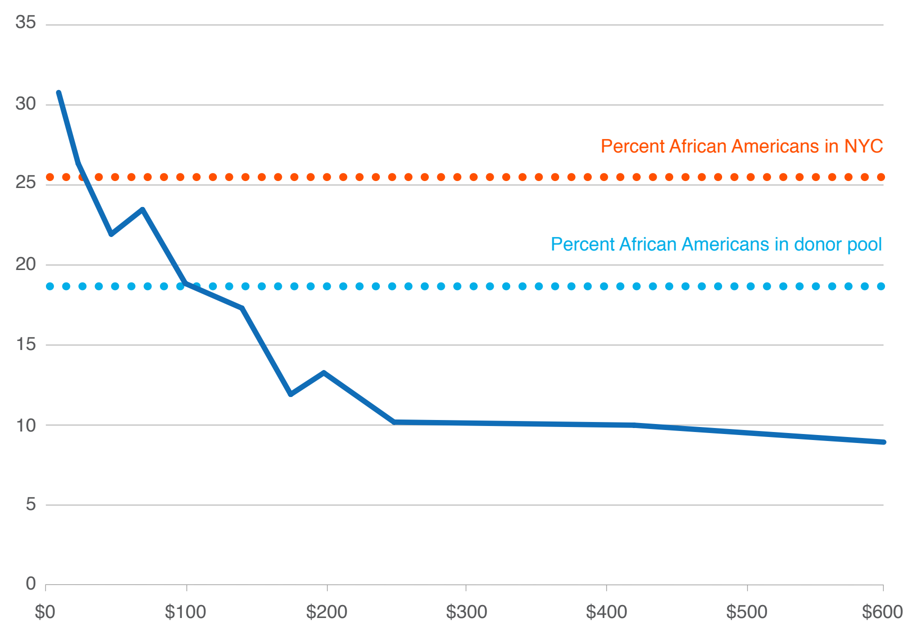

**Source:** Associated Press (analysis included candidate's official campaigns, their political parties, and Super PACs that support them)

We do have some direct data at the very highest levels. The upper echelon of campaign donors provides a significant percentage of overall funds and is completely white—which is hardly surprising given that the racial wealth gap is at historic levels, leaving fewer people of color in a position to make very large contributions.[61] The top ten Republican donors collectively gave over $130 million in 2012.[62] The top ten Democratic donors collectively donated $43.3 million in the same election.[63] All of these donors appear to be white.[64]

### *Small Donors Are Much More Likely to Reflect the Diversity of the Population*

In contrast, there appears to be significant racial diversity among small donors.[65] A preliminary analysis of donors in New York City's 2009 municipal election conducted by Public Campaign shows that donors giving $10 or less live in neighborhoods that are more racially diverse than the city as a whole.[66] These donors live in neighborhoods where people of color comprise 62 percent of the population, versus 56 percent of the population of the city overall.[67] Donor diversity falls as contribution level increases.[68] By the time donations reach $250, most of the donor diversity has been lost.[69] Donors contributing between $200.01 and $250 have average neighborhood racial diversity of 30 percent, far less than the 62 percent of very small donors (see Figures 9, 10, & 11).[70]

**Figure 9. African American share of contributions by donor level**

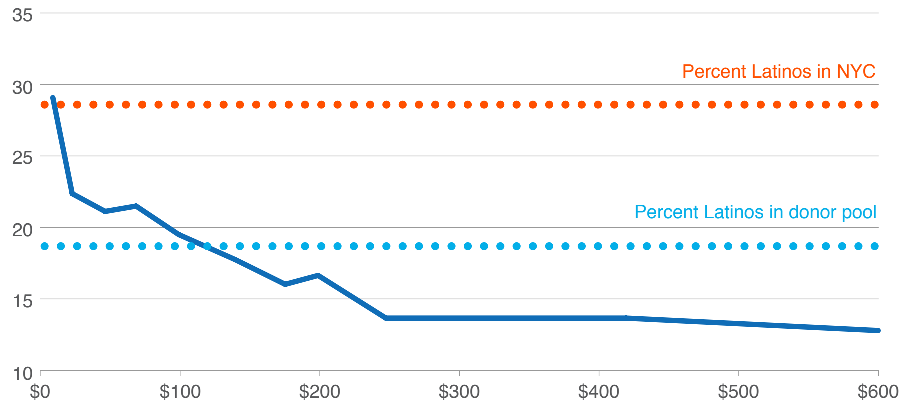



**Source:** Public Campaign 2009 New York City elections and Census demographic data.
Note: This figure by Public Campaign and Demos.

A similar analysis by Michael Malbin of the Campaign Finance Institute concluded that small contributors come from a much more diverse range of neighborhoods than large donors and "there can be little doubt that bringing more small donors into the system in New York City equates to a greater diversity in neighborhood experience in the donor pool."[71]

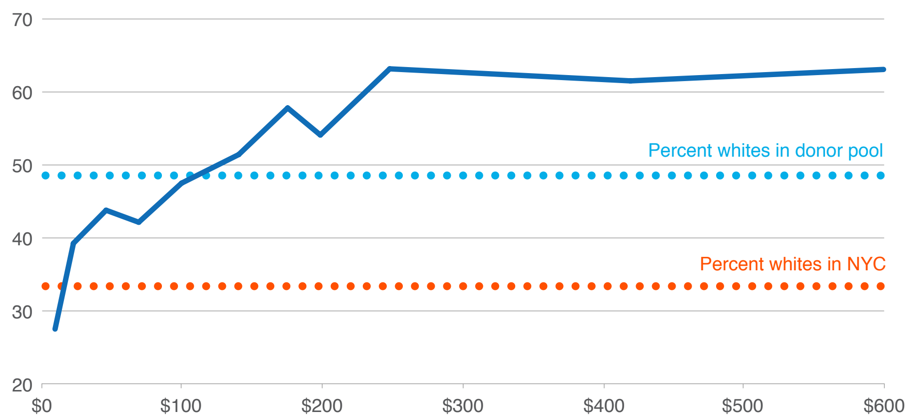
It is important not to minimize the hard-won gains made by various communities of color in recent decades. As more people of color own

## Figure 10. Latino share of contributions by donor level




**Source:** Public Campaign 2009 New York City elections and Census demographic data.
Note: This figure by Public Campaign and Demos.

## Figure 11. White share of contributions by donor level




**Source:** Public Campaign 2009 New York City elections and Census demographic data.
Note: This figure by Public Campaign and Demos.

businesses and build wealth, more African Americans and Latinos than ever are in a position to make large campaign contributions.[72] Nevertheless, the broader trend holds: large campaign donors remain disproportionately white. In fact there appears to be a fairly straightforward inverse relationship between contribution size and donor diversity. African Americans and Latinos are just as likely as whites to make small contributions, but as size of contribution increases, fewer come from predominantly black or Latino neighborhoods.

The lesson here is clear: people of color are not any less politically engaged or motivated to give than white Americans;[73] but because of significant discrepancies in wealth they simply lack the ability to make large contributions at nearly the same rate.

## PEOPLE OF COLOR HAVE LESS INFLUENCE

The dominance of white donors disadvantages people of color in two key ways. First, candidates running for office (of all races) are less likely to prioritize issues of concern to Americans of color because they are forced to spend a significant majority of their time dialing for dollars to wealthy (usually white) donors. Second, communities of color are underrepresented in elected office, as candidates of color without access to networks of wealthy (usually white) donors find it more difficult to compete in the "wealth primary" necessary to run competitive campaigns.[74]

### *Candidates Ignore People of Color*

All of our views are shaped by our surroundings, and candidates for elected office are no different. Unfortunately, our current big-money system incentivizes candidates to spend more time courting wealthy donors than listening to their potential constituents. This affects the way that aspiring officeholders view the pressing issues of the day, and provides a further incentive for them to shade their policy positions to align with the donor class.

Speaking at a conference on money in politics in 2013, U.S. Senator Chris Murphy was admirably frank about this effect, noting that when making fundraising appeals he was not calling anyone who could not contribute at least $1,000 and who likely earned at least $500,000 to $1 million per year:

> *I talked a lot more about carried interest inside of that call room than I did in the supermarket . . . [The people I'm calling] have fundamentally different problems than other people. And in Connecticut especially, you spend a lot of time on the phone with people who work in the financial markets. And so you're hearing a lot about problems that bankers have and not a lot of problems that people who work at the mill in Thomaston, Conn., have. You certainly have to stop and check yourself.*[75]

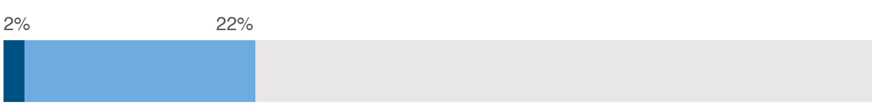
The result is a candidate pool that sees the world more like the disproportionately wealthy and white donor pool than the more diverse country as a whole. In this way, regardless of who wins the actual election, large donors have succeeded in shaping the nation's policy agenda.

### *Communities of Color Are Underrepresented in Elected Office*

A second critical result of our white-dominated big money system is that communities of color are underrepresented in elected office, reducing the influence of people of color over the policy decisions that affect their communities on a daily basis. The Women Donors Network recently completed a comprehensive study of more than 41,000 elected officials nationwide—from county to federal office.[76] Their findings are stark. Although people of color are 37 percent of the U.S. population, 90 percent of our elected leaders are white. White men are just 31 percent of the population but 65 percent of elected officials. At the other end of the spectrum, women of color hold just 4 percent of elected positions in spite of being 19 percent of the population.

The New American Leaders Project recently published a review of immigrant representation in America.[77] The Project found that "[w]hile Latinos and Asian Americans comprise over 22 percent of the general population in the United States (almost one in every four people) they hold fewer than 2 percent of the more than 500,000 elected positions nationwide, from county commissioners, to school boards, to mayors, to Congress" (see Figure 12).[78] Only four states "have state legislatures that most closely resemble their diverse populations" while 11 states lack a single Latino or Asian American state legislator.[79]

**Figure 12. Latinos & Asians are 22% of population, but hold 2% of elected offices**




**Source:** The New American Leaders Project

These findings are consistent with a recent National Conference of State Legislatures study of the racial composition of state legislatures. In 2009, just 9 percent of all state legislators were African American[80] and 3 percent were Latino.[81] That same year, African Americans comprised 13.5 percent of the total U.S. population and Latinos comprised 15.4 percent.[82] And the prior election year, 12.1 percent of eligible voters were African American and 7.4 percent were Latino.[83]

The underrepresentation continues at the federal level. In the 113$^{th}$ Congress (2013-2014), 8.1 percent of the total membership is African American, 6.9 percent is Latino, 2 percent is Asian, and only two Representatives are Native American.[84] By contrast, African Americans cast 13.4 percent of the votes in the 2012 elections; Latinos cast 8.4 percent; and Asians cast 2.9 percent.[85] If we were to assume that racial representation should flow directly from votes cast (a crude assumption, but one that is useful to illustrate a basic point) then African Americans are underrepresented in Congress by nearly 40 percent and Latinos by just under 18 percent.

Underrepresentation is a particular problem for women of color, who often face a combination of gender- and race-based obstacles. Black women have made impressive gains over the past two decades, outpacing both black men and white women in political representation.[86] Yet, they remain drastically under-represented in Congress and the states. Although they are 7.4 percent of the population, black women are currently only 2.6 percent of the U.S. Congress,[87] and fully "37 states have never had a Black woman in their congressional delegation."[88] In 2014 only 0.6 percent of statewide executive office-holders[89] and 3.3 percent of all state legislators are black women.[90] In South Carolina, black women make up 14.9 percent of the population but only 2.9 percent of the state legislature.[91]

### *Big Money Politics Holds Back Fair Representation*

This underrepresentation results in part from a system that filters out and holds back candidates of color from beginning to end. While we cannot ignore the effects of gerrymandered districts and racially-polarized voting, money plays a key role in this story throughout.

#### FEWER CANDIDATES OF COLOR RUN FOR OFFICE

First, it's likely that fewer candidates of color run for office because they accurately perceive the need for access to networks of wealthy donors that they do not have.[92] For example, a recent study of black candidate success concluded that "the underrepresentation of blacks is driven by constraints on their entry onto the ballot."[93] And, research has shown that women of color are less likely to be encouraged or recruited to run for office and more likely to be discouraged.[94] It is well-known that fundraising potential is a strong factor in party leaders' recruitment decisions.

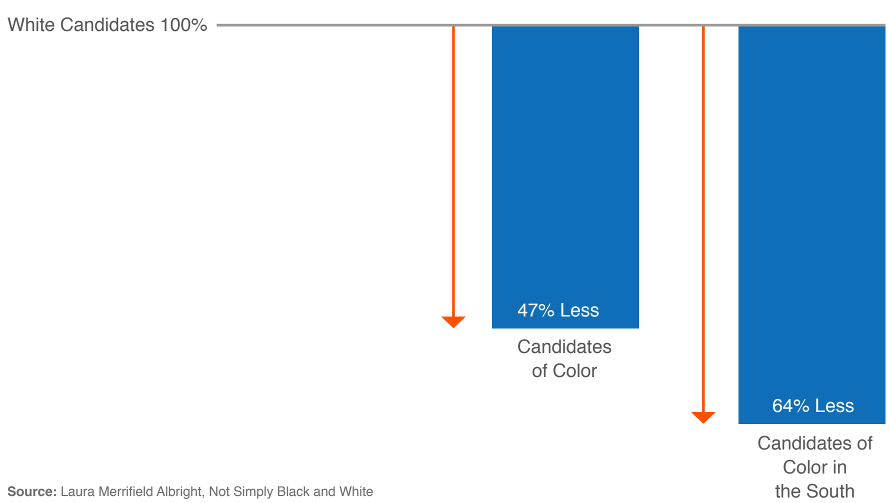
The most profound impact of our big money campaign finance system is that it allows large donors to act as gatekeepers (or kingmakers), filtering out candidates who cannot or will not appeal to them at the very beginning of the process. This is because when deciding whether to run for Congress or state office the first question a potential candidate must ask herself is, "How much money can I raise?" This translates loosely to "Do I have access to a network of wealthy friends and associates who can afford to give me $1,000 or more for my campaign." Potential candidates of color recognize this as a real barrier. In a recent survey, 66 percent of people of color (and 64 percent of whites) agreed that lack of access to donors is an important reason preventing people of color from being represented in elected office.[95] And, the study on black candidate success cited above found that the level of resources in the black community is "an important factor for shaping the size of the black candidate pool."[96]

The notion that the need to raise big money is limiting the field of candidates of color is bolstered by the fact that fairer campaign finance systems—such as those that match the contributions of small donors with public funds—have been associated with more diverse candidates running for office.[97] Arizona and New York City saw significant increases in the number of candidates of color once they adopted public financing systems.[98]

### CANDIDATES OF COLOR RAISE LESS MONEY

Next, when candidates of color do run, they raise less money than their white counterparts,[99] and as a result are (all else equal) less likely to win elected office.[100] Since data on candidate race is not collected regularly or systemically, we do not have up-to-date figures on this phenomenon. But, the most recent data we do have illustrates the larger point. For example, a study of more than 3,000 candidates running in more than 2,000 state legislative races in 2006 found that adjusting for factors such as incumbency, partisanship, and district income "non-white candidates raise an average of 47% less compared to white candidates when all other mitigating factors are controlled."[101] The effect of race was even greater in the South, where candidates of color raised nearly 64 percent less than their white counterparts (see Figure 13).[102] The study's author concluded, "the cost of fundraising and financing a campaign remains an inequitable burden…The findings from [this] study affirm that a fundraising gap clearly exists still across race/ethnic lines. Non-white candidates fundraise substantially less than white candidates and…this can translate in[to] a disadvantage to an already underrepresented population."[103]

**Figure 13. Candidates of color raise 47% less than white candidates overall, and 64% less than white candidates in the South (in 2006 state legislative races)**




**Source:** Laura Merrifield Albright, Not Simply Black and White

During the 2004 election cycle, Latino state House candidates raised less than non-Latinos in 67 percent of states where Latinos ran; and Latino state Senate candidates raised less in 53 percent of states.[104] And, in some places the fundraising gap was extreme. For example, non-Latinos at least doubled Latino fundraising in House races in Massachusetts, North Carolina, Oregon, South Carolina, and Washington and in Senate races in Arizona, Florida, Illinois, and South Carolina; and non-Latino House candidates raised three times as much in Wisconsin.[105]

While not surprising, it is interesting to note that white legislators raised more from significant industry sources in most states. General business contributors (manufacturers, retailers, etc.) gave more to white legislators in 82 percent of states; finance, insurance, and real estate interests gave more to whites in 89 percent of states; and energy and natural resource interests gave more to whites in 93 percent of states.[106] White candidates were also significantly more likely to be able to self-fund campaigns, doing so at higher rates in 84 percent of states.[107] Only labor funding was significantly more balanced, with labor organizations giving more to legislators of color than whites in 48 percent of states.[108]

The racial wealth gap drives fundraising disparities through smaller campaign donations from people of color, and because candidates of color are less likely to be able to put significant personal resources into their own campaigns.

Candidates of color often win in so-called "majority-minority districts,"[109] but the real challenge is in statewide races or diverse districts where whites have shown a willingness to vote for candidates of color. People of color need to win elections in these statewide races and "coalition" districts in order to expand their power and reach in executive positions, Congress, and state legislatures. It's clear that the need to raise large sums of money is perceived as a real barrier to achieving equal representation.

## CORPORATE POLITICAL SPENDING AMPLIFIES POLITICAL EXCLUSION

The outsized influence of money does not stop with wealthy white individual donors. Corporations assert undemocratic control over policy outcomes in several ways: campaign contributions from employees and associated Political Action Committees (PACs) and direct spending from their treasuries—often filtered through trade associations or 501 c(4) organizations that do not have to disclose their donors—help elect public officials friendly to their profit-driven agendas; and lobbying sitting officeholders skews legislatures' priorities towards special-interest giveaways at the expense of the public good.

The elections following the Supreme Court's *Citizens United* decision have seen unprecedented levels of campaign spending by groups other than candidates or political parties.[110] For the first time, non-party outside spending topped $1 billion.[111] It's not possible to determine precisely how much of that came from corporate treasuries because more than $300 million in outside spending was conducted by nonprofits and trade associations that are not required to disclose their donors.[112] Given that for-profit corporations were not permitted to spend money directly on federal elections prior to 2010, however, it's safe to say that there's more corporate election spending than ever before.

In addition to the high level of election spending, corporate interests spend billions to influence the legislative process in Washington and state capitals across the country. The top 20 federal lobbying interests—dominated by business associations and industries such as pharmaceutical companies and securities and investment companies—spent more than $4.1 billion on lobbying in Washington during 2012 and 2013 alone.[113] Comprehensive information on state-level lobbying is not available.[114]

The predictable result is that, as Justice Nelson of the Montana Supreme Court has commented, "corporations wield enormous power in Congress and in state legislatures. It is hard to tell where government ends and corporate America begins: the transition is seamless and overlapping."[115] This exacerbates the problems stated above because organized interests such as corporations "do not seek the same policies as average citizens do" and yet "organized interest groups have a very substantial independent impact on public policy," with the influence of business groups nearly twice that of mass citizen groups (largely because there are so many more business interests in the game.[116] The fact that corporate boards are dominated by whites likely makes corporate spending even less responsive to the needs of people of color. In 2012, for example, 86.7 percent of Fortune 500 corporate board seats were held by whites, with only 7.4 percent held by African Americans and 3.3 percent by Latinos.[117]

## BIG MONEY DOMINANCE HAS REAL CONSEQUENCES FOR PEOPLE OF COLOR

The undue influence of wealthy donors and big business runs counter to basic notions of democratic fairness and equality. But, the problem is much more than theoretical for people of color, who are not adequately represented or heard throughout the policy process.

As a general matter, white constituents likely have better access to and the open ear of their white representatives. For example, in 2011 two researchers sent letters to state legislators using the names "Jake

Mueller" or "DeShawn Jackson" and including partisan signals.[118] They found that "putatively black requests receive fewer replies" and concluded that "white legislators of both parties exhibit similar levels of discrimination against the black alias" but that "[m]inority legislators do the opposite, responding more frequently to the black alias."[119] This is consistent with other research that has found, for example, that local election officials exhibit bias against Latinos.[120]

This bias and the general lack of diversity among elected officials translates into real policy outcomes that harm vulnerable communities. Numerous studies have shown that "[t]hrough shared experiences and a deep understanding of community, minority representatives ('descriptive representatives') are more likely to advocate for issues of importance to their communities than non-minority or non-immigrant candidates."[121] For example, the New American Leaders Project found that "minority elected officials, particularly immigrants, are *far* more likely to introduce and champion legislation that is welcoming to immigrants" and that states with no Latino or Asian American state legislators are "the most likely to pass punitive anti-immigrant policy..."[122]

Add the power of lobbying and campaign contributions to the baseline of underrepresentation and the results can be tragic. The disproportionate and heavily-armed response of local police to protests in the aftermath of the recent slaying of Mike Brown in Ferguson, Missouri is the most recent example. The Ferguson police are accountable to a white mayor and an 80 percent white city council in spite of a local population that is two-thirds black.[123] And, the increasing militarization of local police has been driven in part by a federal government program that has resulted in the transfer of more than $4.3 billion in free equipment from the Department of Defense to local jurisdictions.[124] This "1033 Program" is quite profitable for defense industry contractors as it increases demand for their products. When some members of Congress pushed to end it in June of 2014, the proposal was defeated 62-335 and MapLight reported that "[r]epresentatives voting to continue funding the 1033 Program have received, on average, 73 percent more money from the defense industry than representatives voting to defund it."[125]

As an addendum to this report we provide five case studies that show how the role of money in politics has profound effects on the lives of people of color. Three of these examples show how destructive public policies skewed by big money fall squarely on their backs—on issues ranging from mass incarceration and inhumane conditions in private prisons to matters of basic economic security such as housing policy and a living wage. A fourth case study tells the story of how Connecticut guaranteed paid sick leave, demonstrating how a fairer system for electing public officials can lead to policies that better serve all of our communities. A final story, authored by state-based partner TakeAction Minnesota, demonstrates how their work organizing in communities of color to defeat restrictions on the freedom to vote is building power to push back on big money in politics.

## WHITE DONOR CLASS DOMINATION IS A POLICY CHOICE, NOT AN INEVITABLE CONDITION

It is likely that the wealthy have enjoyed more political influence since the beginning of time; and in the United States this has always been tied to race. But, we do not have to allow wealthy individuals and interests to translate economic might directly into political power. We can create strong policies that mitigate the influence of the donor class, amplify the voices of all voters regardless of wealth, and in the process produce outcomes that are more favorable to people of color.

In a 2014 study, for example, Baylor University political scientist Patrick Flavin examined spending priorities in the various states between 1962 and 2008, and compared them with campaign finance laws.[126] Flavin concluded that:

> *campaign finance laws do have important effects on public policy decisions that matter most for disadvantaged citizens…Specifically when states more strictly regulate the financing of political campaigns, they tend to devote a larger portion of their spending each year to redistributive programs such as public assistance and housing and community development. This relationship between stricter laws and more spending holds even after accounting for differences in the ideology and partisanship of a state's citizens and elected officials over time and, importantly, does not extend to policy areas that are not typically considered redistributive.*[127]

In other words, the way we set the rules of the game for our democracy can have a significant impact on the substantive policy choices we make as a society. In the following section, we offer specific policy recommendations to forge a democracy in which the size of one's wallet does not determine the strength of her voice.

## POLICY RECOMMENDATIONS

The pathway to a fairer country is through a stronger democracy. A key to promoting economic mobility and racial justice for people of color is to give members of these communities more say over the decisions that affect their daily lives.

To accomplish this we need to both curb the influence of the wealthy, white "donor class" and amplify the voices of all Americans, including people of color, so that elected officials will listen to and work for all of their constituents, not just a privileged few. This requires reclaiming our Constitution from a runaway Supreme Court and matching small political contributions with public funds.

### RESTORING OUR CONSTITUTION

In order to enact common-sense limits on the use of big money to dominate our political discourse we must find ways to remove barriers imposed by the Supreme Court.

The Constitution is our basic framework for a robust democracy, guaranteeing vibrant discussion of issues and ideas and ensuring that all Americans come to the political table as equals. But, over four decades, the Supreme Court has turned the First Amendment into a tool for use by wealthy interests to dominate the political process. Time and again, the Court has stepped in to dismantle democratically-enacted policies intended to prevent wealthy interests from translating economic might directly into political power—from 1976's *Buckley v. Valeo*, which struck campaign spending limits and equated money with speech;[128] to 2010's *Citizens United*, which gave corporations the same speech rights as individuals and opened the door to billionaire-funded Super PACs and unlimited, undisclosed "dark money;"[129] to *McCutcheon v. FEC* in 2014, which eliminated caps on the total amount that one wealthy donor is permitted to contribute to federal candidates, parties and PACs.[130]

The justices have come to these results because they have been asking the wrong question. For decades, when evaluating rules around money in politics, the Court has asked only: is this regulation necessary to fight corruption or its appearance? And, Justice Roberts made clear in *McCutcheon* that the government is permitted to regulate campaign money to attack only the narrowest "*quid pro quo*" corruption, writing "government regulation may not target the general gratitude a candidate may feel towards those who support him or his allies, or the political access such support may afford…" but rather must be laser-focused on "a direct exchange of an official act for money."[131]

But clean governance is only one of the core American values at stake in addressing the role of money in politics. To properly interpret our pro-democracy Constitution, the Court must ask a broader set of questions.

For example, isn't our entire political system corrupted when incumbent politicians become dependent upon the campaign cash of a tiny minority of citizens? What happens to the voice of an ordinary citizen who cannot afford to buy TV ads or fund Super PACs when one person or corporation can flood the system with millions of dollars? Can the open marketplace of ideas thrive when a few wealthy citizens are able to monopolize the political conversation with their money? Can all Americans really claim Equal Protection of the laws when wealth is a prerequisite to equal access to the political process? And if the people, through their elected representatives, conclude they do not want to live in a democracy where the size of a citizen's wallet determines the strength of her voice, should the Court nullify those choices and substitute its own view of how to best structure the republic?

It's time for a movement to give new life in our Constitution to the fundamental American values of political equality, accountable government, and fair representation for all regardless of wealth while promoting a diverse, vibrant marketplace of ideas. Respecting these values would overturn decades of disastrous money in politics decisions by the Supreme Court and clear the way for common sense limits on big money. We would be able to end Super PACs, ban election spending by for-profit corporations, limit the amount of personal wealth millionaire candidates can use to buy elected office, limit spending by candidates and outside groups, and protect publicly funded election systems from onslaughts of outside spending.

In other words, we could finally build a democracy in which candidates run for office by reaching out to all voters regardless of race or class rather than depending upon a tiny minority of wealthy (mostly white) donors; people express their views by banding together with fellow citizens to strengthen their collective voices, not by writing large checks; and government is ultimately accountable to the people, not just the donor class.

We can restore our Constitution in one of two ways. First, we can transform the Supreme Court's approach to money in politics so the Court overturns its own bad decisions—just like the justices have reversed course on New Deal economic protections, racial segregation, LGBT rights, and more. We can accomplish this by developing and promoting robust interpretive frameworks that go beyond fighting corruption as compelling values that our Constitution protects; mobilizing allies across the political spectrum and within the legal community to support these ideas; ensuring that newly appointed justices share the public's common-sense understanding of the role that money should play in our electoral system; passing cutting-edge laws at the state and local levels; and fighting back in the Courts to establish an enduring interpretation of the Constitution that empowers the people to pass sensible limits on the use of big money. With five justices hostile to these ideas currently in control, reclaiming the Constitution to protect the voices of all the people won't be easy, and will take some time—but it must be done.

Second, we can amend the Constitution to clarify that the people have the power to rein in the influence of big money. This will also take years of concentrated effort, but momentum is building. Public support for such an amendment is overwhelming, crossing ideological and partisan divides.[132] Already 16 states and hundreds of municipalities have called for an amendment to overturn *Buckley, Citizens United*, and related cases.[133] And, in September 2014 a majority of the U.S. Senate supported an amendment that would clarify that Congress and the states may enact reasonable limits on electoral contributions and spending—an historic milestone that demonstrates that demands for action will not recede.[134]

Concerted action must be taken on both fronts to reclaim our Constitution and to start building a democracy in which the strength of a citizen's voice does not depend on the size of her wallet.

## MATCHING SMALL CONTRIBUTIONS WITH PUBLIC FUNDS

There are also powerful ways to immediately put voters, including people of color, in the center of our democracy rather than billionaires and special interests. One key strategy is to match small contributions from average citizens with public funds. This way a $50 contribution from a constituent can be worth $350 or more to a candidate for elected office.

Public matching funds can change the way candidates run for office, allowing them to spend more time reaching out to—and listening to—voters and less time dialing for dollars and holding exclusive events for those who can afford to give $1,000 or more. Evidence also suggests that matching programs and similar grant-based systems (in which candidates raise a threshold number of small contributions from local constituents and receive a lump sum public grant) can diversify the donor pool, giving candidates greater incentive to prioritize the needs of people of color.

New York City employs a system that matches the first $175 of a local resident's contribution to qualifying city council or mayoral candidates six-to-one.[135] This is not ideal targeting because it still subsidizes part of a large contribution. Yet because of the significant match, the program enjoys robust participation from low-income communities and communities of color across the city.[136] Nearly 90 percent of the city's census blocks were home to at least one small donor for a city council race.[137] In contrast, State Assembly campaigns, for which no comparable program exists, received small donations from only 30 percent of the city's census blocks.[138] In one example, 24 times more small donors from one poor, predominantly black neighborhood gave to City Council candidates (with a matching program) than to State Assembly candidates (without one).[139] Critically, small contributions from diverse neighborhoods were far more important to City Council than to State Assembly candidates—in the case of contributors from the Bedford-Stuyvesant neighborhood of Brooklyn, 11 times more important.[140]

These programs don't just work on a local level. Once Connecticut introduced a grant-based public financing system, the legislature passed a slate of policies that helped working families including a statewide EITC, a minimum wage increase, and the country's first statewide paid sick days policy.[141] In addition, more people of color, women and younger candidates were able to run for office and win. Latino representation in the state legislature reached its highest percentage in 2012 and women make up 32 percent of the legislature.[142]

The result is a legislature that more closely mirrors the demographics of the state.

Arizona also employs a grant-based system of public funding for elections. The system more than tripled the number of contributors to gubernatorial campaigns between 1998 and 2002, and increased the economic, racial, and geographic diversity of contributors.[143] Candidates participating in Arizona's "clean elections" system raised twice the proportion of their contributions from heavily Latino zip codes than did privately-funded candidates.[144]

A second important strategy is to provide vouchers or tax credits to encourage more moderate and low income Americans to make small political contributions. A tax credit has enjoyed support from presidents Kennedy, Truman, and Eisenhower and benefited from years of experimentation at the federal and state levels.[145] Experience shows that a properly designed credit can be an effective way to increase participation by non-wealthy constituents.[146]

On the federal level, the Government By the People Act (H.R. 20) would encourage small donor participation by matching truly small contributions (up to $150) six-to-one or more; establishing a $25 refundable tax credit for small donors; and providing additional resources to candidates who meet a threshold limit for small donations to help fight back against outside spending.[147] The Fair Elections Now Act (S.2023) is a similar bill in the U.S. Senate.[148] The NAACP supports both of these bills.[149]

## CAN THESE REFORMS REALLY PASS?

Any reform that fundamentally changes the way that candidates run for office will be challenging to achieve. But, momentum is growing for several reasons. First, the silver lining of the Supreme Court's extreme interventions on money in politics has been unprecedented public awareness about the problem. A majority of Americans are actually familiar with the *Citizens United* ruling, which is very rare for a Supreme Court case;[150] and during the 2012 Republican primary elections, Steven Colbert led a national seminar on the absurdities of Super PACs.

Next, a growing list of civil rights, environmental, workers' rights, and other progressive organizations are coming together to embrace the insight that enacting transformative change around their first priority issues requires strengthening our democracy. Led by the NAACP, the Communications Workers of America, the Sierra Club, Greenpeace, and now Common Cause, more than 50 organizations with a collective membership of millions of Americans have come together under the banner of the Democracy Initiative. These organizations are cooperating and coordinating as never before on addressing the role of big money, protecting the freedom to vote and fighting gridlock in the U.S. Senate.

Finally, public support for common sense solutions remains exceptionally strong across party and ideological lines. A 2012 poll showed that by wide margins Americans strongly oppose unlimited corporate spending in politics and the outsized role of large donors more generally; and also support the transformative solutions presented above, as well as more incremental changes such as improving the transparency of political spending.[151] More recent polling has confirmed this public support.[152] No matter party or creed, it appears that the vast majority of Americans believe that we should come to the political table as equals, with an equal voice over the decisions that affect our lives.

This momentum has expressed itself in a string of recent victories, with the prospect for bigger wins on the horizon. Twenty-five states have some form of public funding for election campaigns, including three states with comprehensive, small donor-oriented public funding programs.[153] California, Delaware, Hawaii, Massachusetts, North Carolina, and Vermont have all passed laws to increase transparency of political spending in 2014.[154] The most populous county in Maryland passed a small donor matching program in late 2014 by unanimous vote.[155] And after two hard-fought campaigns and near-victories, advocates in New York will continue to press to bring a small donor matching system to the nation's second-largest state. The leading federal reform bill has 160 co-sponsors in the U.S. House;[156] and, as noted, a constitutional amendment recently received majority support in the U.S. Senate.

Meanwhile, community-based organizations such as TakeAction Minnesota and ISAIAH are building the power of communities of color as part of a multi-year strategy to reduce the role of money in politics. The success of their campaigns on voting rights and other issues can serve as examples of how to connect the money in politics field to a broader pro-democracy agenda, which will help build the mandate for a fairer and more inclusive political process.

Nobody is under any illusions that reform will come easily. Profound change never does. But, by channeling widespread public support through improved organizational cooperation and activist mobilization critical victories are within reach.

## CONCLUSION

Despite the long-standing struggle for racial equity in the United States, we have a long way to go before our nation lives up to its highest ideals. Several factors contribute to the lived experiences and economic insecurity of people of color. Many of these are highly complex and deeply embedded in American society—from interpersonal, institutional, and structural racism to the type of unconscious bias that leads well-intentioned people to act in ways that perpetuate racial hierarchy.

But, there is at least one impediment to progress that is clear and soluble: the undemocratic influence of big money in politics, which plays a substantial role at every stage of the policy process.

The wealthy, white donor class has different policy priorities than do the general public, including people of color. Large individual donors and corporations help determine who can run effectively for office and who wins elections, filtering out candidates of color and ensuring that those who do run are more attuned to the priorities of the donor class. Then, corporations engage actively in the policymaking process through millions of dollars in lobbying, pursuing policies that have no relation to public support and that often further marginalize vulnerable communities. Ultimately, elected officials are nearly exclusively responsive to the preferences of the donor class, and people of color have their voices marginalized.

The cumulative effect of this big money system is a set of policy outcomes that has held back our decades-long drive towards racial equity and economic opportunity in the United States. The case studies that follow examine just a handful of examples of how this process results in real harm to communities of color on a daily basis; one example of how different money in politics rules can produce better outcomes; and one story of how we can organize to win future reforms.

Civil rights leaders have rightly prioritized pushing back on systemic attacks on the freedom to vote, and that fight must continue. But, the right to vote is incomplete without the chance to vote for candidates who have not been preselected by the largely white donor class. The right to cast a ballot and the ability to advocate for chosen candidates without being drowned out by billionaires and big business are flip sides of the same coin: the fundamental American right to an equal voice in the political process, akin to the principle of one person, one vote.

Clarifying that the people have the right to enact common-sense limits on big money in politics and matching small contributions with public funds to amplify all of our voices can help put people of color's needs and priorities onto the agenda in Washington and state capitals across America. In this way, curbing the influence of big money in politics is part of the unfinished business of the civil rights movement. And, it is a necessary step to finally forge a democracy that is truly of, by, and for *all* the people.

*CASE STUDIES*

# How the Role of Money in Politics Has a Direct Impact on the Lives of People of Color

CASE STUDY

# PRIVATE PRISONS AND INCARCERATION

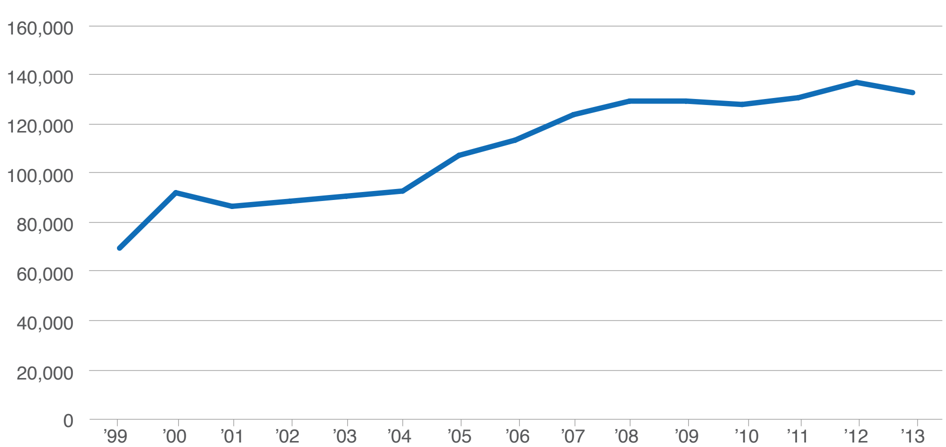
## THE PROBLEM AND ITS IMPACT ON PEOPLE OF COLOR

The United States puts more people in prisons and jails than any other country in the world. The number of people incarcerated here has increased by 500 percent over the past three decades to 2.2 million.[157] This striking change has not been a reaction to increasing crime. In fact, the current rate of serious crimes such as murder, rape, robbery, and assault is at its lowest level since 1963.[158] Instead, the rise in incarceration is due to policy changes in the criminal justice system, including dramatic increases in the length of sentences for similar crimes caused by mandatory sentencing and three-strikes policies as well as the "war on drugs."[159] The incarceration rate of people sentenced to more than a year of prison has more than tripled over the past 30 years—from 139 to 502 people per 100,000 in the general population.[160]

Communities of color bear the brunt of the social and economic devastation caused by mass incarceration.[161] African American men in the U.S. are incarcerated at more than six times the rate of white men,[162] with one in 12 working-age African American men behind bars.[163] African American women are more than three times as likely as white women to be incarcerated.[164] While they make up roughly 12 percent of the total U.S. population, African Americans constitute almost 40 percent of the currently incarcerated population.[165]

Incarceration rates for Latinos are also troubling. One in 36 working-aged Latino men are incarcerated,[166] a rate more than double that of white men. Latino women are 69 percent more likely to be incarcerated

**Figure 14. People incarcerated in private prisons in the US**




**Source:** Bureau of Justice Statistics, National Prisoner Statistics Program than white women.[167] And, Latinos constitute more than 20 percent of the incarcerated population,[168] compared with 17 percent of the adult population as a whole.[169] This proportion is likely to get worse in coming years since, according to June 2011 statistics, due to fast-track immigration enforcement Latinos accounted for nearly half of all defendants sentenced to federal prison.[170]

These differential incarceration rates result in large part from institutional and structural racism manifest through policies and practices such as the school-to-prison pipeline,[171] differential enforcement of drug and other crimes,[172] and punitive immigration policies. And, the gap has been growing over time. In 1960, the incarceration rate for black men was five times that of white men; by 2010 the black male incarceration rate was nearly six and a half times that of white men.[173]

The social and economic effects of these inflated incarceration rates are devastating for entire communities. Imprisonment not only reduces the potential workforce in communities during incarceration; it also reduces employment potential long after sentences are complete. Formerly incarcerated individuals lose productive time while in prison and face widespread employment discrimination once released. Recent studies have shown that incarceration decreases male employment rates anywhere between 1.5 percent and 6.3 percent.[174] Incarceration can also decrease wages between 14.5 percent and 26.4 percent compared to individuals who have never spent time in prison.[175] One Pew study found that prior incarceration reduces the expected earnings of a 45 year-old male by 40 percent.[176]

All told, aggressive incarceration costs communities of color billions of dollars of potential wealth, making it much more difficult for both individuals and entire communities to break cycles of poverty and build the social capital that helps elevate people into the middle class. Pew found that incarceration reduces the total expected earnings by all black men by 9 percent, and Latino men by 6 percent; and that formerly incarcerated men are twice as likely to remain stuck in the bottom earnings quintile.[177]

But, the problem doesn't stop there. An increasing number of inmates have been placed into private prisons run by corporations for profit. The private prison industry was born in the early 1980s and between 1990 and 2009, the number of people incarcerated in private prisons grew by 1664 percent.[178] A more representative growth rate for a more mature industry still shows substantial expansion in recent years, with the privately incarcerated population more than doubling between 1999 and 2012 (see Figure 14).[179] The newest growth area is in immigrant detention. By 2011, nearly half the capacity in our civil detention system was in private facilities, up from just 10 percent over the previous decade.[180]

Conditions in these facilities have been notoriously inhumane, as companies cut corners to pad their bottom lines. In just one example, a 2012 Department of Justice Report found that guards at a facility run by one of the countries largest private prison companies (GEO Group) routinely beat young people and engaged in sexual misconduct and tolerated youth-on-youth rape.[181] And, due to being younger (in part because many came into the system after the War on Drugs took effect) and hence cheaper to house (because of fewer medical problems), incarcerated people of color are even more overrepresented in private prisons than in correctional facilities in general.[182]

## THE ROLE OF MONEY

As noted above, the profound change in incarceration rates over the past thirty years is not due to more crime, but rather the result of specific policy decisions that have dramatically increased sentencing rates. While recent comparative polling data is difficult to find, some research suggests that wealthier people are more likely to support building more prisons as a strategy to reduce crime. For example an analysis of political scientist Martin Gilens' data shows that respondents in the highest income bracket polled were more likely than those in the lowest to favor building more prisons.[183]

These policy decisions have led to billions of dollars in profits for one special interest: the private prison industry. Private prison companies are an entire industry built around a profoundly perverse incentive: the more people our society puts in prison and the longer their sentences, the more money they make.[184] And these companies have not left this basic math to chance. Over the past thirty years—the same period in which the number of people incarcerated in America has exploded—the industry has employed a deliberate and targeted strategy to shape public policy through campaign spending and lobbying.[185]

Under the rubric of public safety, private prison companies and special interest groups, like the American Legislative Exchange Council (ALEC), spend millions of dollars to lobby for policies that create demand for their product: incarceration. A 2012 Associated Press review found that Corrections Corporation of America (CCA), The GEO Group, and a third privately-held company Management and Training Corp. spent at least $45 million in combined lobbying and campaign contributions at the federal and state levels in the previous decade.[186] ALEC is a partnership between approximately 300 corporations and 2,000 conservative legislators in which corporate lobbyists vote alongside legislators on model bills to push in state legislatures across the country.[187] Together, they have successfully lobbied for harsher sentencing laws for non-violent offenses, "three-strikes" laws that incarcerate individuals for life, mandatory sentencing that removes the ability of judges to consider any circumstances outside of the case, and so-called "truth in sentencing" laws that eliminate the option of parole.[188]

Their work has paid off. Since securing their first contracts in the mid-1980s, private prison companies have experienced growth year after year. While the total number of inmates in federal and state prisons doubled between 1990 and 2009, the private prison population grew 17 times over the same period.[189] Substantial profits have followed. The two largest for-profit prison companies, CCA and GEO Group, saw their annual revenue double over the last decade due to the sharp rise in incarcerations.[190] Both are now billion-dollar companies.

### INFLUENCING NATIONAL POLICY

The three largest private prison companies have spent more than $24.5 million lobbying Congress since 2000, with the lion's share in expenditures coming from CCA.[191] Over that time period CCA paid the K Street lobby firm Akin Gump Strauss Hauer & Feld LLP nearly $3 million in addition to spending more than $13.5 million lobbying on its own behalf.[192]

CCA claims that "[u]nder longstanding company policy, CCA takes no role in the drafting, lobbying or support for immigration or crime/sentencing laws."[193] Yet, these issues are core to the industry's business model,[194] and it certainly appears that the industry—at times through intermediaries such as ALEC—has put its muscle behind policies that will increase demand for its product. As one observer told the Associated Press, "[t]hat's a lot of money to listen quietly."[195]

At the federal level, for example, the industry has shown great interest in the issue of immigration. CCA's first facility—opened more than thirty years ago—was a federal immigrant detention center in Houston, Texas, and immigration-related detention remains a core part of its business.[196] In 2012, approximately one quarter of the company's $1.7 billion in revenue came from contracts with Immigration and Customs Enforcement (ICE) and the Federal Bureau of Prisons for incarcerating non-citizens.[197] That same year, CCA and GEO Group, combined, took in more than $738 million in these contracts.[198]

With so much revenue dependent upon punitive detention practices, the industry has left little to chance. More than $5 million of CCA's own lobbying expenditures and nearly $1.3 million in payments to Akin Gump occurred during periods in which the issue of immigration or policy related to ICE detention facilities is mentioned in lobby disclosure reports.[199] The industry's lobbying peaked around 2006 when Congress was debating an overhaul to our immigration laws. The outcome, which featured increased border enforcement but no pathway to citizenship, was a boon to private prison companies' bottom lines.[200]

In recent years, the industry has also invested heavily in elected officials who favor the kinds of enforcement regimes that fill its facilities, including Senators John Cornyn ($24,750 in the 2012 cycle) and John McCain ($30,000 from CCA employees or PAC).[201] McCain has attempted to codify into federal law the "Operation Streamline" program initiated by the Bush Administration and carried forward by the Obama Administration.[202] The program enforces criminal penalties for every undocumented immigrant arrested at the boarder, whereas previously most had faced civil deportation proceedings. Between 2002 and 2012 the number of immigrants sent to private prisons for criminal incarceration jumped from 3,300 to more than 23,000, with revenues skyrocketing from $760 million to $5.1 billion through multi-year contracts.[203]

The industry has also used its political muscle at the federal level to protect itself from transparency and oversight. It's lobbying has helped kill the bipartisan Private Prison Information Act (PPIA) that would have required for-profit prisons to comply with public records requests about their federal prison operations.[204] More than $6.3 million in CCA direct lobbying expenditures occurred during periods in which their reports specifically mentioned PPIA.[205] This is particularly troubling given the abuses noted above.

### EVIDENCE FROM THE STATES

The campaign spending and lobbying by for-profit prison companies is not limited to the federal level. Through political action committees and executives of private prison corporations, the industry has given more than $7.3 million to state candidates and political parties since 2001.[206] In 2010 alone, state spending on candidates and parties by the industry totaled $1.9 million.[207] Since 2003, CCA has employed 204 lobbyists in 32 states and GEO Group has employed 79 lobbyists in 17 states.[208] The Associated Press found that CCA, GEO Group and Management & Training Corp. spent at least $8 million lobbying across 10 states, generally those with prominent immigration policy debates.[209] And, similar to the federal level, the influence and success of the private prison industry is clear.

ALEC and the private prison industry have been a formidable team. CCA is a former ALEC member and has been the co-chair of its Criminal Justice Task Force.[210] GEO Group has also participated in this task force.[211] Working together, the industry has been able to leverage significant campaign and lobbying expenditures with cozy relationships with conservative legislators to pursue (and often achieve) its policy agenda.

Wisconsin and Ohio provide two examples of this partnership in action. When current Wisconsin Governor Scott Walker was a state legislator, he was a member of ALEC and used its materials to successfully pass a "truth in sentencing" law in 1997, which contributed to a 14 percent increase in the state's prison population over the following seven years.[212] Walker also introduced legislation to privatize Wisconsin's prison system and to allow private prisons into the state.[213] In December of 2010, CCA contributed $10,000 to former ALEC member and current Ohio Governor John Kasich's transition fund. Kasich proceeded to appoint former CCA consultant Gary Mohr as the Director of the Ohio Department of Rehabilitation and Correction;[214] and approximately six months later the Governor signed HB 153, which sold the Lake Erie Correctional Institution to Corrections Corporation of America.[215] To be clear, these contributions were not likely bribes leading directly to official action, but rather expressions of a mutually beneficial partnership between the private prison industry and ideological allies who believe in privatization of public services.

The private prison industry has even benefited from the political spending of organizations that actually oppose its operation. Corrections officers unions, which often represent only public employees, for example, have spent millions of dollars to support "tough-on-crime" policies that increase both the incarcerated population and length of sentencing. Unions typically represent the interests of working families to balance the power of corporate America, and in recent decades their policy agendas have usually aligned with the needs of people of color. But, occasionally a particular union's parochial interests will run counter to the greater interests of disadvantaged communities. Corrections officer unions have presented this special case.

California, which faces a perennial prison-crowding crisis, is a tragic example. In 2011, the U.S. Supreme Court upheld a ruling ordering the state to ease overcrowding, with Justice Kennedy agreeing with the lower court's conclusion that prisoners were dying as a result.[216] The California Correctional Peace Officers Association (CCPOA) opposes private prisons, but staunchly supports and defends *the* punitive policies that helped create the current crisis and boost the private prison industry's bottom line, including strict sentencing laws and pro-incarceration policies.

The CCPOA's political action committee, CCPOA-PAC, is the second largest political action committee in California and the organization spends $8 million per year on lobbying.[217] And, the organization has been particularly active in the ballot initiative process. In particular, CCPOA contributed $101,000 in 1994 (more than $160,000 in 2014 dollars) to pass Proposition 184, California's "three strikes" ballot initiative, which puts three-time offenders in jail for lengthy mandatory terms.[218] CCPOA also spent more than $1 million to successfully defeat Proposition 66 in 2004, a measure that would have amended the three-strikes law.[219] In 2008, it gave $1 million to successfully defeat Proposition 5, which would have reduced prison sentences for nonviolent drug offenders.[220] CCPOA spent more than any other single entity to defeat Proposition 5, four times as much as the second highest spender.[221]

The three strikes law was in place until 2012, when voters approved a ballot initiative to soften the policy.[222] In this case, advocates in favor of the anti-three strikes initiative outspent their opponents, but those in favor of harsh sentencing laws didn't go down without a fight. The Peace Officers Research Association of California made the single largest contribution to the "Save 3 Strikes" group, for $100,000.[223] In November 2014, voters approved a measure reclassifying low-level property and drug offenses as misdemeanors.[224] Again, proponents outspent opponents and again the Peace Officers Research Association made the single largest contribution against the proposition—this time for $230,000.[225]

Corrections Corporation of America (CCA) has also been a significant presence in California politics, spending nearly $300,000 on California campaigns during the 2012 cycle.[226] In October of 2013, Governor Jerry Brown signed a deal to lease a Corrections Corporation of America prison for $28.5 million per year in order to help ease the crowding crisis.[227] California paid $214 million to CCA in

2012, second only to the federal government.[228] All told, California houses approximately 12,300 inmates in private prisons, with about two-thirds of those in CCA facilities.[229]

Private prison companies have not just focused on increasing the overall incarcerated population; but have also pursued a narrower agenda that harms communities of color in particular. Recent research shows that private prisons finely tailor contracts to ensure that the people they house are younger on average, because older inmates have higher health care costs. Due to historical sentencing patterns, aging inmates are more likely to be white while younger incarcerated people are far more likely to be people of color.[230] Prior to the 1980s, most incarcerated people were white.[231] However, people of color now comprise the majority of the current incarcerated population in large part due to the War on Drugs and its disproportionate criminalization of communities of color.[232] Private prisons prefer younger people, who are overwhelming people of color, because it saves on health care costs and maximizes their profit margins.[233]

## CONCLUSION

The private prison industry's undemocratic influence on public policy has contributed to historic rates of incarceration, particularly for people of color. Serving time in prison not only strips productive members from their communities, but the negative economic effects continue long after incarceration has ended, perpetuating cycles of poverty. Communities of color bear a disproportionate burden from our nation's sky-high incarceration rates, and without significant changes in criminal justice policy the private prison industry's profits will continue to flourish at the expense of so many young men of color.

## CASE STUDY
## THE SUBPRIME LENDING CRISIS

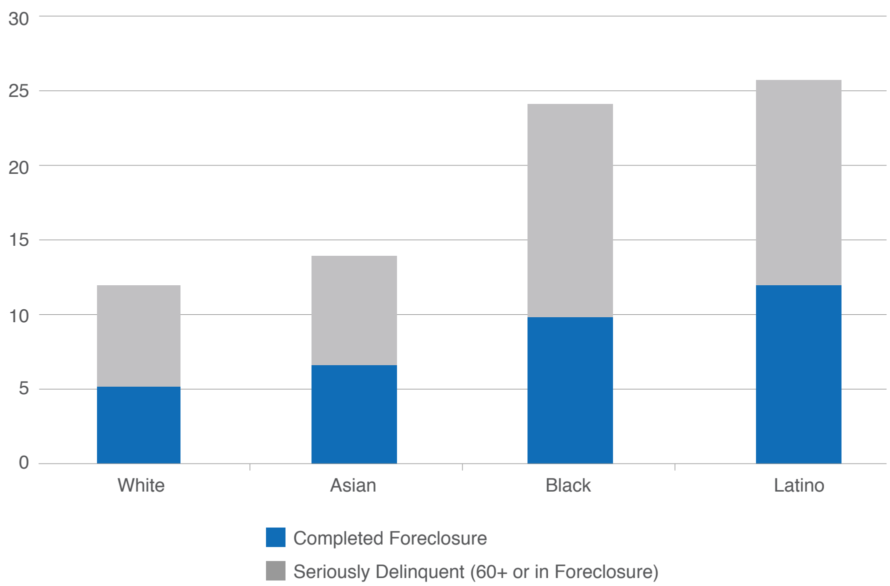
### THE PROBLEM AND ITS IMPACT ON PEOPLE OF COLOR

The subprime mortgage crisis was a national tragedy. For years, shortsighted and unscrupulous mortgage lenders pushed American borrowers to take out variable rate and high interest loans they could only afford if housing prices kept rising at the recent, bubble-inflated rate. When the bubble burst millions of borrowers found themselves with homes worth far less than their mortgage payments.[234] The result was a huge number of foreclosures and a shocking national loss of wealth. Between the beginning of the crisis and 2011, the Center for Responsible Lending estimates that "at least 2.7 million households lost their homes to foreclosure."[235] In January of 2012, the Federal Reserve reported that, "house prices have fallen an average of about 33 percent from their 2006 peak, resulting in about $7 trillion in household wealth losses."[236]

The consequences of the subprime-lending crisis have been particularly dire for people of color. African American and Latino borrowers are almost twice as likely to have been affected by the crisis as non-Hispanic whites.[237] Among loans originated between 2004 and 2008, nearly 10 percent of African American and nearly 12 percent of Latino borrowers have lost their homes to foreclosures, compared to 5 percent of whites (see Figure 15). The racial and ethnic disparities in these estimated foreclosure rates hold even after controlling for differences in income patterns between demographic group.[238] And in total, 1.5 million whites, 635,000 Latinos, and 397,000 African Americans lost their homes—a much larger share of homeowners in communities of color.[239]

This was not due to the overall creditworthiness of African American or Latino borrowers, but rather to the discriminatory practice of pushing predatory loans in communities of color. According to the Center for Responsible Lending, racial and ethnic differences in foreclosure rates persisted even after accounting for differences in borrower income.[240] This is largely because African Americans and Latinos were much more likely than similarly situated white borrowers (with the same credit score range) to receive high interest rate (subprime) loans and loans with features associated with higher foreclosures.[241] A National Consumer Law Center report found that subprime products were not only sold disproportionately to lower-income homeowners, they were also

**Figure 15. Rates of completed forclosures and serious delinquencies, by borrower race and ethnicity (2004-2008 originations)**




**Source:** Center for Responsible Lending

sold disproportionately to borrowers of color, even adjusting for income.[242] Data from the Federal Reserve shows that during the height of subprime lending, more than 53 percent of loans and 49 percent of refinancing loans made to African American borrowers were subprime loans.[243]

In fact, the disparities were especially pronounced for borrowers with higher credit scores. Among borrowers with a FICO score of over 660 (indicating good credit), African Americans and Latinos received a high interest rate loan more than three times as often as white borrowers.[244] Overall, African Americans were 2.8 times and Latinos 2.2 times more likely than whites to receive a subprime mortgage.[245] Many borrowers of color who ended up with subprime loans actually qualified for, but did not get, more affordable prime loans.[246]

The subprime crisis came on the heels of longstanding housing discrimination in the U.S, and this discrimination exacerbated the crisis' impact on communities of color. A 1996 Federal Reserve Bank of Boston study, for example, reported that "even after controlling for financial, employment, and neighborhood characteristics, black and Hispanic mortgage applicants in the Boston metropolitan area are roughly 60 percent more likely to be turned down than whites."[247] This discrimination resulted in increasing residential segregation,[248] which made it easier for financial institutions to target communities of color for subprime loans[249] and ultimately contributed to the housing crisis which disproportionately devastated these communities.[250]

The *New York Times* reported that Wells Fargo, "saw the black community as fertile ground for subprime mortgages, as working-class blacks were hungry to be a part of the nation's home-owning mania;" that one loan officer "pushed customers who could have qualified for prime loans into subprime mortgages;" and that another "stated in an affidavit…that employees had referred to blacks as 'mud people' and to subprime lending as 'ghetto loans.'"[251] A *Times* investigation revealed that black households making more than $68,000 a year were nearly five times as likely to hold high-interest subprime mortgages as whites of similar or even lower incomes.[252]

And, the least responsible players overall were also the most likely to engage in discriminatory lending. Federal Reserve Home Mortgage Disclosure Act data indicates that, among mortgage lenders that went bankrupt in 2007, black borrowers who received loans in 2006 were three times more likely to receive a subprime loan than a prime loan, and Latinos were twice as likely, while whites borrowing from the same lenders were more likely to receive a prime loan. Among the institutions that did not go bankrupt, blacks were just as likely to receive a prime as a subprime loan (50.7 percent of loans were prime, while Latinos were far more likely receive a prime loan (63 percent of loans were prime) and whites received prime loans 26 percent of the time.[253]

The results of this race-based targeting for subprime loans have been catastrophic for communities of color. A 2011 Pew Research Center study found that from 2005 to 2009, the median level of home equity held by Latino homeowners declined by half—from $99,983 to $49,145—while the homeownership rate among Latinos also fell, from 51 percent to 47 percent.[254] The wealth drop caused by the financial crisis was more acute for Latino and African American households than white households. During the same period, the inflation-adjusted median wealth fell by 66 percent among Latino households and 53 percent among black households, compared with just 16 percent among white households.[255] All told, subprime borrowers of color lost between $164 billion and $213 billion from 2000-2008, which represents the, "greatest loss of wealth for people of color in modern US history."[256]

## THE ROLE OF MONEY

The political power of mortgage lenders—through high-paid lobbyists and major campaign contributions—influenced Congress to deregulate the lending industry, loosen consumer protections, and convince regulators to look the other way.

In the aftermath of the collapse of the housing market, it became clear that banks and financial interests exacerbated the crisis by using their influence to water down legislation that would have protected consumers and communities. Extensive lobbying and targeted campaign contributions gave banks and financial interests the leverage to fight consumer protections that could have prevented predatory targeting of communities of color.

### INFLUENCING NATIONAL POLICY

The financial and banking industry is well represented among the top 100 contributors to federal campaigns since 1989, with more than $272 million in campaign contributions from their corporate PACs or employees (see Figure 16).[257]

**Figure 16. Total contributions to federal campaigns since 1989**
*From organization (through PAC) and associated individuals*

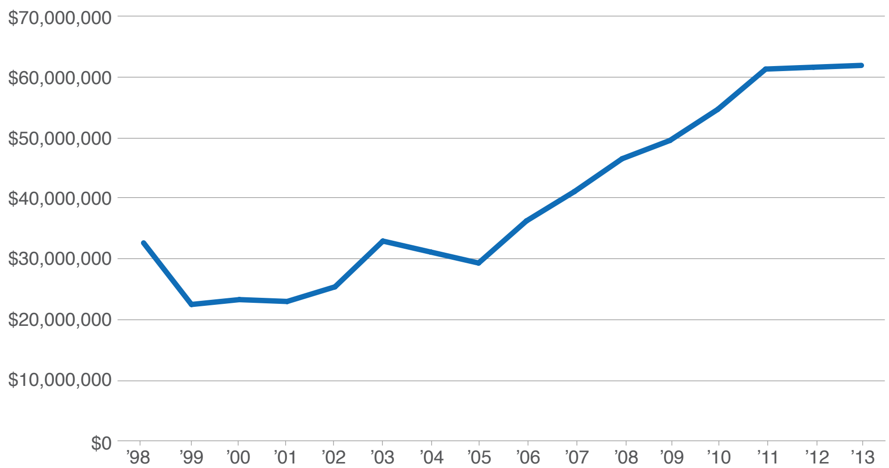
| Name | Total Contributions 1989-2014 |
|---|---|
| Goldman Sachs | $47,062,035 |
| Citigroup Inc. | $33,714,682 |
| JPMorgan Chase & Co | $33,258,194 |
| American Bankers Association | $33,090,521 |
| Bank of America | $28,531,927 |
| Morgan Stanley | $27,130,084 |
| USB AG | $22,422,520 |
| Credit Suisse Group | $17,780,041 |
| Merrill Lynch | $14,965,708 |
| Wells Fargo | $14,763,494 |
| TOTAL | $272,719,206 |

**Source:** Center for Responsive Politics

Adding to this is the more than $662 million the commercial banking industry has spent on lobbying since 1989 (see Figure 17).[258]

Their long history of political and electoral spending gave banks and the financial industry great leeway to prey on communities of color by aggressively advocating for deregulation and by circumventing existing protections, particularly the Community Reinvestment Act (CRA) which requires lenders to provide equitable services to all

**Figure 17. Annual lobbying expenditures by commercial banks**




**Source:** Center for Responsive Politics

client communities.[259] The CRA only applies to commercial banks and thrifts, not investment banks, non-bank lenders, and mortgage brokers.

Banks went around these protections by using subsidiaries, affiliates, and funded non-bank lenders or mortgage brokers to escape review for abusive lending practices.[260] Banks were also free to target poor communities and communities of color for abusive or predatory lending if there were no bank branches in those communities.[261] In addition, it was perfectly legal for mortgage brokers to steer customers into paying the highest amount of interest on a loan—and they were rewarded for the practice.[262] These problems, combined with lax mortgage rules and inadequate enforcement created perverse incentives that led lenders to make abusive loans.

Ironically, some have tried to blame enforcement of the CRA for the housing crisis, when the facts show the opposite is true. According to federal data, "[o]nly one of the top 25 subprime lenders was directly subject to the housing law that's being lambasted by conservative critics."[263] And, just when federal officials should have been strengthening regulations to take full advantage of the law's consumer protections and potentially stave off risky lending practices, "[i]n late 2004, the Bush administration announced plans to sharply weaken CRA regulations, pulling small and mid-sized banks out from under the law's toughest standards."[264]

This loosely regulated landscape represented a huge return on investment for the banks and financial institutions that had spent millions of dollars on campaign donations and lobbying. Ameriquest Mortgage Company, one of the nation's largest subprime lenders, spent $20 million in state and federal political donations between 2002 and 2006.[265] Other subprime lenders, such as Citigroup, Inc., Wells Fargo and Company, Countrywide Financial Corporation, and the Mortgage Bankers Association also spent heavily on lobbying and campaign contributions.[266] Citigroup alone spent over $5.44 million on lobbying in just in 2002.[267]

And, the most aggressive anti-regulation lobbyers are often subjecting consumers to the most risk. An International Monetary Fund working paper has identified a connection between lobbying activity and negative outcomes for consumers. The report authors find that "lenders that lobby more intensively on [mortgage regulation] have (i) more lax lending standards, (ii) greater tendency to securitize, and (iii) faster growing mortgage loan portfolios…delinquency rates are higher in areas in which lobbying lenders' mortgage lending grew faster."[268] They conclude that their analysis "suggests that the political influence of the financial industry can be a source of systemic risk" and "provides some support to the view that prevention of future crises might require weakening political influence of the financial industry…"[269]

### EVIDENCE FROM THE STATES

The industry's campaign contributions and lobbying were not limited to the federal level, and the impact of pressure in the states is clear. Ameriquest, for example, targeted Georgia and New Jersey for successful efforts to weaken state consumer protection laws.[270]

In Georgia, the subprime industry was successful in getting a key provision that would have protected many subprime borrowers eliminated from the state's Fair Lending Act. Passed in 2001, the law as initially enacted required lenders to prove that a refinancing of any home loan less than five years old would provide a "tangible net benefit" to the borrower.[271]

Ameriquest and others immediately began lobbying the state legislature to remove that provision and began contributing to Georgia politicians.[272] In 2002, the commercial banking industry was the top contributor to Senator Don Cheeks and the Georgia Association of Mortgage Bankers was one of the top contributors to Senator Terrell Starr, both of whom would eventually introduce the amendments that weakened Georgia's law.[273] In addition, in 2002, Citigroup, and interests associated with it, made more than $48,000 in contributions in the state[274] and the Mortgage Banker's Association of Georgia spent more than $40,000.[275] Industry lobbying and contributions, along with other pressure tactics, led the Georgia legislature to eliminate the tangible net benefit requirement.[276] A similar situation occurred in New Jersey, and the state rolled back significant portions of new laws intended to protect borrowers.[277]

These rollbacks allowed the mortgage industry to target thousands of additional potential customers and set the stage for Georgia's and New Jersey's severe housing crises. Not surprisingly, both states were hit hard by the subprime collapse and are still struggling to recover.[278] In 2012, the *New York Times* reported that Atlanta Georgia was, "one of the biggest laggards in the economic recovery."[279] Bloomberg reported in 2014 that New Jersey had, "surpassed Florida in having the highest share of residential mortgages that are seriously delinquent or in foreclosure."[280] Both states qualified for the U.S. Treasury Department's "Hardest Hit Funds," which provides funding to the 18 states (and the District of Columbia) hardest hit by the housing crisis.[281] And, the African American populations of both Georgia and New Jersey are higher than the national average (as are New Jersey's Asian and Latino populations), so the housing crisis in these states had a disproportionately large impact on communities of color.[282, 283]

### A THUMB ON THE RECOVERY SCALE

Once the bubble started to burst, banks and financial interests invested heavily to ensure any legislation meant to clean up their mess still protected their bottom line. In the fall of 2009, as the worst of the recession hit the housing market "…34 members of the U.S. House of Representatives that offered amendments to weaken consumer protections in the House financial reform package received $3.8 million in campaign contributions from the financial sector in 2009, an average of $111,000 each."[284]

The American Bankers Association (ABA) also spent $26 million on lobbying between 2009 and 2011.[285] Among the largest targets of their lobbying in 2009 was the Helping Families Save Their Homes Act of 2009, which provided foreclosure relief to families affected by the mortgage crisis.[286] While the bill did provide important protections, lobbyists were able to successfully eliminate a crucial component that would have allowed bankruptcy judges to write down mortgages on a primary residence to the current fair-market value of the property. The provision would have also allowed bankruptcy judges to monitor and stop the practice of banks using fraudulent documents to foreclose on homeowners.[287]

In addition, during the 2010 campaign cycle, individuals and political action committees associated with the commercial banking industry gave more than $22 million to federal candidates, committees and parties.[288] The ABA alone gave more than $3.8 million to House and Senate candidates with an average contribution close to $6,000.[289] These efforts have forestalled strong, consumer-friendly responses to the housing crisis.

## CONCLUSION

Even through the housing crisis, homeownership continues to be a critical pathway to building wealth for low- and moderate-income households.[290] Yet, the outsized role of big money in politics has contributed to a significant erosion of the American dream in the past decade. The subprime mortgage crisis is a textbook example of how corporate interests, backed by millions in campaign contributions and lobbying, were able to maximize their profits while households of color faced the greatest loss of wealth from their communities in modern history.

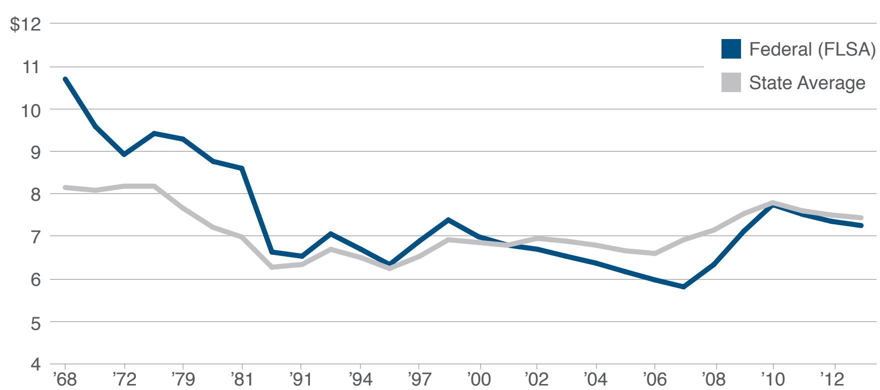
## CASE STUDY
## THE MINIMUM WAGE

### THE PROBLEM AND ITS IMPACT ON PEOPLE OF COLOR

The minimum wage directly or indirectly affects millions of American workers. In 2013, 1.5 million workers earned the federal minimum wage of $7.25 per hour, and another 1.8 million earned less.[291] Less than half the workforce is covered by a higher state-level minimum.[292]

After peaking in 1968, the real value of the federal minimum wage has declined fairly steadily ever since. State minimum wages have in general also not kept pace with inflation, meaning that for the vast majority of minimum wage earners, purchasing power has declined over the past four decades (see Figure 18).

**Figure 18. Federal and state average real minimum wage**




**Source:** U.S. Department of Labor, Wage and Hour Division

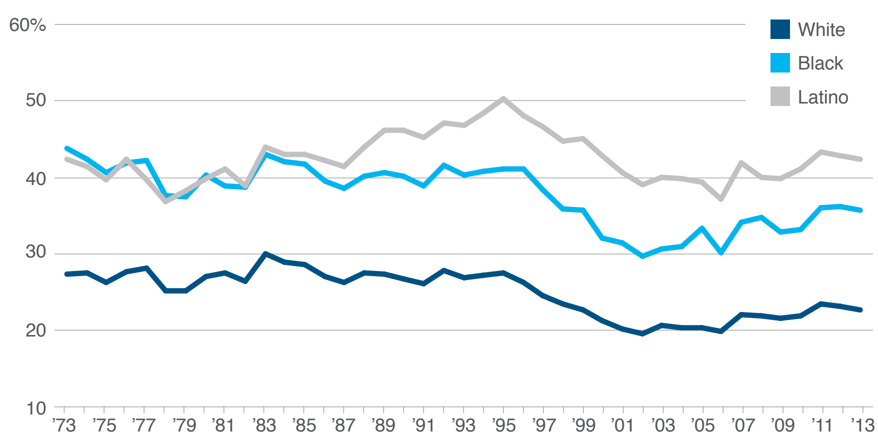
The lack of wage growth at the bottom is a huge problem for millions of Americans because minimum wage purchasing power is clearly insufficient. Working 40 hours per week at the federal minimum wage for 52 weeks over the course of the year (no vacation), a worker earns only $15,080 per year, which is below poverty level for a two-person household.[293] As McDonalds inadvertently highlighted in 2013 by issuing a sample budget for its employees,[294] this is not enough to live on, and many minimum wage workers depend upon multiple jobs, government programs such as food stamps and Medicaid, and mounting debt just to get by.[295]

People of color have paid a particularly high price for the stagnant minimum wage, a fact that lead The Leadership Conference

Education Fund—the public education arm of the nation's leading civil and human rights coalition—to partner with the Georgetown Law School Center on Poverty and Inequality to release an October 2014 report titled *Improving Wages, Improving Lives: Why raising the minimum wage is a civil and human rights issue.*[296] The report notes that "raising the minimum wage was a key demand of the 1963 March on Washington."[297]

And for good reasons that unfortunately persist. Latinos and African Americans are a disproportionate share of minimum wage workers[298] and a disproportionate share of workers making poverty-level wages overall (see Figure 19). In 2013, 42.2 percent of workers earning poverty wages were Latino and 35.7 percent black, whereas whites represented just 22.5 percent in spite of being the majority of the workforce.[299] The median hourly wage for white men in 2011 was 39 percent greater than the median wage for black men and 55 percent greater than the median for Hispanic men.[300]

## Figure 19. Share of workers earning poverty-level wages, by race and ethnicity (1973-2013)




**Source:** EPI analysis of Current Population Survey Outgoing Rotation Group microdata

There is also a stark gender gap with respect to minimum wage work, meaning that women of color are far more likely to work for the minimum than any other demographic. Women make up 60 percent of full-time minimum wage workers, and twenty-two percent of minimum wage workers are women of color.[301] Women also make up two-thirds of all tipped workers, who earn a minimum wage of just $2.13 per hour.[302] Ten percent of tipped workers are Asian, more than 10 percent are African American, and nearly 20 percent are Latino.[303]

Raising the minimum wage would lift millions of workers out of poverty, including millions of workers of color.[304] In total, if the minimum wage were raised to $10.10 an hour, more than 3.5 million workers of color would be lifted out of poverty.[305] Nearly 25 percent of all affected workers would be Latino, though Latinos comprise only 16 percent of the overall workforce.[306] Likewise, more than 14 percent of workers affected would be African American,[307] while African Americans comprise only 12 percent of the overall workforce.[308] Twenty eight percent of all African American workers and 32 percent of all Latino workers would benefit from an increased minimum wage.[309] Asian Americans could see their wages rise a collective $2.4 billion if the wage were raised to just over $10 per hour.[310] Critically, raising the floor doesn't just help workers earning the minimum, but creates upward pressure on wages that would boost earnings for more than 11 million workers currently earning more than $10 per hour.[311]

Some have claimed that raising the minimum wage would cost jobs for the very people advocates seek to help. This view, conveniently forwarded by industry trade groups,[312] is not borne out by the facts. The 13 states that have recently increased their minimum wages have had above-average employment growth in recent months.[313] The Economic Policy Institute estimates that raising the federal minimum wage incrementally to $10.10 per hour by 2016 would actually create 85,000 new jobs during the phase-in period.[314]

Average family income and employment stability are two factors responsible for the widening wealth gap between communities of color and white communities.[315] For many workers of color, a stagnant minimum wage and sustained levels of high unemployment have prevented the economic stability needed for wealth accumulation. For these reasons, African American and Latino civil rights organizations have made raising the minimum wage a key priority in recent years.[316]

## THE ROLE OF MONEY

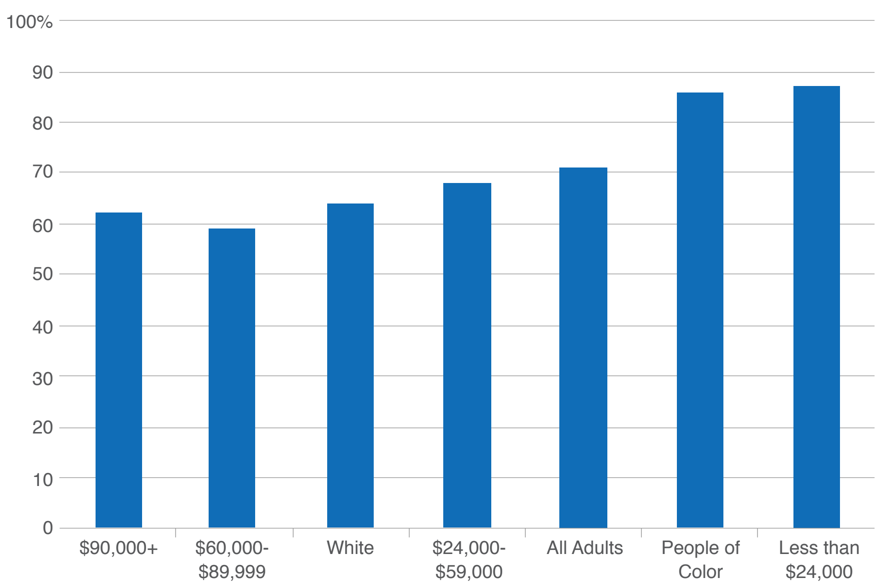
Increasing the minimum wage is widely popular with the general public and would help millions of struggling families. Yet the minimum wage remains stagnant at the federal level and in many states because it is not a priority for the affluent, and because business interests actively advocate against raising it. In contrast, a low capital gains tax rate is generally unpopular among the public but continues to receive favorable treatment because affluent and corporate interest support keeping it low. The result is that millions of workers, particularly workers of color, face increasing levels of economic insecurity.

### A PRIORITY FOR PEOPLE OF COLOR, BUT NOT FOR THE WEALTHY

In addition to providing more economic stability for workers, increasing the minimum wage would be a popular move for Congress. Consistently, the public overwhelmingly supports raising the minimum wage. More than 70 percent of Americans support raising the federal minimum wage to nine dollars,[317] and 78 percent support a minimum wage high enough to keep families with at least one full-time worker out of poverty.[318]

Support for raising the minimum wage is even higher within communities of color, where 86 percent support raising the minimum wage (see Figure 20).[319] In fact, 93 percent of African Americans and 83 percent of Latino Americans support raising the minimum wage to $10.10 per hour and adjusting it for the cost of living in subsequent years.[320]

**Figure 20. Support for raising minimum wage to $9 per hour, by race & income**

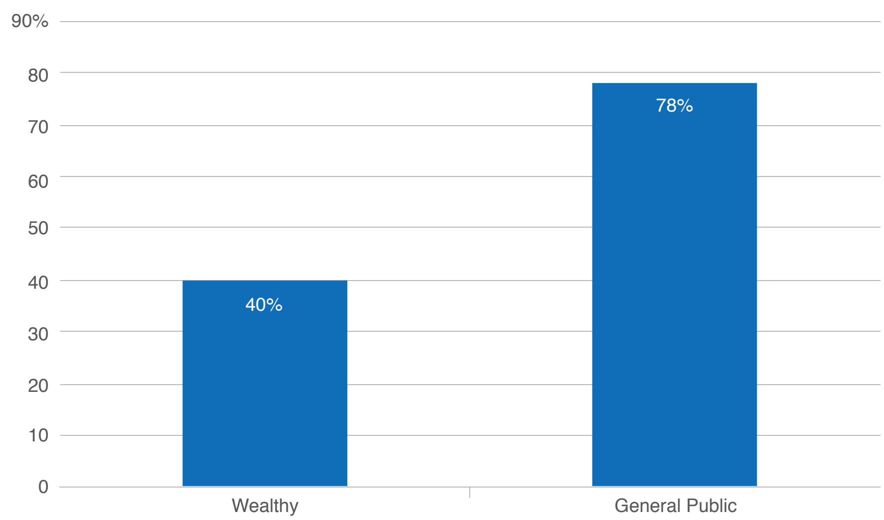



**Source:** Gallup, March 2013

In contrast, raising the minimum wage is not a priority for affluent individuals. A recent survey of individuals with an average income over $1 million found that only 40 percent of them supported having a minimum wage high enough so that a family with one full time worker would not live in poverty—about half the level of support reported by the general public (see Figure 21).[321] The difference in support for increasing the minimum wage is not surprising since the policy does not affect affluent people the way it does low-wage workers. As discussed above, these affluent Americans provide a substantial and highly disproportionate share of campaign funding for elected officials.

In addition, many business owners and corporations actively oppose raising the wage. These businesses, or individuals associated with them, spend significant amounts of money on elections. For example, the U.S. Chamber of Commerce, which strongly opposes raising the minimum wage, spent at least $36.1 million directly on election activities in the 2012 cycle—a fraction of the money spent by the corporations associated with the Chamber and individuals who work for them.[322] Twenty trade associations that oppose an increase in the minimum wage—including heavyweights such as the Chamber and the National Restaurant Association—collectively spent more than $91 million lobbying Congress in 2013 alone.[323]

**Figure 21. Support for minimum wage high enough to keep family with full time worker out of poverty**




**Source:** Page, Bartels, and Seawright (2013)

### PUBLIC SUPPORT, BUT LITTLE ACTION FROM CONGRESS

The overwhelming support for higher wages among the public and communities of color has resulted in a strong grassroots movement to raise the minimum wage. After implementing a system of publicly-funded elections that reduced the influence of special interests in the legislature, Connecticut increased its minimum wage in 2008.[324] Connecticut plus nine other states and DC have raised the wage in 2014, and a total of 34 states considered increases during the legislative session.[325]

Thousands of workers in fast food, retail, and other industries have risked their jobs and livelihoods over the past two years by striking for higher pay and the right to join a union.[326] President Obama recently signed an executive order raising the minimum wage for federal contractors to $10.10 per hour.[327] And, Seattle recently enacted the nation's highest minimum wage, which will ultimately reach $15 per hour.[328]

Yet in spite of this momentum, Congress and many states have allowed the real value of the minimum wage to decline in recent decades. Before it was increased in 2007, the federal minimum wage was stuck at $5.15 per hour for ten years.[329] It has now been more than five years since it was last increased.[330] While troubling, this is not surprising given the recent study (noted above) by Princeton and Northwestern political scientists which found that wealthy Americans and organized business interests have a strong impact on policy outcomes, while average voters have virtually none.[331]

### THE CONTRAST: AFFLUENT AND CORPORATE INTERESTS SUPPORT, AND RECEIVE, A LOW CAPITAL GAINS TAX RATE

Increasing the minimum wage may not directly affect many affluent Americans, but the capital gains tax rate certainly does. Keeping the capital gains rate low is also a top tax priority for the U.S. Chamber of Commerce and other business groups.[332]

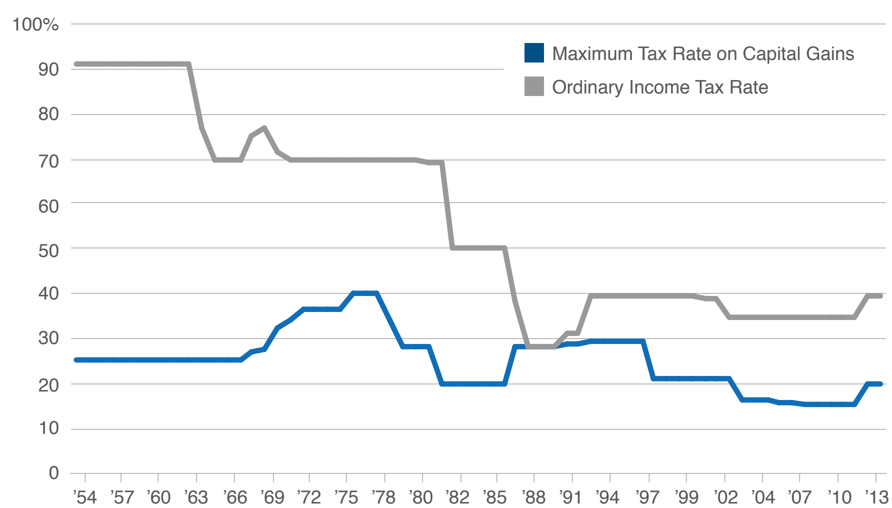
Affluent households get the lion's share of capital gains. The Center on Budget and Policy Priorities estimated that in 2012, the top one percent of households received 71 percent of all capital gains.[333] The small percentage of households that benefit from a low capital gains tax rate happens to overlap almost perfectly with the "donor class," the wealthy individuals who comprise a tiny percentage of the public and yet account for the majority of campaign donations.[334] Of those who contribute more than $200 to a campaign, 85 percent have annual household incomes of $100,000 or more.[335] An annual income of $100,000 puts a household in the top 20 percent of income earners—the same class that receives 94 percent of capital gains.[336]

Those who benefit from capital gains are also overwhelmingly white. People of color invest in stocks and financial instruments at lower rates than whites so they receive less benefit from capital gains.[337] Nearly 85 percent of the top quintile of income earners, who also receive 94 percent of all capital gains, are white.[338]

Congress has taken repeated action to lower the capital gains tax rate despite polls long showing that a majority of Americans think that capital gains should be taxed at the same rate as income.[339] Congress lowered taxes on capital gains in 1997, again in 2001, and once more in 2003. (Congress also sharply cut the top rate on dividend income in 2003.)

As a result of these tax changes, the tax rate on capital gains reached a near-record low during the late 1990s up through 2012 when the top tax rate for capital gains was increased to 20 percent, as part of the "fiscal cliff" deal.[340] Only for one brief period in the late 1980s and early 1990s did tax policy comply with the public preference that capital gains be taxed at the same rate as ordinary income (see Figure 22).

**Figure 22. Maximum tax rates on capital gains & ordinary income (1954-2013)**




**Source:** DOL

## CONCLUSION

Raising the minimum wage is popular with the public, but not the wealthy. Candidates, who understand that fundraising is essential to a successful campaign, have a significant incentive to oppose raising the minimum wage and often little or no financial incentive to support it. Unions have lobbied heavily for increasing the wage and are substantial players in election and advocacy campaigns—but they are consistently and substantially outspent by wealthy donors and corporate interests.[341] The opposite relationship is true with the capital gains tax rate—a low rate is unpopular with the public but enjoys strong support from the donor class.

The result, in our big money system, is economic policy that benefits the wealthy (largely white) minority, and leaves people of color the rest of low- and middle-income America behind. Even though far fewer Americans benefit from capital gains than from an increased minimum wage, Congress maintains a special lower tax rate on capital gains but refuses to increase the wage. The real value of the minimum wage is lower now than it was in 1968, leaving millions of workers—who are disproportionately people of color—struggling to stay afloat.[342]

## CASE STUDY
## PAID SICK DAYS IN CONNECTICUT

### THE PROBLEM AND ITS IMPACT ON PEOPLE OF COLOR

One hundred and forty-five countries, including nearly all of the most prosperous ones, guarantee their workers at least a few paid days each year to take care of themselves or their loved ones when they fall ill.[343] The United States is an exception. Unlike Australia, Canada, the Netherlands or the United Kingdom, the U.S. does not require employers to provide even short-term paid sick leave for their employees.[344]

As a result, more than 41 million U.S. workers (39 percent) lack the option of taking paid days to recover from illness or care for sick family members.[345] And many of those left out are workers who can least afford to take unpaid time off. Almost all high-income workers—close to nine out of every ten in the top quartile—enjoy the benefit of paid sick leave.[346] But only about one third of workers in the bottom quartile of wage earners have access to paid sick days.[347] That number drops to 21 percent for workers in the bottom tenth.[348]

What, exactly, are low-income parents without sick leave protections supposed to do when their young children come down with the flu? The economic impact of taking unpaid days off work can be devastating for working families. The Economic Policy Institute (EPI) estimates that, even in a two-parent household in which both parents earn $10 per hour (well above minimum wage), the loss of three and a half days of one parent's pay would cost the family a month of groceries.[349] Just three days of unpaid leave would cost almost a month of health care.[350] Sixteen percent of Americans report that they have lost a job because they took time off to care for themselves or a sick family member and another 14 percent have feared losing their jobs.[351]

The costs spread far beyond these families, affecting the broader economy and public health. Workers without paid leave are less likely to seek preventive medical care such as cancer screenings[352] and more likely to go to work sick, putting coworkers' and customers' health at risk. Research suggests that offering a single paid sick day could reduce flu transmission by 25 percent and two paid days could cut it by almost two-fifths.[353]

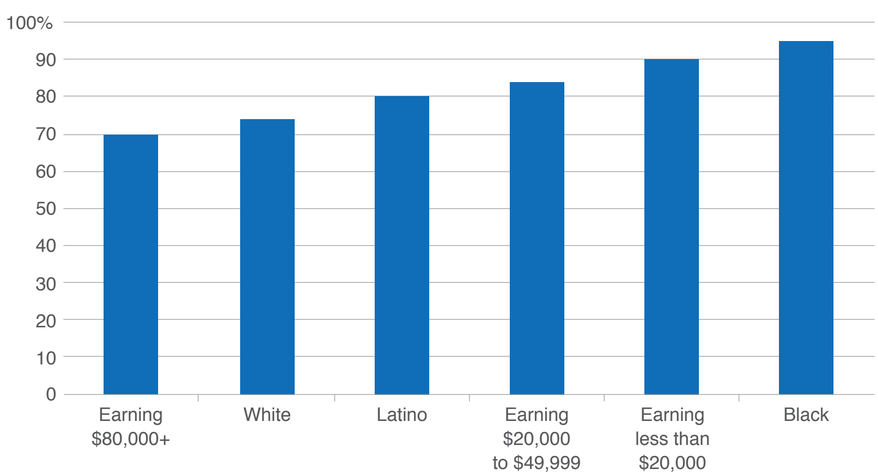
Access to paid sick days is an issue of particular concern to the Latino community. While 64 percent of white workers and 62 percent of African American workers have access to paid sick days, fewer than half of Latino workers enjoy the same benefit.[354]

## The Role of Money

Unsurprisingly, given the benefits outlined above, the vast majority of Americans favor proposals to guarantee workers paid sick days. Polls consistently find support for paid sick day laws at around 70 to 75 percent of the population.[355] And this is one issue on which Americans all along the political spectrum agree. Majorities of not just Democrats but also Independents and Republicans support paid sick day laws. Indeed, most Americans on both sides of the aisle believe paid sick days are a basic worker's right, akin to being paid a decent wage.[356]

Though support for paid sick day laws is high across the board, it's often a particular priority for people of color and lower-income workers. Ninety percent of African Americans support paid sick day laws and African Americans and Hispanics are disproportionately likely to consider paid sick leave a basic worker's right (see Figure 23). Eighty percent of Hispanics and 95 percent of African Americans count it as a fundamental right, compared to 74 percent of whites. Similarly, eighty percent of workers earning $20,000 per year or less support paid sick day proposals compared to 73 percent of those making $80,000 or more and nine out of ten lower-wage workers consider paid sick leave a basic worker's right versus seven of ten workers in the highest-income bracket.[357]

### Figure 23. Agree paid sick laws "basic worker right" by race & income




**Source:** National Opinion Research Center at the University of Chicago & Public Welfare Foundation

Despite the overwhelming public support for paid sick day laws, however, there is no federal law mandating paid sick days and, before 2011, not a single state had such a law on the books.

The lack of paid sick day laws isn't due to a lack of legislative proposals. The Healthy Families Act, which would give workers throughout the nation the opportunity to earn paid sick days, has been introduced in every Congress since the 108th in 2003-2004.[358] At the state level, lawmakers in about 20 states have introduced paid sick leave bills in the last two years alone.[359]

However, opposition from business interests has impeded progress on these proposals. National organizations, such as the U.S. Chamber of Commerce, the National Federation of Independent Business[360] and the National Restaurant Association, have lined up against the Healthy Families Act.[361] And their state and local counterparts have taken a similar line against state and municipal proposals. [362]

Connecticut's experience with paid sick days offers an example of this dynamic. The state's chamber of commerce, the Connecticut Business & Industry Association (CBIA), was an immediate and vocal opponent of paid sick day legislation.[363] Its anti-paid sick day push received early support from then-Governor Jodi Rell.[364] Rell, who received campaign contributions from the CBIA and positioned herself as staunchly pro-business, threatened to veto any paid sick day bill the state General Assembly passed.[365]

CBIA's efforts were also bolstered by another beneficiary of its campaign spending, then-Speaker of the Connecticut House James Amann.[366] With leadership opposing the bill, it stalled in the state House. Despite receiving favorable reports from multiple joint legislative committees and passing the state Senate with votes to spare, the bill wasn't put up to a vote of the full House while Amann held the speakership.[367]

But Connecticut is also a good example of how to *change* the dynamic. In late 2005, the state passed a "fair elections" system that provides an option for candidates for statewide constitutional offices and General Assembly to receive a public grant to fund their campaigns.[368] These candidates must qualify for the system by raising a set amount of funding from a sufficient number of small donors and agree to certain spending limits. The program took effect for the 2008 General Assembly elections. In the first year it was available for gubernatorial elections, progressive candidate Daniel Malloy used his grant to win the 2010 race.[369]

That win changed the game for paid sick days in Connecticut. Malloy staked out a very different position on the issue than his primary and general election opponents, Democratic small businessmen Ned Lamont and Republican Tom Foley respectively. In a conversation with the *Connecticut Mirror*, Lamont said, "I think we deal with sick leave just fine at the small-business level where I live. I'm not sure I need the government stepping in and putting another mandate on businesses like mine."[370] Foley took this a step further, saying that the paid sick day legislation was "a job killing policy and will make Connecticut radioactive in terms of trying to bring employers here… [F]or the state legislature to mandate employers to provide it is idiotic."[371] Malloy, by contrast, enthusiastically supported the bill. He campaigned on paid sick days and continued to champion them when in office.[372]

And Malloy's win probably would not have been possible without public financing. A leader of the paid sick day campaign, Connecticut Working Families' Lindsay Farrell, notes that "Connecticut's public financing system helped us to pass paid sick days because, in the Democratic primary, there was a multimillionaire who spent tons of money and the general election had a Republican who was a multimillionaire. Without public financing, [Malloy] wouldn't have been both competitive and progressive." Public financing "allowed him to be competitive in a race at that level without compromising on an issue like paid sick days."[373]

By the time Malloy took office, the state House speakership had also changed hands. Publicly-funded progressive Chris Donovan had replaced moderate Amann at the head of the House and, unlike Amann, he backed the paid sick day proposal.[374] With Donovan leading one chamber, publicly-funded Senate President Donald Williams, Jr. leading the other, and Malloy in the governor's mansion, the paid sick day bill sped through the legislative process.[375] Before the end of the first year of Malloy's first term in office, he had signed it into law, making Connecticut the first—and, until California earlier this year, only—state in the nation to guarantee workers access to paid sick days.[376]

### *The Effects of Paid Sick Days*

Connecticut's paid sick day legislation expanded the number of Connecticut workers with access to paid sick days at little or no cost to local businesses. Service workers in companies with 50 employees or more are now guaranteed the opportunity to earn paid time off to care for themselves or their families during an illness. Contrary to the concerns the CBIA raised, the negative impact of the paid sick day law on businesses seems to have been modest—with some employers even seeing *positive* effects.[377] Within eighteen months of the law going into effect, 77 percent of Connecticut employers *supported* the paid sick day law.[378]

## CONCLUSION

Connecticut's paid sick day law is a testament to the power of public financing to swing the political pendulum towards voters and away from wealthy interests. When elected officials are dependent on corporate donors to fund their campaigns, business interests enjoy disproportionate sway over the policymaking process. They can block policies they perceive as against their interests and drown out opposing voices.

When candidates have access to public financing, they can run—and win—on policies that are supported by voters and benefit working- and middle-class families and people of color. Changing the way campaigns are funded can change the debate, ensuring that a wider range of voices is heard, and elevating candidates and policies that are better aligned with the preferences of the general public and more responsive to constituents' needs.

CASE STUDY

# BUILDING POWER TO GET BIG MONEY OUT OF POLITICS BY ORGANIZING ON VOTING RIGHTS

*by* TAKEACTION MINNESOTA

> *"Through grassroots organizing to build independent political power, we are creating a virtuous cycle where our communities achieve meaningful progress on critical issues and in the process, come to believe that the promise of a government of, by and for the people is not only still possible, but worth fighting for."*

## VOTER ID LAWS IN THE UNITED STATES

Thirty states have enacted some sort of voter identification law.[379] These statutes appeared in statehouses across the country immediately after the 2008 national election, when 89.6 percent of registered voters cast a ballot, the largest proportion in forty years.[380] The surge in participation reflected a more diverse electorate, what is now called the "Rising American Electorate." In response, conservative lawmakers proposed 62 strict new voter ID bills in 37 states in 2011 and 2012.[381] They received inspiration from ALEC, the American Legislative Exchange Council, a think-tank funded by major corporations, which drafted, circulated and publicized model photo ID legislation throughout the country.[382]

Supporters of voter ID laws claim they are concerned with voter fraud, but there is little evidence of fraud to be found. Between 2000 and 2010, 441 Americans were killed by lightning strikes, but only 13 credible cases of in-person voting fraud were documented.[383] The broader intent of the laws appears to be to shift political and economic power.

Voter ID laws have a particular meaning in the context of today's growing wealth inequality, greater than it has been in nearly 100 years. Those on the bottom rung of the economic ladder—low-income people, people of color, students, seniors—experience the economy very differently from the corporate executives who fund

ALEC. Voter restriction laws protect the interests of an economic elite that uses campaign contributions to promote their economic interests and advance privatization, deregulation, attacks on workers' and women's rights, and an end to immigration reform.

Eleven percent of voting-age Americans lack government issued photo identification cards, and the number is higher among those on the losing end of income inequality: students, African Americans, immigrants, seniors and low-income voters.[384] A recent report by the non-partisan Government Accountability Office (GAO) bore out fears that voter ID laws could reduce voting by under-represented groups: new voter identification requirements passed in Kansas and Tennessee suppressed overall voter turnout by between two and three percent compared to similar states without these laws, with the strongest deterrent effects among young people and African American voters.[385]

Suppressing the vote increases the power of money in politics. The people whose votes are most easily suppressed are the most socially and economically marginalized voters. Low-income voters already vote less reliably than wealthier voters, and increasing the barriers to the franchise reduces their turnout disproportionately. Thus voter restriction measures leave a wealthier electorate. Only a small elite has the resources to make their voices heard by writing checks, but the vote is (or should be) available to everyone.[386]

Voter restriction measures thus translate the economic gap between rich and poor into a political gap between donors and voters. They allow wealthy people to control the political system the way they already control the economy. Thus it is no surprise that the same corporate interests that seek to undermine campaign contribution limits also support measures to restrict the franchise. On the flip side, grassroots efforts to preserve and expand voting rights are central to any strategy to oppose corporate influence over politics.

## ALEC BRINGS VOTER RESTRICTION TO MINNESOTA

In the spring of 2011, Minnesota's governor vetoed a bill that would have required a photo ID to vote.[387] The bill's author, the state chair for ALEC, circumvented the governor and placed the measure on the ballot as a constitutional amendment in time for the 2012 election.[388]

Minnesota was a prime target of the national voter restriction movement. The state consistently led the nation in voter turnout,[389] and the non-partisan FairVote has ranked its electoral system as the most democratic of all 50 states.[390] In their ambition to take down the country's best functioning democracy, the proponents of voter restriction crafted one of the toughest voter suppression policies in the nation. The proposed statute would have required voters to present a current government-issued ID without exemptions, not even for military voters, absentee voters, or nursing home residents.[391] It would have all but eliminated same-day registration, a program used by more than half a million voters, with high participation of people of color.[392] These restrictions would have been enshrined in the state constitution, making it very hard to amend or remove.

A poll conducted by the Minneapolis Star-Tribune in May 2011 showed 80 percent public support for the proposal.[393] One headline read, "Slam Dunk: Minnesotans Love Photo ID."[394] But a small cadre of organizations with electoral experience and roots in communities of color, knew something the pollsters didn't: the voter ID amendment could be defeated. TakeAction Minnesota knew this level of public support was a result of the misleading "fraud-free elections" narrative that was drummed-up by the bill's proponents.[395] We immediately took to the streets and started canvassing door-to-door. We had just 18 months before the measure would appear on the ballot. Our volunteers found that while most voters were predisposed to support a photo ID to vote, a trusted member of their community could often change their mind by helping them to understand the impact of requiring IDs. Our canvassing team discovered latent anger amongst community members who saw the measure as an attempt by powerful corporate interests to silence them. This anger proved the key ingredient to defeating the initiative.

## HOW GRASSROOTS ORGANIZERS DEFEATED VOTER RESTRICTION

Two community groups—ISAIAH, Neighborhoods Organizing for Change—along with the local Communications Workers of America (CWA) and SEIU union locals, joined TakeAction Minnesota to launch a grassroots organizing campaign to defeat the amendment. We knew that in order to win, we needed to talk to our communities both about the use of racial anxiety to promote the bill, and about the corporate interests and donors who were the financial backers.

We also set out to change the media narrative. We organized a "week of action" where different organizations led direct action protests and media events. TakeAction Minnesota released a report showing the state's largest banks and financial institutions were the primary funders of the legislators promoting the voter restriction law.[396] We turned out 300 people for a silent protest at the state capitol with dollar bills pasted over our mouths. From that point forward, the news media began to describe photo ID as "controversial."[397]

Next, TakeAction Minnesota exposed the explicit racism of the voter ID campaign. On the campaign's website was a caricature of fraudulent voters. First in line was an African American man in a prison jumpsuit, next a Latino dressed as a mariachi.[398] The ad was in line with proponents' strategy to fuel their campaign with racial anxiety. By drawing attention to the racism, we put the voter restriction campaign on the defensive.

Opponents of voter restriction initially had almost no money, so we built the vote no campaign on the existing infrastructure of grassroots organizations. Community organizers and volunteers were the backbone of a massive grassroots campaign called Our Vote, Our Future, which reached voters across the state. Volunteers and staff steadfastly refused to debate the false notion of voter fraud, and focused instead on the consequences, complications and cost of the voter restriction amendment (the name we gave the measure and used in all public communications). As important as this message were our messengers: grassroots volunteers who belonged to the communities where we canvassed. Volunteers persuaded unsure voters to vote no, and encouraged no voters to show up on Election Day. One voter at a time, these volunteers made the difference. Altogether, 80 grassroots organizations eventually joined the campaign, each connecting the issues its constituency cared most about to the need for full, unrestricted, civic participation.

On October 9, 2012 the campaign had raised the resources to launch our first TV advertisement. By that time, the tide of one-on-one conversations with voters, letters to the editors and articles in local papers had dropped support for the amendment from 80 percent to 51 percent—well within striking distance.[399] TakeAction Minnesota alone organized more than 3,200 volunteers, who attempted to reach 800,000 voters and spoke with more than 117,000. The whole campaign reached more than 400,000 voters. By Election Day, more than a million voters had changed their minds (one out of every three) and the voter restriction amendment went down to defeat 52 percent to 46 percent.[400] Minnesota was the first, and is still the only, state in the country to defeat a voter ID proposal on the ballot.

The defeat of the amendment was a blow for its corporate backers. It also strengthened the grassroots organizations that opposed the initiative. We built our capacity by expanding our volunteer base, growing our email list and online followings, forging new relationships with reporters and media, and building powerful new coalitions across communities and issue interests. Many of the legislators who had backed voter ID were swept out of office. As the political landscape shifted, the organizations that led the campaign to defeat voter restriction had new authority and power to advance our agendas.

## **THE NEXT STEP:** EMPOWERING DISENFRANCHISED VOTERS

Defeating the voter restriction amendment helped preserve the power of ordinary people to have a say in their political system, and reduce the influence of money in politics. While we are working to align with other state-based community organizations and national organizations working to pass campaign finance policy reforms and transform the Supreme Court's approach to money in politics, we are also going on the offensive here in Minnesota to reclaim control of our democracy, and to open the doors to participation for people who have been excluded from the right to vote.

TakeAction Minnesota, along with the leadership of our allies, has begun a campaign to restore the vote to one of the most disadvantaged and reviled groups in the state: people with criminal records.

Minnesotans charged with a felony lose the right to vote until they are released from supervision. There are currently 63,000 people in the state who live at home, participate in their community, work to support their families and pay their taxes, and yet are unable to vote due to a past criminal conviction.[401] The number has increased in recent years as felony convictions and sentence lengths have expanded, especially for non-violent related offenses. Since 1974, the number of voting age Minnesotans disenfranchised as a result of a criminal conviction has increased by more than 400%.[402]

Felony disenfranchisement in Minnesota disproportionately affects African American and American Indian men. In 2011, nearly 16,000 African Americans were disenfranchised in Minnesota, roughly eight percent of African Americans of voting age.[403] A quarter of the disenfranchised are African Americans and six percent are American Indians, far exceeding their proportion in the population.[404] Felon voter restriction has long-lasting repercussions for communities of color, since children whose parents don't vote are themselves less likely to participate in the democratic process.[405]

TakeAction Minnesota has joined with others under the banner of Restore the Vote, a broad coalition supporting legislation that would allow citizens to vote as long as they are not incarcerated. Since voting is a powerful symbolic act of community contribution, the reform we support will promote successful reintegration into the community for returning citizens.[406]

Organizers are using similar community engagement strategies to those that we used to defeat voter ID. During the fall of 2014, our volunteers are knocking on doors and calling voters by phone to build and demonstrate broad public support. Other volunteers are circulating petitions, signing up supporters, meeting with decision-makers, hosting educational forums, writing letters to the editor, and using Twitter and Facebook to get the word out. Once again, a powerful coalition of community groups, election officials and advocates have come together from across the political spectrum to stand up for the right to vote.

## BUILDING POWER TO TAKE ON BIG MONEY IN POLITICS

Like the defeat of voter suppression efforts, how we wage the campaign to restore the vote is as important as the policy victory itself. Through grassroots organizing we are creating a virtuous cycle where our communities achieve meaningful progress on critical issues and in the process come to believe the promise of a government of, by and for the people—not just wealthy elites—is not only still possible, but worth fighting for.

In the 1990s and 2000s we learned a valuable lesson in our work to curtail money in politics, a lesson that was affirmed in the campaign to defeat of the voter restriction amendment: building a broad-based grassroots movement for democracy reforms requires people to connect the "bread and butter" issues of economic opportunity, social inclusion and racial justice to the ideas of unfettered democratic participation and self-determination. Through protecting voting rights and developing a holistic pro-democracy agenda, we are building the people power we'll need to both support national efforts to change money in politics policy through Congress and the courts and to mobilize for small donor democracy here in Minnesota.

# ENDNOTES


1. Emmanuel Sanz & Thomas Piketty, *Inequality in the Long-Run*, 344 Science 838 (2014).
2. Thomas Piketty, Capital in the Twenty-First Century 571-77 (2014.)
3. Martin Gilens, Affluence and Influence: Economic Inequality and Political Power in America 234 (2014).
4. Signe-Mary McKernan *et al.*, *Less than Equal* 1, Urban Institute (2013), http://www.urban.org/UploadedPDF/412802-Less-Than-Equal-Racial-Disparities-in-Wealth-Accumulation.pdf.
5. Kim Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness (2010).
6. *See Floyd v. City of New York*, 959 F. Supp. 2d 540, 574 (S.D.N.Y. 2013); Jennifer Fratello *et al.*, *Coming of Age with Stop and Frisk: Experiences, Perceptions, and Public Safety Implications*, Vera Institute of Justice (Sept. 2013), http://www.vera.org/sites/default/files/resources/downloads/stop-and-frisk-technical-report-v4.pdf.
7. Radley Balko, *Rise of the Warrior Cop: Is it time to reconsider the militarization of American policing?,* Wall Street Journal (Aug. 7, 2013), http://online.wsj.com/news/articles/SB10001424127887323848804578608040780519904.
8. Spencer Overton, *The Donor Class: Campaign Finance, Democracy, and Participation*, 153 U. Pa. L. Rev. 73 (2004).
9. Nicholas Carnes, White-Collar Government: The Hidden Role of Class in Economic Policy Making 4-5 (2013).
10. Adam Lioz, *The Role of Money in the 2002 Congressional Elections*, U.S. PIRG Educ. Fund, 15 (2003), http://uspirgorg.live.pubintnet-dev.org/sites/pirg/files/reports/Role_of_Money_2002_USPIRG.pdf.
11. Adam Lioz, *Breaking the Vicious Cycle: How the Supreme Court Helped Create the Inequality Era and Why a New Jurisprudence Must Lead Us Out*, 43 Seton Hall L. Rev. 1227, 1260-61 (2013).
12. *Id.*; Linda Greenhouse, *Polar Vision*, N.Y. Times (May 28, 2014), http://www.nytimes.com/2014/05/29/opinion/greenhouse-polar-vision.html.
13. *Buckley v. Valeo*, 424 U.S. 1 (1976).
14. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).
15. *McCutcheon v. Fed. Election Comm'n*, 134 S. Ct. 1434 (2014).
16. Adam Lioz & Blair Bowie, *McCutcheon Money: The Projected Impact of Striking Aggregate Contribution Limits* 1-3, Demos & U.S. PIRG Education Fund (2013), http://www.demos.org/sites/default/files/publications/McCutcheonMoney-2013.pdf.
17. *See generally*, Brief for Communications Workers of America *et al.* as Amici Curiae Supporting Appellee, *McCutcheon v. Fed. Election Comm'n*, 134 S. Ct. 1434 (2014) (No. 12-536), *available at* http://www.demos.org/sites/default/files/publications/mccutcheon_sc_demos_cwa_amici_brief.pdf.
18. David Callahan & J. Mijin Cha, *Stacked Deck: How the Dominance of Politics by the Affluent and Business Undermines Economic Mobility in America*, Demos (2013).
19. In 1990, veteran civil rights advocate Gwen Patton said, "We have fought and died for the right to vote, but what good is the right if we do not have candidates to vote for? Getting money out of politics is the unfinished business of the voting rights movement." *See* National Voting Rights Institute, *About Us*, http://www.nvri.net/about/camfinance.shtml
20. Gilens, *supra* note 3, at 81.
21. Larry Bartels, Unequal Democracy: The Political Economy of the New Gilded Age 285 (2008).
22. Martin Gilens & Benjamin I. Page, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens* 3, Perspectives on Politics (forthcoming 2014), *available at* http://www.princeton.edu/~mgilens/Gilens%20homepage%20materials/Gilens%20and%20Page/Gilens%20and%20Page%202014-Testing%20Theories%203-7-14.pdf.
23. *Id.* at 23.
24. Lisa Keister, *The One Percent*, 40 Ann. R. of Sociology 347 (2014); *State & County QuickFacts*, U.S Census Bureau, http://quickfacts.census.gov/qfd/states/00000.html (describing the percentage of the population that is non-Hispanic white).
25. *Id.*
26. *Post-ABC Poll: December Monthly*, Wash. Post (Dec. 19, 2013), http://www.washingtonpost.com/page/2010-2019/WashingtonPost/2013/12/18/National-Politics/Polling/question_12589.xml?uuid=aihBmGehEeOZe5ITsX2slw.
27. *Id.*
28. *Id.*
29. *Id.*
30. *Id.*
31. *July 2012 Post-ABC Election Poll*, Wash. Post (July 16, 2012), http://www.washingtonpost.com/page/2010-2019/WashingtonPost/2012/07/10/National-Politics/Polling/question_5646.xml?uuid=nREzWspDEeGNIUXuYXpxKg.
32. Benjamin I. Page *et al., Democracy and the Policy Preferences of Wealthy Americans*, 11 Persp. on Pols. 51, 55-56 (2013), *available at* http://faculty.wcas.northwestern.edu/~jnd260/cab/CAB2012%20-%20Page1.pdf.
33. *July 2013 Washington Post-ABC News Poll – National Politics, Trayvon Martin, Health Care*, Wash. Post (July 26, 2013), http://www.washingtonpost.com/page/2010-2019/WashingtonPost/2013/07/22/National-Politics/Polling/question_11458.xml?uuid=xlqfYvLnEeKEZFflevhikA#.
34. *Id.*
35. *Post-Miller Center Poll: American Dream and Financial Security*, Wash. Post (Nov. 25, 2013), http://www.washingtonpost.com/page/2010-2019/WashingtonPost/2013/09/28/National-Politics/Polling/question_11899.xml?uuid=zM932CiSEeOKs7WqzJ4RZQ.
36. Page, Bartels, and Seawright, *Democracy and the Policy Preferences of Wealthy Americans* (2013), http://faculty.wcas.northwestern.edu/~jnd260/cab/CAB2012%20-%20Page1.pdf
37. College Board, *Trends in College Pricing 2013* (2013), Tables 2A, 20A. http://trends.collegeboard.org/college-pricing/
38. State Higher Education Executive Officers, *State Higher Education Finance FY13* (2014), http://www.sheeo.org/sites/default/files/publications/SHEF_FY13_04292014.pdf
39. College Board, *Trends in Student Aid 2013* (2013); College Board, *Trends in Student Aid 2001* (2001).
40. U.S. Department of Education, Digest of Education Statistics (2013). Table 376. http://nces.ed.gov/programs/digest/d12/tables/dt12_376.asp
41. *Id.*
42. Calculations from the U.S. Department of Education National Postsecondary Student Aid Survey 2012

(NPSAS:12).

43. J. Mijin Cha & Liz Kennedy, *Millions to the Polls: Practical Policies to Fulfill the Freedom to Vote For all Americans*, Demos (2014), http://www.demos.org/sites/default/files/publications/m2p-Main.pdf.
44. *See* Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification* (2006), http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.
45. Notably, African American turnout eclipsed white turnout in 2012 (and perhaps in 2008); but this was a departure from previous trends. *See* Thom File, *The Diversifying Electorate—Voting Rates by Race and Hispanic Origin in 2012 (and Other Recent Elections)*, U.S. Census Bureau (May 2013), http://www.census.gov/prod/2013pubs/p20-568.pdf; Rachel Weiner, *Black voters turned out at higher rate than white voters in 2012 and 2008*, Wash. Post (Apr. 29, 2013) (describing analysis of Professor Michael McDonald that showed the turnout rate of black voters was higher than white voters in 2008 when people who did not respond to the census were excluded from the figures), http://www.washingtonpost.com/blogs/the-fix/wp/2013/04/29/black-turnout-was-higher-than-white-turnout-in-2012-and-2008/.
46. This is in fact a high priority for Demos. We work extensively on promoting Same Day Registration, enforcing the National Voter Registration Act and other voting rights and election reform priorities. *See, e.g.*, Cha & Kennedy, *supra* note 43.
47. *See generally*, Adam Lioz & Blair Bowie, *Billion-Dollar Democracy: The Unprecedented Role of Money in the 2012 Elections*, Demos & U.S. PIRG Education Fund (2013), http://www.demos.org/sites/default/files/publications/BillionDollarDemocracy_1.pdf.
48. Center for Responsive Politics, Donor Demographics, https://www.opensecrets.org/overview/donordemographics.php (accessed on 10/29/14).
49. Lioz & Bowie, *supra* note 47 at 4.
50. Lee Drutman, *The Political 1% of the 1% in 2012*, Sunlight Foundation June 24, 2013, http://sunlightfoundation.com/blog/2013/06/24/1pct_of_the_1pct/.
51. *See generally* National Institute on Money in State Politics, www.followthemoney.org.
52. Campaign Finance Institute, *CFI Releases Analysis of Money in State Elections* (October 30, 2014), charts available at http://www.cfinst.org/pdf/state/tables/States_12_table1.pdf and http://www.cfinst.org/pdf/state/tables/States_12_table2.pdf.
53. *Id.*
54. John Green *et al.*, *Individual Congressional Campaign Contributors: Wealthy, Conservative and Reform-Minded* (1998).
55. *Id.*
56. *Id.*
57. Public Campaign, *The Color of Money: The 2004 Presidential Race* 2 (Feb. 2004), http://library.publiccampaign.org/sites/default/files/2004_cofm_pres_complete.pdf.
58. *Id.* at 3.
59. Jack Gillum & Luis Alonso Lugo, *Minorities Donating Little to Presidential Races*, Associated Press (Nov. 3, 2012), http://bigstory.ap.org/article/minorities-donating-little-presidential-races.
60. *Id.*
61. Brentin Mock, *McCutcheon and the two-pronged attack on voting rights*, Institute for Southern Studies (Oct. 9, 2103), http://www.southernstudies.org/2013/10/mccutcheon-and-the-two-pronged-attack-on-voting-ri.html.
62. Tarini Parti & Robin Bravender, *The Billion-Dollar Buy: Republican Mega Donors*, Politico (Aug. 7, 2012, updated Nov. 7, 2012), http://www.politico.com/news/stories/0812/79413.html.
63. *Id.*
64. There is no way to be certain of anyone's racial identity without asking him or her, but in reviewing photographs of these large donors all appear to be white.
65. Because the threshold for disclosing contributions to federal candidates is $200, it is very difficult to analyze the racial composition of the federal small donor pool and therefore present a direct comparison to the data cited above. The data presented in this paragraph analyze contribution data for New York City, which has a system that encourages candidates to disclose very small contributions so they can be matched by a public fund. Evidence suggests that this system itself has a positive impact on the diversity of the small donor pool (beyond simply encouraging small contributions without respect to race). This effect, however, is not likely to be so large as to overwhelm the general point that small contributions are inherently more likely to come from a diverse donor pool than are larger contributions.
66. Public Campaign preliminary analysis of donor demographics and small donor impact in New York City elections conducted in the spring of 2013, using contribution data from 2009 and American Community Survey 2007-2013 five-year averages.
67. *Id.*
68. *Id.*
69. *Id.*
70. *Id.*
71. Michael J. Malbin *et al.*, *Small Donors, Big Democracy: New York City's Matching Funds As A Model for the Nation and States*, 11 Election L.J. 3, 13 (2012) (describing the increase in donor diversity in the 2009 New York City elections).
72. *See e.g.* U.S. Census Bureau, *Census Bureau Reports the Number of Black-Owned Businesses Increased at Triple the National Rate*; Geoscape, *Hispanic Businesses & Entrepreneurs Drive Growth in the New Economy* (2014) (reporting that "Hispanic businesses are growing at more than twice the rate of all U.S. firms"); Economic Policy Institute, *Black median family income, as a share of white median family income, 1947-2013* (showing steady growth in ratio since the 1980s), http://stateofworkingamerica.org/charts/ratio-of-black-and-hispanic-to-white-median-family-income-1947-2010/.
73. *See e.g.* T.S. Arrington & G.L. Ingalls, *Race and campaign finance in Charlotte, NC*, 37 Western Political Quarterly 578, 582-83 (1984).
74. The legal scholars John Bonifaz and Jamin Raskin originally coined the term "wealth primary" in two path-breaking articles in the early 1990s: *Equal Protection and The Wealth Primary*, 11 Yale L. & Pol'y Rev. 273-332 (1993) and *The Constitutional Imperative and Practical Superiority of Democratically Financed Elections*, 94 Colum. L. Rev. 1160-1203 (1994). For a more recent in-depth discussion of how the wealth primary functions in practice, *see* Adam Lioz, *Breaking the Vicious Cycle: How the Supreme Court Helped Create the Inequality Era and Why a New Jurisprudence Must Lead Us Out*, 43 Seton Hall L. Rev. 1227 (2013).
75. Paul Blumenthal, *Chris Murphy: Soul-Crushing' Fundraising is Bad for Congress*, Huffington Post (May 7, 2013), http://www.huffingtonpost.com/2013/05/07/chris-murphy-fundraising_n_3232143.html.
76. See the results at http://wholeads.us/. All figures that follow in this paragraph are from this study.
77. The New American Leaders Project, *Represent 2020: Toward a Better Vision for Democracy* (October 2014).

78. *Id.* at 4.
79. *Id.* at 8-9.
80. National Conference of State Legislatures, *African-American Legislators*, http://www.ncsl.org/research/about-state-legislatures/african-american-legislators-in-2009.aspx.
81. National Conference of State Legislatures, *2009 Latino Legislators*, http://www.ncsl.org/research/about-state-legislatures/latino-legislators-overview.aspx.
82. Les Christie, *Census: U.S. becoming more diverse*, CNN (May 14, 2009), http://money.cnn.com/2009/05/14/real_estate/rising_minorities/.
83. Mark Hugo Lopez & Paul Taylor, *Dissecting the 2008 Electorate: Most Diverse in U.S. History*, Pew Research Hispanic Trends Project (April 3, 2009), http://www.pewhispanic.org/2009/04/30/dissecting-the-2008-electorate-most-diverse-in-us-history/.
84. Jennifer E. Manning, *Membership of the 113th Congress: A Profile* 8-9, Congressional Research Service (Jan. 13, 2014), http://www.fas.org/sgp/crs/misc/R42964.pdf.
85. U.S. Census Bureau, *The Diversifying Electorate—Voting Rates by Race and Hispanic Origin in 2012 (and Other Recent Elections)* 3 (May 2013), http://www.census.gov/content/dam/Census/library/publications/2013/demo/p20-568.pdf.
86. Kelly Dittmar, *The Status of Black Women in American Politics*, The Center for American Women & Politics for Higher Heights Leadership Fund 3 (2014).
87. *Id.* at 4.
88. *Id.* at 7.
89. *Id.* at 10.
90. *Id.* at 14.
91. *Id.* at 14.
92. There are 100 African American candidates on congressional or statewide ballots for the 2014 elections, a post-Reconstruction record. *See* Jesse J. Holland, *Record Number of Black Candidates Seeking Office*, Associated Press (October 15, 2014). This is a hopeful sign, but does not approach parity.
93. Paru Shah, *It Takes a Black Candidate: A Supply-Side Theory of Minority Representation*, Political Research Quarterly 2 (Aug. 2013).
94. Dittmar, *supra* note 86 at 2.
95. David Binder Research, *Reflective Democracy*, Women Donors Network (October 2014), *accessed at* file:///Users/adamlioz%201/Downloads/dbr-reflective-democracy-survey-presentation.pdf .
96. Shah, *supra* note 93, at 7.
97. Memo from Center for Working Families to Citizen Action of New York, *Public Financing of Election and Communities of Color* (Feb. 16, 2012), *available at* http://www.scribd.com/doc/81949813/Public-financing-of-elections-and-communities-of-color.
98. Angela Migally & Susan Liss, *Small Donor Matching Funds: The NYC Election Experience*, Brennan Center for Justice (2010), http://brennan.3cdn.net/8116be236784cc923f_iam6benvw.pdf ; Steven M. Levin, *Keeping it Clean: Public Financing in American Elections*, Center for Governmental Studies (2006), http://users.polisci.wisc.edu/kmayer/466/Keeping_It_Clean.pdf.
99. Jason P. Conti, *The Forgotten Few: Campaign Finance Reform and its Impact on Minority and Female Candidates*, 22 B.C. Third World L.J. 99, 109 (2002).
100. More than 90% of the biggest campaign fundraisers and spenders routinely win elected office. Money does not always win the day, but raising more money certainly gives a candidate a better chance to win. *See* Center for Responsive Politics, *Money Wins Presidency and 9 of 10 Congressional Races in Priciest U.S. Election Ever* (Nov. 5, 2008), http://www.opensecrets.org/news/2008/11/money-wins-white-house-and/; Wesley Lowery, *91% of the time the better financed candidate wins. Don't act surprised*, Washington Post (April 4, 2014).
101. Laura Merrifield Albright, *Not Simply Black and White: The Relationship between Race/Ethnicity and Campaign Finance in State Legislative Elections* (Aug. 4, 2014), http://ssrn.com/abstract=2475889.
102. *Id.*
103. *Id.*
104. Megan Moore, *Money and Diversity: 2004 State Legislative Elections,* National Institute on Money in State Politics 11 (2006).
105. *Id.* at 13.
106. *Id.* at 10.
107. *Id.*
108. *Id.*
109. Shah, *supra* note 93, at 10 (finding that when black candidates run they have a greater than 50 percent chance of winning).
110. Lioz & Bowie, *supra* note 47.
111. Andrew Mayersohn, *Four Years After Citizens United: The Fallout*, Center for Responsive Politics (Jan. 21, 2014), http://www.opensecrets.org/news/2014/01/four-years-after-citizens-united-the-fallout.html.
112. Center for Responsive Politics, *2012 Outside Spending, by Group*, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U.
113. Center for Responsive Politics, *Top Industries*, http://www.opensecrets.org/lobby/top.php?showYear=2013&indexType=i.
114. The National Institute on Money in State Politics is the leading organization tracking state-level political spending, but they have not released a figure for state-level lobbying across the country and a number of academics consulted report that such a comprehensive analysis is not available.
115. *W. Tradition P'ship, Inc. v. Attorney Gen. of State*, 271 P.3d 1, 34 (Mont. 2011) *cert. granted, judgment rev'd sub nom. Am. Tradition P'ship, Inc. v. Bullock*, 132 S. Ct. 2490 (2012).
116. Gilens & Page, *supra* note 22, at 574, 575.
117. Alliance for Board Diversity, Missing Pieces: Women and Minorities on Fortune 500 Boards 9 (2012), http://theabd.org/2012_ABD%20Missing_Pieces_Final_8_15_13.pdf.
118. Daniel Butler & David Broockman, *Do Politicians Racially Discriminate Against Constituents? A Field Experiment on State Legislators*, 55 Am. J. of Pol. Sci. 463 (2011), *available at* http://www.danielmarkbutler.com/uploads/1/7/6/8/17688231/ajps_discrimination.pdf.
119. *Id.*
120. Ariel R. White *et al.*, *What Do I Need to Vote? Bureaucratic Discretion and Discrimination by Local Election Officials* (July, 11, 2014), http://scholar.harvard.edu/files/arwhite/files/fallernathanwhite_voteridexp_july2014_0.pdf.
121. The New American Leaders Project, *supra* note 77, at 5 (citing several studies on "descriptive representation").
122. *Id.* at 6, 10 (emphasis in original).
123. German Lopez, *Why Ferguson's government is so white*, Vox (Aug. 14, 2014).

124. Christopher Ingraham, *The Pentagon gave nearly half a billion dollars of military gear to local law enforcement last year*, Wash. Post (Aug. 14, 2014), *at* http://www.washingtonpost.com/blogs/wonkblog/wp/2014/08/14/the-pentagon-gave-nearly-half-a-billion-dollars-of-military-gear-to-local-law-enforcement-last-year/.
125. Donny Shaw, *Defense Industry-Backed Lawmakers Voted to Continue Police Militarization Program*, Maplight (Aug. 14, 2014), http://maplight.org/content/73514.
126. Patrick Flavin, *Campaign Finance Laws, Policy Outcomes, and Political Equality in the American States* (March 3, 2014).
127. *Id.*
128. *Buckley*, *supra* note 13.
129. *Citizens United*, *supra* note 14.
130. *McCutcheon*, *supra* note 15.
131. *Id.* at 1441.
132. Public Citizen, *As Senate Vote Looms, Poll Shows Strong Support Across Party Lines for Constitutional Amendment to Curb Money in Politics* (Sept. 3, 2014), http://www.citizen.org/pressroom/pressroomredirect.cfm?ID=4270.
133. *See* United for the People, *Local and State Resolutions*, http://www.united4thepeople.org/local.html.
134. Demos, *President Heather McGhee on the Senate's Vote and Debate on the Democracy for All Resolution* (Sept. 11, 2014), http://www.demos.org/press-release/president-heather-mcghee-senates-vote-and-debate-democracy-all-resolution.
135. New York City Campaign Finance Board, *Why Should I Join?* (2014), http://www.nyccfb.info/candidates/candidates/whyJoin.aspx?sm=candidates_whyJoin.
136. Elisabeth Genn *et al.*, *Donor Diversity through Public Matching Funds*, Brennan Center for Justice & Campaign Finance Institute 4 (2012), http://cfinst.org/pdf/state/ny/DonorDiversity.pdf.
137. *Id.*
138. *Id.*
139. *Id.*
140. *Id.*
141. J. Mijin Cha & Miles Rapoport, *Fresh Start:The Impact of Public Financing in Connecticut* Demos 2 (2013), http://www.demos.org/sites/default/files/publications/FreshStart_PublicFinancingCT_0.pdf.
142. *Id.*
143. Clean Elections Institute, *Reclaiming Democracy in Arizona: How Clean Elections has expanded the universe of campaign contributors* 3 (2004), http://www.followthemoney.org/assets/press/Reports/200409301.pdf.
144. Nancy Watzman, *All Over the Map: Small Donors Bring Diversity to Arizona's Elections*, Public Campaign 1-2 (2008), http://www.washclean.org/Library/AOTM_AZ08_Rpt.pdf.
145. Thomas Cmar, *Towards a Small Donor Democracy: The Past and Future of Incentives for Small Political Contributions*, U.S. PIRG Education Fund 13 (2004), http://www.uspirg.org/sites/pirg/files/reports/Toward_A_Small_Donor_Democracy_USPIRG.pdf.
146. *Id.*
147. Government by the People Act of 2014, H.R. 20, 113th Cong. (2014); *see also*, Adam Lioz, *The Government By the People Act: Legislation to Curb the Power of Wealthy Donors and Put Government Back in the Hands of Voters*, Demos (2014), http://www.demos.org/sites/default/files/publications/Demos-GovByThePeopleAct.pdf.
148. Fair Elections Now Act, S.2023, 113th Cong. (2014), https://www.congress.gov/bill/113th-congress/senate-bill/2023.
149. Letter from Alliance For Justice *et al.* to Congress (Feb. 12, 2014), http://campaignmoney.org/files/2-14SenateSignOnLetter.pdf
150. Pew Research Center, *Super PACs Having Negative Impact, Say Voters Aware of 'Citizens United' Ruling* (Jan. 17, 2012), http://www.people-press.org/2012/01/17/super-pacs-having-negative-impact-say-voters-aware-of-citizens-united-ruling/.
151. Liz Kennedy, *Citizens Actually United: The Bi-Partisan Opposition to Corporate Political Spending and Support for Common Sense Reform* Demos (Oct. 25, 2012), http://www.demos.org/publication/citizens-actually-united-bi-partisan-opposition-corporate-political-spending-and-support.
152. *See* Josh Israel, *POLL: Voters Hate Super PACs, Want More Campaign Finance Disclosure*, ThinkProgress (Nov. 14, 2012) ("A new poll of 2012 voters by Greenberg Quinlan Rosner for Democracy Corps and Public Campaign Action Fund shows huge national concern with the growing role of money in politics and the lack of disclosure thereof. Fully 61 percent of voters (60 percent of Romney voters and 62 percent of Obama voters) oppose the current level of money in politics. Just 18 percent of voters share Mitt Romney's and Sen. Mitch McConnell's (R-KY) view that there should be no limits on campaign contribution or spending. In addition to showing about two-thirds of voters support some sort of public financing system with matching funds for Congressional candidates, a stunning 85 percent said they support requiring disclosure of who funds secret outside advertisements."), http://thinkprogress.org/justice/2012/11/14/1181671/poll-voters-hate-super-pacs-want-more-campaign-finance-disclosure/; Memorandum from Celinda Lake *et al.*, Lake Research Partners, *Recent research on the amendment to overturn Citizens United* 1 (Aug. 14, 2014) ("Recent survey research of likely November 2014 voters1 finds solid opposition to the Supreme Court's Citizens United decision, and support for a constitutional amendment to overturn it."), http://www.citizen.org/documents/Memo.CitizensUnited.frev.pdf; Lydia Saad, *Half in U.S. Support Publicly Financed Federal Campaigns: Vast majority supports limiting campaign spending and contributions*, Gallup (June 24, 2013); Sarah Dutton *et al.*, *Americans' view of Congress: Throw 'em out*, CBS News (2014) ("Perhaps for this reason, most Americans (71 percent) continue to think individual contributions to political campaigns should be limited. Majorities of all partisan stripes would like to see campaign contributions limited, but Democrats and independents are more likely to hold that view than Republicans. Along the same lines, most Americans (76 percent) say that spending by outside groups on political advertising should be limited."), http://www.cbsnews.com/news/americans-view-of-congress-throw-em-out/; Peter Moore, *Keep the Total Donation Cap* (2014) (showing that most Americans support aggregate limits), https://today.yougov.com/news/2014/04/07/donation-cap/.
153. National Conference of State Legislatures, *Public Financing of Campaigns: An Overview* (Jan. 23, 2013), http://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx.
154. *See, e.g.*, Cal. Gov't Code § 84222; Del. Code Ann. tit. 15, § 8030; Haw. Rev. Stat. § 84-17 (implementing 2014 Hawaii Laws Act 230 (2014); Mass. Gen. Laws Ann. ch. 55, § 18; N.C. Gen. Stat. Ann. § 163-278.39; Vt. Stat. Ann. tit. 17, § 2962.
155. Seth Endo, *Maryland's Montgomery County Just Enacted Public Financing*, Demos (Oct. 3, 2014), http://www.demos.org/blog/10/3/14/marylands-montgomery-county-just-enacted-public-financing.
156. Government By the People Act of 2014, H.R.20, 113th Congress (2014) (showing 159 co-sponsors, not including the bill's original sponsor Rep. John Sarbanes), https://www.congress.gov/bill/113th-congress/house-bill/20/cosponsors.
157. The Sentencing Project, *Incarceration*, http://www.sentencingproject.org/template/page.cfm?id=107.

158. Daniel P. Wood, *US crime rate at lowest point in decades. Why America is safer now,* Christian Science Monitor (Jan 9, 2012), http://www.csmonitor.com/USA/Justice/2012/0109/US-crime-rate-at-lowest-point-in-decades.-Why-America-is-safer-now.
159. *See e.g.* Leadership Conference on Civil Rights & Leadership Conference Education Fund, *Justice on Trial: Racial Disparities in the American Criminal Justice System* 21-14, http://www.protectcivilrights.org/pdf/reports/justice.pdf.
160. Justice Policy Institute, *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, (June 2011), http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf.
161. *See* Alexander, *supra* note 5.
162. Bruce Drake, *Incarceration Gap Widens Between Whites and Blacks*, Pew Research Center (Sept. 6, 2013) ("Black men were more than six times as likely as white men in 2010 to be incarcerated in federal and state prisons, and local jails."), http://www.pewresearch.org/fact-tank/2013/09/06/incarceration-gap-between-whites-and-blacks-widens/.
163. Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility* 4 (2010), http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/CollateralCosts1pdf.
164. The Sentencing Project, *Women in the Criminal Justice System* (May 2007), http://www.sentencingproject.org/doc/publications/womenincj_total.pdf.
165. Pew Research Center, *Religion in Prisons: A 50-State Survey of Prison Chaplains*, *App. C: The State and Federal Correctional System* (Mar. 22, 2012) ("A majority of the U.S. prison population is made up of racial and ethnic minorities: 38% of U.S. prisoners are black and 22% are Hispanic. Just 32% are non-Hispanic whites, and 8% are of other racial background."), http://www.pewforum.org/2012/03/22/prison-chaplains-appendix-c/.
166. Pew Charitable Trusts, *supra* note 163, at 4.
167. The Sentencing Project, *supra* note 164.
168. Total Hispanic prison population in 2013 was 314,600 males and 17,600 females out of the total prison population of 1,516,879 males and 104,134 females equaling 20.49% of total prison population. Bureau of Just. Stat., *Corrections Statistical Analysis Tool – Prisoners, Quick Tables: Prisoner Characteristics* (2013), http://www.bjs.gov/index.cfm?ty=nps.
169. According to the U.S. Census Bureau, "Hispanics constituted 17% of the nation's total population [in 2012]." *Profile America: Facts for Features*, U.S. Census Bureau News (July 30, 2013), http://www.census.gov/newsroom/releases/pdf/cb13ff-19_hispanicheritage.pdf.
170. Matt Clarke, *Dramatic Increase in Number of Hispanics Sentenced to Federal Prison*, Prison Legal News (May 5, 2012).
171. *See e.g.* ACLU, *What is the School to Prison Pipeline* (June 6, 2008), https://www.aclu.org/racial-justice/what-school-prison-pipeline; *Handcuffs on Success: The Extreme School Discipline Crisis in Mississippi Public Schools*, Advancement Project, ACLU of Mississippi, Mississippi State Conference of the NAACP, and Mississippi Coalition for the Prevention of Schoolhouse to Jailhouse (Jan. 2013), http://b.3cdn.net/advancement/bd691fe41faa4ff809_u9m6bfb3v.pdf.
172. *See e.g.* Jamie Fellner, *Race, Drugs, and Law Enforcement in the United States*, 20 Stan. L. & Pol'y Rev. 257, 269-70 (2009) ("The data demonstrate clearly and consistently that blacks have been and remain more likely to be arrested for drug offending behavior relative to their percentage among drug offenders than whites who engage in the same behavior.").
173. Drake, *supra* note 162.
174. John Schmitt & Kris Warner, *Ex-Offenders and the Labor Market*, Center for Economic and Policy Research (Nov. 2010), http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf; Amanda Geller *et al*, *The Effects of Incarceration on Employment and Wages An Analysis of the Fragile Families Survey* (2006), http://www.saferfoundation.org/files/documents/Princeton-Effect%20of%20Incarceration%20on%20Employment%20and%20Wages.pdf.
175. *Id.*
176. Economic Mobility Project and the Public Safety Performance Project of The Pew Charitable Trust, *Collateral Costs: Incarceration's Effect on Economic Mobility* (2010), http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/CollateralCosts1pdf.pdf
177. *Id.*
178. David Shapiro, *Banking on Bondage: Private Prisons and Mass Incarceration*, American Civil Liberties Union 12 (2011).
179. Prison Policy Initiative, *Public and Private Prisons, 1999-2012* (2014), http://www.prisonpolicy.org/graphs/public_private_1999-2012.html
180. Associated Press, "Private prison companies making big bucks on locking up undocumented immigrants" (August 2, 2012).
181. Booth Gunter, *Investigation, Lawsuit Expose Barbaric Conditions at For-Profit Youth Prison in Mississippi*, Southern Poverty Law Center (May 3, 2012), http://www.splcenter.org/get-informed/news/splc-investigation-lawsuit-expose-barbaric-conditions-at-for-profit-youth-prison-i.
182. Rina Palta, *Why For-Profit Prisons House More Inmates Of Color*, NPR (Mar. 13, 2014), http://www.npr.org/blogs/codeswitch/2014/03/13/289000532/why-for-profit-prisons-house-more-inmates-of-color.
183. Gilens, *supra* note 3. Demos Research Assistant Sean McElwee's analysis of Gilens' dataset.
184. This perverse incentive is perhaps best illustrated by the shocking "kids for cash" scandal in Luzerne County, Pennsylvania where a juvenile court judge was convicted of sentencing children to a private juvenile detention center in exchange for bribes. *See* Juvenile Law Center, *Luzerne County "Kids for Cash" Scandal*, http://www.jlc.org/current-initiatives/promoting-fairness-courts/luzerne-kids-cash-scandal. This is of course an aberration and not an example of standard industry practice; but it illustrates a larger point.
185. Pico National Network & Public Campaign, *Unholy Alliance: How the private prison industry is corrupting our democracy and promoting mass incarceration* (2011), http://publicampaign.org/sites/default/files/PICO_Report_Private_Prisons_Final.pdf.
186. Associated Press, *supra* note 180.
187. Center for Media and Democracy, *What is ALEC?* (2014), http://www.alecexposed.org/wiki/What_is_ALEC%3F.
188. *Id.*
189. *Id.*
190. *Id.*
191. Author's analysis of Center for Responsive Politics federal lobbying data accessed at www.opensecrets.org on 10/19/14.
192. Author's analysis of U.S. Senate Lobby Disclosure Act database filings available at http://www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm (last accessed on Oct. 19, 2014).
193. Corrections Corporation of America, *Update: NPR Sets the Record Straight*, http://thecca360.com/?p=60.

Beginning in the first quarter of 2013 notes began appearing in both CCA and Aikin Gump's lobby disclosure forms stating that CCA and Aikin Gump on its behalf "does not lobby for or against any policies or legislation that would determine the basis for an individual's incarceration or detention."

194. Corrections Corporation of America, *CCA 2010 Annual Report* 19 ("The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws.").
195. Associated Press, *supra* note 180.
196. Lee Fang, *How Private Prisons Game the Immigration System*, The Nation (Feb. 27, 2013), http://www.thenation.com/article/173120/how-private-prisons-game-immigration-system.
197. *Id.*
198. *Id.*
199. Author's analysis of U.S. Senate Lobby Disclosure Act database filings available at http://www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm (last accessed on Oct. 19, 2014).
200. *See, e.g.*, Denise Gilman, *Realizing Liberty: The Use of International Human Rights Law to Realign Immigration Detention in the United States*, 36 Fordham Int'l L.J. 243, 333 n.67 (2013).
201. Fang, *supra* note 196.
202. *Id.*
203. Associated Press, *supra* note 180.
204. https://www.congress.gov/bill/110th-congress/house-bill/1889.
205. Author's analysis of U.S. Senate Lobby Disclosure Act database filings available at http://www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm (last accessed on Oct. 19, 2014).
206. Fang, *supra* note 196.
207. *Id.*
208. *Id.*
209. Associated Press, *supra* note 180.
210. Mary Bottari, *ALEC in Wisconsin: The Hijacking of a State,* Huffington Post (May 20, 2012), http://www.huffingtonpost.com/mary-bottari/alec-in-wisconsin-the-hij_b_1531190.html; Brendan Fischer, *ALEC, For-Profit Criminal Justice, and Wisconsin*, Center for Media and Democracy (July 18, 2011), http://www.prwatch.org/news/2011/07/10902/alec-profit-criminal-justice-and-wisconsin.
211. Center for Media and Democracy, *GEO Group* (2014), http://www.sourcewatch.org/index.php/GEO_Group.
212. Bottari, *supra* note 210.
213. *Id.*
214. Ohio Department of Rehabilitation and Correction, *Director* (2014), http://www.drc.ohio.gov/web/director.htm.
215. The bill passed with the support of 17 state representatives and 11 state senators whom were also ALEC members. People for the American Way, *ALEC in Ohio*, http://site.pfaw.org/pdf/ALEC-in-Ohio.pdf.
216. *Brown v. Plata*, 131 S. Ct. 1910, 1923, 1927 (2011).
217. Amanda Carey, *The Price of Prison Guard Unions*, Capital Research Center Labor Watch (Oct. 2011), https://capitalresearch-zippykid.netdna-ssl.com/wp-content/uploads/2013/06/LW1011.pdf.
218. *Id.* at 4.
219. *Id.* at 4.
220. *Id.* at 5.
221. National Institute on Money in State Politics, *People Against the Proposition 5 Deception*, http://www.followthemoney.org/database/StateGlance/committee.phtml?c=3357.
222. National Institute on Money in State Politics, *Proposition 36: Three Strikes Law. Sentencing for Repeat Felony Offenders*, http://followthemoney.org/database/StateGlance/ballot.phtml?m=964.
223. National Institute on Money in State Politics, *Save 3 Strikes*, http://followthemoney.org/database/StateGlance/committee.phtml?c=11800.
224. *California Voters Pass Proposition 47 Sentencing Reform*, The Sentencing Project (November 5, 2014).
225. National Institute on Money in State Politics at http://followthemoney.org/entity-details?eid=26247639 and http://followthemoney.org/entity-details?eid=26478570 (last accessed on 11/21/14).
226. Saki Knafo & Chris Kirkham, *For-Profit Prisons Are Big Winners of California's Overcrowding Crisis*, Huffington Post (Oct. 25, 2013), http://www.huffingtonpost.com/2013/10/25/california-private-prison_n_4157641.html.
227. *Id.*
228. *Id.*
229. *Id.*
230. Christopher Petrella, *The Color of Corporate Corrections, Part II: Contractual Exemptions and the Overrepresentation of People of Color in Private Prisons*, 3 Radical Criminology 81, 83-84 (2014), *available at* http://journal.radicalcriminology.org/index.php/rc/article/download/44/pdf.
231. *Id.* at 83.
232. *Id.*
233. *Id.*
234. Matt Berger, *America Underwater: The mortgage crisis in data*, Marketplace (Feb. 8, 2013), http://www.marketplace.org/topics/business/which-way-home/america-underwater-mortgage-crisis-data.
235. Center for Responsible Lending, *Lost Ground* (2011), http://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-exec-summary.pdf.
236. Board of Governors of the Federal Reserve System, The U.S. Housing Market: Current Conditions and Policy Considerations (2012), http://www.federalreserve.gov/publications/other-reports/files/housing-white-paper-20120104.pdf.
237. Center for Responsible Lending, *supra* note 235.
238. Center for Responsible Lending, *Foreclosures by Race and Ethnicity* (2010), http://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.pdf
239. *Id.*
240. *Id.*
241. *Id.*
242. Daniel Lindsey *et. al*, *Why Responsible Mortgage Lending is a Fair Housing Issue*, National Consumer Law Center (Feb. 2012), http://www.nclc.org/images/pdf/credit_discrimination/fair-housing-brief.pdf.
243. Robert B. Avery *et. al*, *The 2006 HDMA Data*, Federal Reserve Bulletin (Dec. 2007), *available at* http://www.federalreserve.gov/pubs/bulletin/2007/pdf/hmda06final.pdf.
244. *Id.*
245. Center for Responsible Lending, *Foreclosure Damage Index* (2011), http://www.responsiblelending.org/

mortgage-lending/tools-resources/foreclosure-damage-index.html.

246. Lindsey *et. al*, *supra* note 242.
247. Alicia Munnell *et. al*, *Mortgage Lending in Boston: Interpreting HMDA Data*, Federal Reserve Bank of Boston (1996), http://www.bostonfed.org/economic/wp/wp1992/wp92_7.htm.
248. Douglass Massey, *Racial Formation in Theory and Practice: The Case of Mexicans in the United States*, 1 Race Soc. Probl. 12 (2009), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2931357/.
249. Guy Stuart, Discriminating Risk: The U.S. Mortgage Lending Industry in the Twentieth Century (2003).
250. Jacob S. Rugha & Douglas S. Masseya, *Racial Segregation and the American Foreclosure Crisis*, 75 Am. Sociological R. 629 (2010), *available at* http://www.prrac.org/pdf/Massey_foreclosure.pdf.
251. Michael Powell, *Bank Accused of Pushing Mortgage Deals on Blacks*, N.Y. Times A16 (June 7, 2009), *available at* http://www.nytimes.com/2009/06/07/us/07baltimore.html?pagewanted=1.
252. *Id.*
253. Robert Avery, *The 2007 HMDA Data*, Federal Reserve Bulletin (2008), http://www.federalreserve.gov/pubs/bulletin/2008/pdf/hmda07final.pdf.
254. Paul Taylor et. al, *Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics*, Pew Research Center (2011), http://ehub29.webhostinghub.com/~busine87/assignments/business_statistics_-_wealt.pdf.
255. *Id.*
256. *Id.*
257. Center for Responsive Politics, *Heavy Hitters: Top All-Time Donors, 1989-2014,* https://www.opensecrets.org/orgs/list.php.
258. Center for Responsive Politics, *Commercial Banks*, https://www.opensecrets.org/lobby/indusclient.php?id=F03.
259. Board of Governors of the Federal Reserve System, *The Community Reinvestment Act: About* (Feb. 11, 2014), http://www.federalreserve.gov/communitydev/cra_about.htm.
260. Lindsey *et. al*, *supra* note 242.
261. *Id.*
262. *Id.*
263. David Goldstein & Kevin G. Hall, *Private sector loans, not Fannie or Freddie, triggered crisis*, McClatchy Newspapers (Oct. 12, 2008), http://www.mcclatchydc.com/2008/10/12/53802/private-sector-loans-not-fannie.html#storylink=cpy.
264. Robert Gordon, *Did Liberals Cause the Sub-Prime Crisis?*, The American Prospect (Apr. 7, 2008), http://prospect.org/article/did-liberals-cause-sub-prime-crisis.
265. Glenn R. Simpson, *Lender Lobbying Blitz Abetted Mortgage Mess,* Wall St. J. (Dec. 31, 2007), http://online.wsj.com/news/articles/SB119906606162358773; National Institute on Money in State Politics, *Ameriquest Mortgage*, http://www.followthemoney.org/database/search.phtml?searchbox=ameriquest.
266. Simpson*, supra* note 265.
267. Center for Responsive Politics, *Annual Lobbying by Citigroup, Inc.* (2002), http://www.opensecrets.org/lobby/clientsum.php?id=D000000071&year=2002.
268. Deniz Igan, *et al.*, *A Fistful of Dollars: Lobbying and the Financial Crisis*, International Monetary Fund 26 (2009).
269. *Id.* at 27.
270. Simpson, *supra* note 265.
271. Simpson*, supra* note 265.
272. National Institute on Money in State Politics, *Ameriquest Mortage,* available at http://followthemoney.org/database/StateGlance/contributor.phtml?d=1827575406
273. National Institute on Money in State Politics, *Contributors Result,* http://www.followthemoney.org/search-results/SearchForm?Search=mortgage#sorttable1; National Institute on Money in State Politics, *Cheeks, Don, (Carere Profile),* (2002), http://followthemoney.org/database/StateGlance/candidate.phtml?c=2251; National Institute on Money in State Politics, *Starr, Terrell (Career Profile),* (2002), http://followthemoney.org/database/StateGlance/candidate.phtml?c=2264.
274. National Institute on Money in State Politics, *Contributors Result: Citigroup*, http://www.followthemoney.org/search-results/SearchForm?Search=citigroup.
275. National Institute on Money in State Politics, *Mortgage Bankers Association of Georgia,* http://www.followthemoney.org/search-results/SearchForm?Search=mortgage%20bankers%20association.
276. Simpson*, supra* note 265.
277. *Id.*
278. *Legislators Rock Georgia into Subprime Crisis*, Athens Banner-Herald (Jan. 3, 2008), http://onlineathens.com/stories/010308/opinion_20080103012.shtml; Federal Reserve Bank of New York, *A Look at New Jersey's Subprime Mortgages in Foreclosure*, Facts & Trends (Aug. 2008), *available at* http://www.newyorkfed.org/regional/2008_Facts_Trends_Vol.1-1.pdf.
279. Motoko Rich, *In Atlanta, Housing Woes Reflect Nation's Pain,* N.Y. Times B1 (Feb. 1, 2012), *available at* http://www.nytimes.com/2012/02/01/business/economy/in-atlanta-housing-woes-reflect-nations-economic-pain.html?_r=0.
280. Prashant Gopal, *Foreclosures Surging in New York-New Jersey Market*, Bloomberg (Feb. 26, 2014), http://www.bloomberg.com/news/2014-02-26/foreclosures-climaxing-in-new-york-new-jersey-market-mortgages.html.
281. U.S. Department of Treasury, *Hardest Hit Fund* (May 5, 2014), http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/Pages/Program-Documents.aspx
282. United States Census Bureau, *State and County Quickfacts, Georgia*, http://quickfacts.census.gov/qfd/states/13000.html. In 2012, Georgia's African American population is 31.1 percent, whereas African Americans make up 13.1 percent of total US population. At the time of the legislation, Georgia's African American population was 28.7 percent while the total US population was 12.3 percent
283. 283 United States Census Bureau, *State and County Quickfacts, New Jersey*, http://quickfacts.census.gov/qfd/states/34000.html , In 2012, New Jersey's African American population is 14.7 percent, the Latino population is 18.5 percent (higher than the national average of 16.89 percent). At the time of the legislation, New Jersey's African American population was 13.6 percent and the Latino population was 13.3 percent. United States Census Bureau, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_00_SF1_DP1.
284. Consumer Watchdog, *Sponsors of Anti-Consumer Amendments to U.S. House Financial Reform Bill Received $3.8 Million from Financial Sector in 2009* (Dec. 10, 2009), http://www.consumerwatchdog.org/newsrelease/sponsors-anti-consumer-amendments-us-house-financial-reform-bill-received-38-million-fin.
285. Center for Responsive Politics, *American Bankers Association: Client Profile 2011,* (Oct. 18 2013), http://www.opensecrets.org/lobby/clientsum.php?id=D000000087&year=2011; Center for Responsive Politics, *American Banker Association: Client Profile 2010* (Oct. 28, 2013), http://www.opensecrets.org/lobby/clientsum.

php?id=D000000087&year=2010; Center for Responsive Politics, *American Banker Association: Client Profile 2009,* (Oct. 28, 2013), http://www.opensecrets.org/lobby/clientsum.php?id=D000000087&year=2009.
286. Center for Responsive Politics, *American Banker Association: Bills Lobbied 2009* (2013), http://www.opensecrets.org/lobby/clientbills.php?id=D000000087&year=2009.
287. Arianna Huffington, *Lobbyists on a Roll: Gutting Reform on Banking, Energy, and Health Care*, Huffington Post (June 25, 2009), http://www.huffingtonpost.com/arianna-huffington/lobbyists-on-a-roll-gutti_b_220521.html; Alex Ulam, *Why a Mortgage Cramdown Bill Is Still the Best Bet to Save the Economy*, The Nation (Oct. 20, 2011), http://www.thenation.com/article/164096/why-mortgage-cramdown-bill-still-best-bet-save-economy#.
288. Center for Responsive Politics, *Commercial Banks: Top Contributors to Federal Candidates, Parties, and Outside Groups*, (Feb. 4, 2013), http://www.opensecrets.org/industries/contrib.php?cycle=2010&ind=F03.
289. Center for Responsive Politics, *American Banker Association: Money to Congress 2010* (Apr. 25, 2011), http://www.opensecrets.org/orgs/toprecips.php?id=D000000087&cycle=2010; Center for Responsive Politics, *American Banker Association: Heavy Hitter*, (Mar. 25, 2013), http://www.opensecrets.org/orgs/totals.php?id=D000000087&cycle=2010.
290. *See e.g.* Christopher E. Herbert *et al.*, *Is Homeownership Still an Effective Means of Building Wealth for Low-income and Minority Households? (Was it Ever?)* 48, Joint Center for Housing Studies, Harvard University (2013) ("Even after the tremendous decline in housing prices and the rising wave of foreclosures that began in 2007, homeownership continues to be a significant source of household wealth, and remains particularly important for lower-income and minority households.").
291. U.S. Bureau of Labor & Statistics, *Characteristics of Minimum Wage Workers*, 1048 BLS Reports (March 2014), http://www.bls.gov/cps/minwage2013.pdf.
292. Economic Policy Institute, *Real value of the federal minimum wage and share of workforce covered by higher state minimums, 1979–2011* (May 21, 2012), http://www.stateofworkingamerica.org/chart/swa-wages-figure-4ag-real-federal-minimum/.
293. U.S. Department of Health & Human Services, *2014 Poverty Guidelines* (Jan. 22, 2014), http://aspe.hhs.gov/poverty/14poverty.cfm.
294. Tom Philpott, *McDonald's to Employees: Get a (Second) Job*, Mother Jones (July 26, 2013), http://www.motherjones.com/tom-philpott/2013/07/mcdonalds-budget-mcwrap.
295. Laura Shin, *How She Lives On Minimum Wage: One McDonald's Worker's Budget*, Forbes (July 19, 2013), http://www.forbes.com/sites/laurashin/2013/07/19/how-she-lives-on-minimum-wage-one-mcdonalds-workers-budget/.
296. The Leadership Conference Education Fund, *Improving Wages*, *Improving Lives: Why raising the minimum wage is a civil and human rights issue* (Oct. 2014), http://civilrightsdocs.info/pdf/reports/Minimum-Wage-Report-FOR-WEB.pdf.
297. *Id.* at 9.
298. Sylvia A. Allegretto & Steven C. Pitts, *To Work With Dignity: The Unfinished March Toward a Decent Minimum Wage*, Economic Policy Institute, (2013), http://www.epi.org/files/2013/Unfinished-March-Minimum-Wage.pdf.
299. http://www.stateofworkingamerica.org/chart/swa-wages-figure-4f-share-workers-earning/. Whites were 80% of the workforce in 2012. U.S. Bureau of Labor & Statistics, *Labor Force Characteristics by Race and Ethnicity, 2012* (Oct. 2013), http://www.bls.gov/cps/cpsrace2012.pdf.
300. Economic Policy Institute, *Hourly wage growth by gender and race/ethnicity, 1989–2011 (2011 dollars)* (May 14, 2012), http://www.stateofworkingamerica.org/chart/swa-wages-table-4-21-hourly-wage-growth/.
301. National Women's Law Center, *Fair Pay for Women Requires Increasing the Minimum Wage and Tipped Minimum Wage* (Oct. 1, 2014), http://www.nwlc.org/resource/fair-pay-women-requires-increasing-minimum-wage-and-tipped-minimum-wage.
302. *Id.*
303. Restaurant Opportunities Centers United, *Recipe for Success: Abolish the Subminimum Wage to Strengthen the Restaurant Industry* 4 (2014).
304. Restaurant Opportunities Centers United, *Realizing The Dream: How the Minimum Wage Impacts Racial Equity in the Restaurant Industry and in America* (2013), http://www.scribd.com/doc/161953370/Realizing-The-Dream-How-the-Minimum-Wage-Impacts-Racial-Equity-in-the-Restaurant-Industry-and-in-America.
305. *Id.*
306. *Id.*
307. *Id.*
308. *Id.*
309. The Leadership Conference Education Fund, *supra* note 296 at 9.
310. *Id.*
311. National Women's Law Center, *supra* note 301.
312. Scott Manley, *Raising the Minimum Wage Will Kill Jobs,* Wisconsin Manufacturers and Commerce (Apr. 7, 2014), https://www.wmc.org/news/raising-the-minimum-wage-will-kill-jobs/; New Lennox Chamber of Commerce, *Government Affairs Report: The November Advisory Referendums are a Jobs Killing Agenda*, http://www.newlenoxchamber.com/formembers/legislation.cfm.
313. Ben Wolcott, *2014 Job Creation Faster in States that Raised the Minimum Wage*, Center for Economic and Policy Research (June 30, 2014), http://www.cepr.net/index.php/blogs/cepr-blog/2014-job-creation-in-states-that-raised-the-minimum-wage.
314. David Cooper, *Raising the Federal Minimum Wage to $10.10 Would Lift Wages for Millions and Provide a Modest Economic Boost*, Economic Policy Institute (Dec. 19, 2013), http://www.epi.org/publication/raising-federal-minimum-wage-to-1010/.
315. Thomas Shapiro *et al.*, *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide*, Institute on Assets and Social Policy (2013), http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf.
316. The Leadership Conference Education Fund, *supra* note 296 at 9.
317. Gallup Politics, *In U.S., 71% Back Raising Minimum Wage* (Mar. 6, 2013), http://www.gallup.com/poll/160913/back-raising-minimum-wage.aspx.
318. *Id.*
319. *Id.*
320. Hart Research Associates, *Public Support for Raising the Minimum Wage*, (July 23, 2013), shttp://www.nelp.org/page/-/rtmw/uploads/Memo-Public-Support-Raising-Minimum-Wage.pdf?nocdn=1.
321. Page *et al., supra* note 32, at 57.
322. Center for Responsive Politics, *U.S. Chamber of Commerce*, http://www.opensecrets.org/outsidespending/detail.php?cmte=US+Chamber+of+Commerce&cycle=2012.
323. Robbie Feinberg, *The Money Against The Minimum Wage*, Center for Responsive Politics (Apr. 4, 2014), http://www.opensecrets.org/news/2014/04/the-political-money-against-the-min/

324. Cha & Rapoport, *supra* note 139.
325. National Conference of State Legislatures, *State Minimum Wages: 2014 Minimum Wage by State* ( Sept. 17, 2014), http://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx
326. *See* Strike Fast Food, http://strikefastfood.org/.
327. White House, *Executive Order — Minimum Wage for Contractors* (Feb. 12, 2014), http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors.
328. Gregory Wallace, *Seattle approves $15 minimum wage*, CNN (June 3, 2014), http://money.cnn.com/2014/06/02/news/economy/seattle-minimum-wage/
329. Raise the Minimum Wage, *Minimum Wage Question and Answer*, http://www.raisetheminimumwage.com/pages/qanda.
330. U.S Dept. of Labor, *Statement by US Labor Secretary Thomas E. Perez on the need to raise the minimum wage to benefit workers and the economy* (July 24, 2014), http://www.dol.gov/opa/media/press/opa/OPA20141375.htm.
331. Gilens & Page, *supra* note 22, at 3.
332. U.S. Chamber of Commerce, *Issues: Taxes*, http://www.uschamber.com/issues/priorities/taxes.
333. Chye-Ching Huang & Chuck Marr, *Raising Today's Low Capital Gains Tax Rates Could Promote Economic Efficiency and Fairness, While Helping Reduce Deficits*, Center on Budget and Policy Priorities (Sept. 19, 2010), http://www.cbpp.org/cms/index.cfm?fa=view&id=3837.
334. Overton, *supra* note 8, at 74.
335. Green *et al.*, *supra* note 54.
336. Urban Institute & Brookings Institution, *Income Breaks, 2011,* http://taxpolicycenter.org/numbers/displayatab.cfm?DocID=2970.
337. Center on Poverty, Work and Opportunity University of North Carolina at Chapel Hill, Tracing the Causes of Racial Wealth Disparity 17 (May 31, 2011), http://www.law.unc.edu/documents/poverty/publications/tracingcauses_povertycenter.pdf.
338. Carmen DeNavas-Walt *et al.*, *Income, Poverty and Health Insurance Coverage in the United States in 2012,* U.S. Census Bureau (Demos calculation of data in Table A-1), https://www.census.gov/prod/2013pubs/p60-245.pdf.
339. Allison Kopicki, *Poll: Partisan Split Over Tax Policies*, N.Y. Times (Jan. 24, 2012), http://thecaucus.blogs.nytimes.com/2012/01/24/poll-partisan-split-over-tax-policies/?partner=rssnyt&emc=rss.
340. James Nunns & Jeffrey Rohaly, *Tax Provisions in the American Tax Payer Relief Act of 2012,* Tax Policy Center (Jan. 9, 2013), available at http://www.taxpolicycenter.org/UploadedPDF/412730-Tax-Provisions-in-ATRA.pdf.
341. *See* Paul Blumenthal & Dave Jamieson, *Koch Brothers Are Outspent By A Labor Force Millions Of Times Their Size, But...*, Huffington Post (Mar. 15, 2014) ("All business sectors combined to spend at least $9.5 billion to influence politicians at the federal and state levels in the 2012 election cycle, including campaign contributions and lobbying. Labor unions spent $600 million."), http://www.huffingtonpost.com/2014/03/15/kochs-brothers-labor_n_4966883.html.
342. Raise the Minimum Wage, *Real Value of the Federal Minimum Wage (constant 2013 dollars)*, http://www.raisetheminimumwage.com/facts/entry/amount-with-inflation/.
343. Jody Heymann et al., Institute for Health and Social Policy at McGill University, The Work, Family, and Equity Index How Does the United States Measure Up? 5, http://www.mcgill.ca/files/ihsp/WFEI2007FEB.pdf.
344. Jody Heymann *et al*., *Contagion Nation: A Comparison of Paid Sick Day Policies in 22 Countries*, Center for Economic and Policy Research 1 (May 2009), http://www.cepr.net/documents/publications/paid-sick-days-2009-05.pdf
345. Institute for Women's Policy Research, *Paid Sick Days Access in the U.S.: Differences by Race/Ethnicity, Occupation, Earnings, and Work Schedule* (Mar. 2014), http://www.iwpr.org/publications/pubs/paid-sick-days-access-in-the-united-states-differences-by-race-ethnicity-occupation-earnings-and-work-schedule/at_download/file.
346. U.S. Bureau of Labor Statistics, *Table 6. Selected paid leave benefits: Access, National Compensation Survey* (Mar. 2014), http://www.bls.gov/news.release/ebs2.t06.htm
347. *Id.*
348. *Id.*
349. Elise Gould *et al.*, *The Need for Paid Sick Days: The Lack of a Federal Policy Further Erodes Family Economic Security*, Economic Policy Institute 6 (June 29, 2011), http://www.epi.org/files/page/-/BriefingPaper319.pdf?nocdn=1.
350. *Id.* at 7.
351. Tom W. Smith & Jibum Kim, *Paid Sick Days: Attitudes and Experiences*, National Opinion Research Center at the University of Chicago 5 (June 2010) (prepared for the Public Welfare Foundation), http://news.uchicago.edu/static/newsengine/pdf/100621.paid.sick.leave.pdf.
352. Supriya Kumar, *The Impact of Workplace Policies and Other Social Factors on Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic*, 102 Am. J. Public Health 134 (2012), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490553/.
353. Supriya Kumar, *Policies to Reduce Influenza in the Workplace: Impact Assessments Using an Agent-Based Model*, 103 Am. J. Public Health 1406 (2013), *available at* http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2013.301269
354. Institute for Women's Policy Research, *supra* note 345.
355. Smith & Kim, *supra* note 351 at 5; Emily Swanson & Dave Jamieson, *Paid Sick Leave Supported By Most Americans, Poll Finds*, Huffington Post (June 6, 2013), http://www.huffingtonpost.com/2013/06/20/paid-sick-leave-poll_n_3471789.html.
356. Smith & Kim, *supra* note 351 at 7.
357. *Id.* at 16.
358. Healthy Families Act, S. 631, 113th Congress (2013), https://www.congress.gov/bill/113th-congress/senate-bill/631.
359. National Partnership for Women & Families, *State and Local Action on Paid Sick Days* (2014), http://www.nationalpartnership.org/research-library/campaigns/psd/state-and-local-action-paid-sick-days.pdf.
360. Steven Greenhouse, *Bill Would Guarantee Up to 7 Paid Sick Days*, N.Y. Times A9 (May 16, 2009), *available at* http://www.nytimes.com/2009/05/16/health/policy/16sick.html?_r=1&.
361. Letter from the National Coalition to Protect Family Leave to Congress (Feb. 24, 2009), http://www.npelra.org/files/public/Breaking%20News%20pdfs/Adv_HR%201542_Healthy%20Families%20Act.pdf
362. Michael J. Chow, *Effects of a Paid Sick Leave Mandate on Massachusetts Small Businesses*, National Federation of Independent Businesses Research Foundation (2012), http://www.nfib.com/surveys/massachusetts-paid-sick-leave/; Vermont Chamber of Commerce, *Mandatory Paid Sick Leave* (2013), http://www.vtchamber.com/External/WCPages/WCWebContent/WebContentPage.aspx?ContentID=5239; California Chamber of Commerce, *Paid Sick Leave Mandate to Be Considered in Senate Committee* (2014), http://www.calchamber.com/Headlines/Pages/06102014-Paid-Sick-Leave-Mandate-to-Be-Considered-in-Senate-Committee.aspx.

363. Bill DeRosa, *Why mandating paid sick leave is bad for business, bad for Connecticut*, 88 CBIA News 1, 2 (Apr. 2010), http://www.cbia.com/cbianews/1RAD/zPDF/2010/CBIAnews_0410.pdf.
364. Stephen Singer, *Connecticut 1st state to require paid sick time*, Wash. Post (July 5, 2011), http://www.washingtonpost.com/business/economy/connecticut-1st-state-to-require-paid-sick-time/2011/07/05/gIQAU9S1zH_story.html.
365. National Institute on Money in State Politics, http://www.followthemoney.org/entity-details?eid=6574414.
366. Brian Lockhart, *Are the prospects for a paid sick days bill's passage better this year?*, CTNews.com (Mar. 3, 2009), http://blog.ctnews.com/politicalcapitol/2009/03/03/is-it-really-a-good-time-for-a-paid-sick-days-bill-to-pass/; National Institute on Money in State Politics, http://www.followthemoney.org/entity-details?eid=6404829.
367. Conn. Substitute Bill for S.B. No. 217 (2008), http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB00217&which_year=2008
368. *State Elections Enforcement Commission Citizens' Election Program Overview: 2014 General Assembly and Statewide Office: Primary and General Elections* (Mar. 2014), http://www.ct.gov/seec/lib/seec/2014gaandstatewide/cep_overview_2014_with_cpi_032014.pdf.
369. Jon Lender & Christopher Keating, *Official Governor Results Released: Malloy Wins*, Hartford Courant (Nov. 5, 2010), http://articles.courant.com/2010-11-05/news/hc-ct-governor-election-results-1106-20101105_1_democrat-dannel-malloy-republican-tom-foley-top-election-official; National Institute on Money in State Politics, http://www.followthemoney.org/entity-details?eid=7192819.
370. Mark Pazniokas, *Lamont: A political 'rock star' tries to expand his base*, CT Mirror (Feb. 8, 2010), http://ctmirror.org/lamont-political-rock-star-tries-expand-his-base/.
371. Greg Bordonaro, *Foley Says Union Power Hurting Competitiveness*, HartfordBusiness.com (Oct. 25, 2010), http://www.hartfordbusiness.com/article/20101025/PRINTEDITION/310259980/foley-says-union-power-hurting-competitiveness.
372. Malloy for Governor, *Malloy says Lamont is wrong on paid sick leave*, StamfordPlus (Feb. 2010), http://everybodybenefits.org/2011/01/malloy-says-lamont-is-wrong-on-paid-sick-leave/; Christopher Keating, *Malloy Tells Business Audience He Favors Requiring Paid Sick Leave*, Hartford Courant (Jan. 7, 2011), http://articles.courant.com/2011-01-07/news/hc-malloy-cbia-sick-leave-20110107_1_sick-time-sick-days-day-care-center.
373. Personal communication between source quoted and Demos Policy Analyst Karen Shanton on June 24, 2014.
374. National Institute on Money in State Politics, http://www.followthemoney.org/entity-details?eid=3709206; Lockhart, *supra* note 366.
375. National Institute on Money in State Politics, http://www.followthemoney.org/entity-details?eid=6378395
376. Chad Garland, *Gov. Jerry Brown signs bill to require paid sick leave*, Los Angeles Times (Sept. 10, 2014), http://www.latimes.com/business/la-fi-brown-paid-sick-leave-20140911-story.html; Singer, *supra* note 364.
377. Eileen Appelbaum *et al.*, *Good for Business? Connecticut's Paid Sick Leave Law*, Center for Economic Policy and Research 2 (2014), http://www.cepr.net/documents/good-for-buisness-2014-02-21.pdf.
378. *Id.* at 15.
379. National Conference of State Legislatures, " Voter Identification Requirements," October 21, 2014, available at: http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx.
380. Thom File and Sarah Crissey, "Voting and Registration in the Election of November 2008," U.S. Census Bureau (July 2012), available at: https://www.census.gov/prod/2010pubs/p20-562.pdf.
381. Ethan Magoc, "Flurry of Photo ID Laws Tied to Conservative Washington Group," News21 (August 2012), available at, http://votingrights.news21.com/article/movement/.
382. Lisa Graves, "A CMD Special Report On ALEC's Funding and Spending," Center for Media and Democracy (July 2011), available at, http://prwatch.org/news/2011/07/10887/cmd-special-report-alecs-funding-and-spending.
383. Hamed Aleaziz, Dave Gilson and Jaeah Lee, "UFO Sightings Are More Common Than Voter Fraud," Mother Jones, (July/August 2012), available at, http://www.motherjones.com/politics/2012/07/voter-id-laws-charts-maps.
384. Suevon Lee, "Everything You've Ever Wanted to Know About Voter ID Laws," ProPublica (November 5, 2012), available at: http://www.propublica.org/article/everything-youve-ever-wanted-to-know-about-voter-id-laws.
385. Government Accountability Office, "Issues Related to State Voter Election Laws," (September 2014), available at, http://www.sanders.senate.gov/download/gao-report-voter-identification-laws-2014?inline=file.
386. Callahan & Cha, *supra* note 18.
387. Reuters, "Minnesota governor vetoes voter identification bill," May 26, 2011, available at: http://www.reuters.com/article/2011/05/26/us-minnesota-idUSTRE74P8E920110526.
388. Ethan Magoc, "Flurry of Photo ID Laws Tied to Conservative Washington Group," News21 (August 2012), available at: http://votingrights.news21.com/article/movement/.
389. John D. Sutter, "5 reasons Minnesota is tops at voting," CNN (October 27, 2012), available at: http://www.cnn.com/2012/10/27/opinion/ctl-minnesota-best-voting/.
390. http://www.fairvote.org/research-and-analysis/dubious-democracy-2008/state-rankings/democracy-index/
391. Mark Ritchie, "Minnesota voting amendment would change much more than you might think," MinnPost, September 6, 2012, available at: http://www.minnpost.com/community-voices/2012/09/minnesota-voting-amendment-would-change-much-more-you-might-think.
392. Cha & Kennedy, *supra* note 43.
393. Brian Lambert, "Slam Dunk: Minnesotans love Voter ID, Strib poll finds," MinnPost (May 2011), available at, http://www.minnpost.com/glean/2011/05/slam-dunk-minnesotans-love-voter-id-strib-poll-finds
394. *Ibid.*
395. Hamed Aleaziz, Dave Gilson and Jaeah Lee, "UFO Sightings Are More Common Than Voter Fraud," Mother Jones, (July/August 2012), available at, http://www.motherjones.com/politics/2012/07/voter-id-laws-charts-maps.
396. TakeAction Minnesota, "The 1% vs. Democracy in Minnesota,"(February 2012), available at: http://www.mnfaireconomy.org/wp-content/uploads/2012/02/14704-final.pdf; Brentin Mock, "The Wealthy One Percent That's Behind Minnesota's Voter ID Push," Colorlines (February 2012), http://colorlines.com/archives/2012/02/minnesota_1_percent_voter_disenfranchisement.html.
397. David Bailey, "Minnesota legislature bypasses governor, puts voter ID on ballot," Reuters (April 4, 2012), available at: http://www.reuters.com/article/2012/04/04/us-usa-minnesota-voter-id-idUSBRE8331C820120404.
398. Tim Pugmire, "Racism alleged in Voter ID campaign," February 20,2012, available at: http://blogs.mprnews.org/capitol-view/2012/02/racism_alleged/.
399. Amanda Melillo, "How Minnesota's Voter ID Amendment Was Defeated," Brennan Center for Justice, November 8, 2012, available at: http://www.brennancenter.org/blog/how-minnesota%E2%80%99s-voter-id-amendment-was-defeated.
400. Minnesota Public Radio, "Voter ID Amendment," available at: http://minnesota.publicradio.org/collections/

special/2012/campaign/results/mn/voterid.php#results.

401. ACLU, "Voting Restoration," available at: http://www.aclu-mn.org/issues/votingrights/voting-restoration/.
402. *Ibid.*
403. *Ibid.*
404. Christopher Uggen and Suzy McElrath, "Draft Report on Felon Disenfranchisement in Minnesota," (October 2012), http://www.soc.umn.edu/~uggen/MNReport_2012.pdf.
405. Hedwig Lee, Lauren Porter, and Megan Lee Comfort, "People Wit Family Members In Prison Are Less Likely To Be Engaged American Citizens," SSN (February 2014), available at: http://www.scholarsstrategynetwork.org/sites/default/files/ssn_key_findings_lee_porter_and_comfort_on_the_consequences_of_incarceration_for_political_socialization.pdf.
406. For example, research has shown that people with criminal convictions are less likely to be repeat offenders if they live in states that restore voting rights after incarceration. Guy Padraic Hamilton-Smith and Matthew Vogel, "The Ballot as a Bulwark: The Impact of Felony Disenfranchisement on Recidivism," SSRN (August 2011), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1919617.

demos.org