



# Court Cash

---

## 2016 Election Money Resulting Directly From Supreme Court Rulings

ADAM LIOZ

*Counsel & Senior Advisor, Policy & Outreach*

JUHEM NAVARRO-RIVERA

*Senior Policy Analyst*

SEAN MCELWEE

*Policy Analyst*

## Acknowledgements

The authors would like to thank Sarah Bryner, Research Director at the Center for Responsive Politics, for providing customized data for this project, and for review. The authors also thank Demos Research Director Lew Daly, Demos Vice President of Policy & Legal Strategies Brenda Wright, Every Voice Research Director Tam Doan, and Public Citizen Government Affairs Lobbyist Craig Holman for review.

## 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.

Our name means “the people.” It is the root word of democracy, and it reminds us that in America, the true source of our greatness is the diversity of our people. Our nation’s highest challenge is to create a democracy that truly empowers people of all backgrounds, so that we all have a say in setting the policies that shape opportunity and provide for our common future. To help America meet that challenge, Demos is working to reduce both political and economic inequality, deploying original research, advocacy, litigation, and strategic communications to create the America the people deserve.

[demos.org](https://demos.org)

80 Broad St, 4th Fl.  
New York, NY 10004

## Media Contact

KATE BERNER

*SKDKnickerbocker*

[KBERNER@SKDKNICK.COM](mailto:KBERNER@SKDKNICK.COM) | 202.464.6966

## TABLE OF CONTENTS

<b>Money in Politics and the Supreme Court: Decades of Damage</b>	<b>1</b>
<b>Court Cash in 2016</b>	<b>2</b>
<b>Case-by-Case Impact</b>	<b>6</b>
<i>Buckley v. Valeo</i> (1976)	6
<i>Colorado Republican Federal Committee v. FEC</i> (1996)	6
<i>Citizens United v. FEC</i> (2010)	7
<i>McCutcheon v. FEC</i> (2014)	7
<b>Why This Matters: Distorting Democracy by Class, Race, Gender, and Policy Views</b>	<b>9</b>
<b>What's at Stake with the Current Supreme Court Vacancy</b>	<b>10</b>
<b>Methodology</b>	<b>11</b>
<b>Endnotes</b>	<b>17</b>

## Money in Politics and the Supreme Court: Decades of Damage

**F**or four decades, the Supreme Court's flawed approach to money in politics has gutted common-sense protections against the power of special interests and wealthy individuals. This defies our core democratic values, because the size of our wallets should not determine the strength of our voices.<sup>1</sup>

The Court's misplaced notion that we should limit political contributions or spending only to fight corruption or its appearance, and not to ensure we all have an equal voice in the critical decisions that affect our lives, has led to a series of damaging rulings, including 2010's infamous *Citizens United* decision.<sup>2</sup>

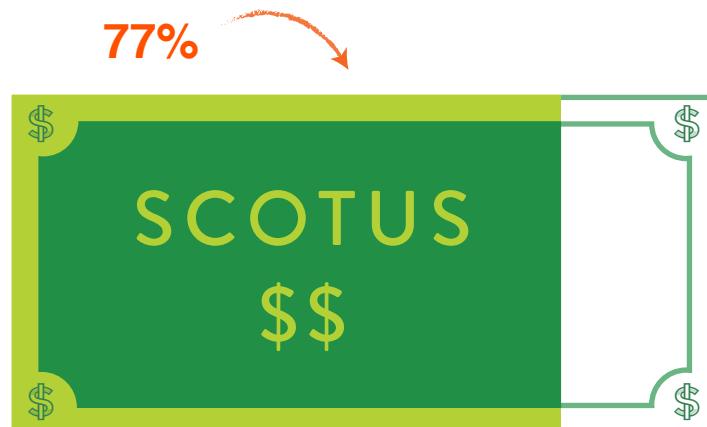
The practical effect: billions of dollars flowing into our elections from an elite group of wealthy individuals and corporations. Here we report on the direct impact on 2016 election spending or fundraising of four of the Supreme Court's most significant money-in-politics cases: *Buckley v. Valeo* (1976), *Colorado Republican Federal Campaign Committee v. FEC* (1996), *Citizens United v. FEC* (2010), and *McCutcheon v. FEC* (2014).<sup>3</sup>

## Court Cash in 2016

**E**lection spending is concentrated in highly contested races, so to get the best picture of the Supreme Court's impact where it matters most we analyzed the proportion of spending that can be directly attributed to Supreme Court rulings in the 22 congressional races (17 House and 5 Senate) won by 5 percentage points or fewer, as well as the highly competitive presidential race.

Figure 1 shows the portion of total direct spending on competitive 2016 congressional elections that would have been blocked by election laws had the Supreme Court not struck down several key protections against big money. Table 1 breaks this down by the relevant Supreme Court decision.<sup>4</sup>

**Figure 1. Portion of Competitive Congressional Race Spending Attributable to Supreme Court Rulings (2016)**



**Table 1. Money in 2016 Competitive Congressional Races by Supreme Court Decision**

Court Case	Amount	Percentage
<i>Buckley v Valeo</i> (1976)	\$201,000,000	24%
<i>Colorado Republican Party v FEC</i> (1996)	\$124,000,000	15%
<i>Citizens United v FEC</i> (2010)	\$324,000,000	38%
SCOTUS Total	\$649,000,000	77%
Total Spending	\$843,000,000	100%

Sources: Dēmos calculations of CRP and FEC data

**Figure 2. Presidential Election Spending Attributable to Supreme Court Rulings (2016)**

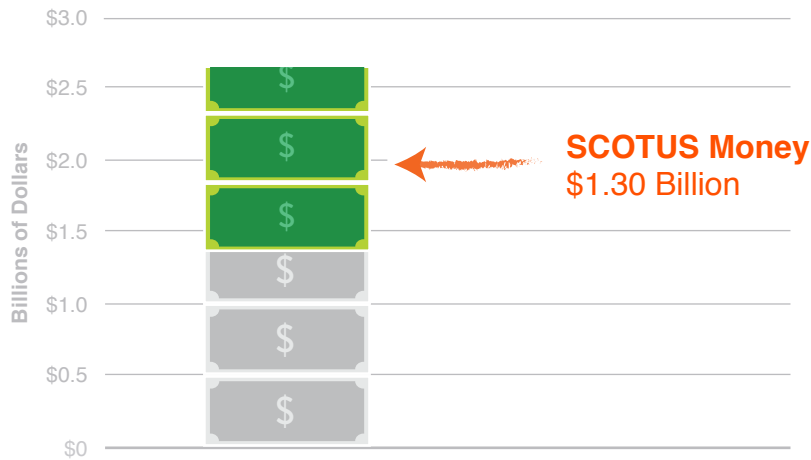
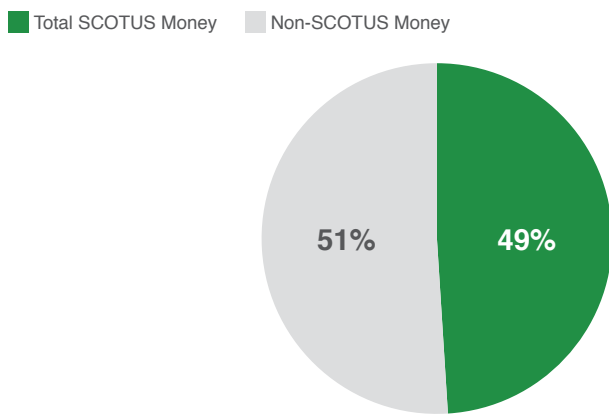


Figure 2 shows the amount of total direct spending on the 2016 presidential election that would have been blocked by election laws had the Supreme Court not struck down several key protections against big money. Figure 3 shows the proportion of money tied to Supreme Court rulings. Table 2 breaks the amount and proportion down by relevant Supreme Court decision.

**Figure 3. Portion of 2016 Presidential Election Spending Attributable to Supreme Court Rulings**



**Table 2. Money in 2016 Presidential Race by Supreme Court Decision**

Court Case	Amount	Percentage
<i>Buckley v Valeo</i> (1976)	\$607,000,000	23%
<i>Colorado Republican Party v FEC</i> (1996)	\$3,000,000	0%
<i>Citizens United v FEC</i> (2010)	\$690,000,000	26%
SCOTUS Total	\$1,300,000,000	49%
Total Spending	\$2,651,000,000	100%

Sources: Dēmos calculations of CRP data

Supreme Court rulings have led to a total of more than \$3 billion in spending on the 2016 elections.

Even this significant amount—45 percent of the total cost of the elections—does not capture the true importance of the Court’s interventions, because the money the Court allowed into the system comes largely from a tiny segment of elite donors.<sup>5</sup> The source of the funds is even more important than the raw amount, as we explain below.

Figure 4 shows the system-wide total direct spending on the 2016 federal elections that would have been blocked by election laws had the Supreme Court not struck down several key protections against big money.

**Figure 4. Federal Election Spending Attributable to Supreme Court Rulings (2016)**

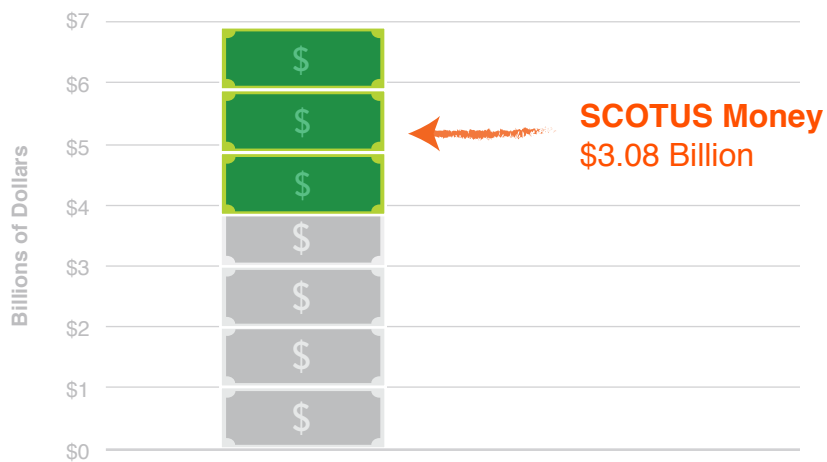
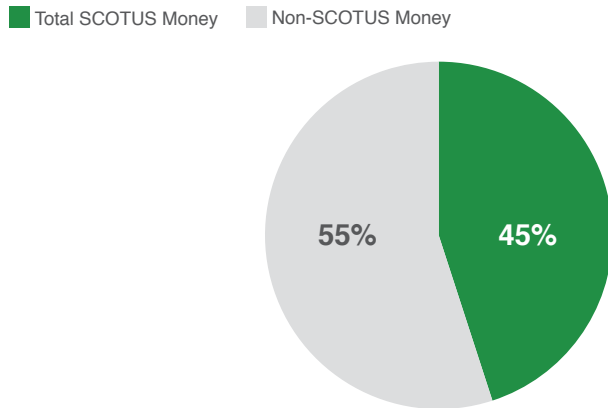


Figure 5 shows the proportion of 2016 election spending tied to Supreme Court rulings. Table 3 breaks the amount and proportion down by relevant Supreme Court decision.

**Figure 5. Portion of 2016 Federal Elections Spending Attributable to Supreme Court Rulings**



**Table 3. Money in 2016 Federal Elections by Supreme Court Decision**

Court Case	Amount	Percentage
<i>Buckley v Valeo</i> (1976)	\$1,516,000,000	22%
<i>Colorado Republican Party v FEC</i> (1996)	\$255,000,000	4%
<i>Citizens United v FEC</i> (2010)	\$1,307,000,000	19%
SCOTUS Total	\$3,078,000,000	45%
Total Spending	\$6,917,000,000	100%

Sources: Dēmos calculations of CRP data

Although *Citizens United* is much more well-known, *Buckley v. Valeo* is actually responsible for more of the money in the system overall. Table 4 shows the relative contribution of each Supreme Court decision in the competitive races, the presidential election, and system-wide.

**Table 4. Portion of 2016 Supreme Court Money by Decision and Electoral Race**

Election	<i>Buckley v. Valeo</i>	<i>Colorado Republican Party v. FEC</i>	<i>Citizens United v. FEC</i>	Total
Competitive Congressional	31%	19%	50%	100%
Presidential	47%	0%	53%	100%
System	49%	9%	42%	100%

Sources: Dēmos calculations of CRP data



## Case-by-Case Impact

### ***Buckley v. Valeo* (1976)**

In *Buckley v. Valeo*,<sup>6</sup> the Supreme Court addressed Congress' post-Watergate money-in-politics reforms. The Court upheld contribution limits, disclosure requirements, and a system providing public funding for presidential candidates, but struck down several key protections against big money. Specifically, the Court:

- Struck down limits on wealthy candidates self-funding their campaigns (these would have been \$243,400 for president; \$170,400 for Senate; \$121,700 for House in 2016 dollars);<sup>7</sup>
- Struck down limits on total per-election candidate spending (these would have ranged from \$341,000 for a House primary to \$17 million for a large-state Senate general election in 2016 dollars);
- Struck down a \$5,000 (in 2016 dollars) limit on independent expenditures by any person or political committee except for political parties.

We did not include the \$5,000 (in 2016 dollars) limit on independent expenditures by people or political organizations in our analysis because a) the amount of individual independent expenditures is negligible in the era of Super PACs; and b) the Court was correct to strike that limit on political committees, since people should be able to pool limited contributions together through organizations in order to raise their collective voices.

As noted above, *Buckley* itself was responsible for \$201 million in additional money in the 22 most competitive congressional elections, \$607 million in additional money in the presidential election, and \$1.5 billion in additional money system-wide in 2016. This represents election spending above and beyond the (inflation-adjusted) caps struck by *Buckley*.

*Buckley* also allowed 123 wealthy candidates to spend \$161 million in additional money on their own campaigns in 2016, beyond the caps that Congress set in 1974, adjusted for inflation.<sup>8</sup>

### ***Colorado Republican Federal Committee v. FEC* (1996)**

*Colorado Republican I* (as it is known) extended *Buckley*'s logic by striking down limits on independent spending by political parties. The Federal Election Campaign Act (FECA) included limits on party spending on behalf of certain candidates. These were not addressed in *Buckley*, in

part because people assumed that spending by a party to help its own candidates would be done in cooperation with those candidates, and therefore subject to limits.

But, 20 years later the Colorado Republican party argued that it could spend money to help elect Republican candidates without cooperating with them, and the Supreme Court agreed. This led to the effective elimination of FECA's limits on party expenditures for or against particular candidates, ranging from \$49,000 for House candidates to \$593,000 for Senate candidates in the largest state (in 2016 dollars).<sup>9</sup>

The elimination of party spending limits was responsible for \$124 million in the 22 most competitive congressional elections, \$3 million in the presidential election, and \$255 million system-wide in 2016.

### **Citizens United v. FEC (2010)**

In the infamous *Citizens United* case, the Supreme Court overturned a century of settled law to allow direct corporate spending on elections. Since nonprofit “social welfare” corporations and trade associations are not required to disclose their donors, this opened the door for secret money in our elections. *Citizens United* also led to Super PACs, which can accept unlimited contributions from any source except foreign nationals and then spend that money directly on elections, as long as they do not contribute to candidates or parties or spend money in direct cooperation with candidates or parties.<sup>10</sup> Most Super PAC money has come from wealthy individuals.

As noted above, *Citizens United* was responsible for \$324 million in additional money in the 22 most competitive congressional elections, \$690 million in the presidential election, and \$1.3 billion in additional money system-wide in 2016.

### **McCutcheon v. FEC (2014)**

In *McCutcheon*, the Court struck down a limit of \$124,900 in 2016 dollars on the total amount that any single wealthy donor can contribute to all federal candidates, parties and political action committees (PACs).

We calculated that just 1,724 wealthy donors contributed \$274 million in “*McCutcheon* money” in 2016—money that went beyond what would have been permitted by the aggregate limit. These elite donors contributed more than \$490 million, for an average of \$287,000 each—or more than five times the median annual household income in the United States.<sup>11</sup> This is nearly one-third (32 percent) of all of the \$1.56 billion contributed by millions of small donors in 2016.<sup>12</sup>

While it's impossible to determine exactly how much of the *McCutcheon* money went to specific competitive races, we calculated that just 1,499 elite *McCutcheon* donors contributed a total of \$23.4 million to the 22 most competitive congressional races.

We did not include *McCutcheon* money in our system-wide calculations above because *McCutcheon* affected *contributions*, whereas *Buckley*, *Colorado Republican I*, and *Citizens United* related to *spending*.

## Why This Matters: Distorting Democracy by Class, Race, Gender, and Policy Views

Critically, the vast majority of the money spent on elections as a result of the Supreme Court is big money—coming in large checks well beyond what the average person can afford to give or spend.<sup>13</sup> By striking key laws, the Court opened the door for wealthy donors to spend and contribute billions of dollars, shifting the balance of power towards a moneyed elite and away from ordinary voters.

Previous Demos research shows that the big donors who can take advantage of the spending and contribution routes the Court has opened are disproportionately wealthy, white, male and conservative.<sup>14</sup> Only one-third of donors giving \$10,000 or more to congressional campaigns were women (who are more than half of the adult population) and nearly half were millionaires (compared to 3 percent of the adult population).<sup>15</sup> Only 6 percent of donors giving more than \$10,000 to congressional races in 2012 and 2014 were people of color (compared with about one quarter of the adult population).<sup>16</sup>

Further, elite donors hold different policy preferences than the general public. They are more supportive of domestic spending cuts, more likely to oppose taking action to mitigate climate change and less supportive of the Affordable Care Act.<sup>17</sup> The Supreme Court's decisions have thus benefited a small class of wealthy, white conservative men.

## What's at Stake with the Current Supreme Court Vacancy

**W**ith the Supreme Court currently deadlocked four to four on money in politics and many other key issues, the stakes for our democracy could not be higher. Whoever is confirmed to the ninth seat will determine whether the Court continues down the same damaging path of opening the floodgates to big money in politics, or begins to transform its approach so we can end Super PACs, get corporations out of our elections, and ensure that Americans of all incomes, races, and backgrounds can run for office and make our voices heard.

As this report shows, the Court's future path will have a significant impact on whether wealthy donors continue to drive our major policy decisions or whether we can instead finally build a democracy where the size of our wallets no longer determines the strength of our voices.

## Methodology

### Data Sources

Unless otherwise noted, all 2016 election spending data comes from the Center for Responsive Politics (CRP). Most of the data is publicly available on CRP's website at [www.opensecrets.org](http://www.opensecrets.org). CRP provided some data directly to us, which is on file with the authors and noted below.

### Buckley Money

The expenditure limits the Supreme Court struck down in *Buckley v. Valeo* come from Section 608 of the 1974 amendments to the Federal Election Campaign Act (FECA). They are listed in the appendix to the *Buckley* decision and can be accessed at <https://supreme.justia.com/cases/federal/us/424/1/case.html#187>

### Self-Funding

The 1974 FECA amendments set the following limits on candidates using personal or family wealth to fund their campaigns:

- \$50,000 for president or vice president
- \$35,000 for Senate or House in state with one representative
- \$25,000 for House of Representatives

Although FECA did not provide for these limits to be adjusted for inflation (in contrast with overall candidate spending caps), given that Congress adjusted contribution limits for inflation in the Bipartisan Campaign Reform Act of 2002, we made the conservative assumption that Congress would have similarly adjusted these limits for inflation at some point. Hence, using the Bureau of Labor Statistics Consumer Price Index inflation calculator (<https://data.bls.gov/cgi-bin/cpicalc.pl>) we make the conservative assumption that the applicable limits on self-funding in 2016 would have been:

- \$243,400 for president or vice president
- \$170,400 for Senate or House in state with one representative
- \$121,700 for House of Representatives

In the 2016 election cycle, 123 candidates who exceeded what would have been their self-funding limits spent \$178 million on their own campaigns. These same candidates would have been permitted to spend \$17 million under FECA's limits, adjusted for inflation. This leaves approximately \$161 million in self-funding attributed to *Buckley*.

[Sources: Data provided by Center for Responsive Politics and on file with authors.]

### *Candidate Spending Beyond FECA Caps*

We calculated what each candidate's spending cap would have been under the FECA limits struck by *Buckley*, using the formulas spelled out in Section 608. The resulting caps (including BLS CPI inflation adjustments) are:

- President: \$49 million primary + \$97 million general = \$146 million total
- Senate (and House in states with one at-large district): Varies from \$487,000 to \$6,000,000 depending upon voting age population of the state
- House: \$341,000 primary + \$341,000 general = \$682,000 total

We then took each candidate's total 2016 election spending and subtracted his/her would-be spending cap. We considered any positive value left over to be spending attributable to *Buckley*.

### *Other Buckley Money Not Calculated*

*Buckley* also struck a \$1,000 limit on "independent expenditures" by individuals and political committees (\$5,000 in 2016 dollars). We have not factored these policies into our analysis for separate reasons. In the age of Super PACs there are now relatively few independent expenditures from individuals (the Center for Responsive Politics lists \$1.12 billion in Super PAC spending for the cycle but only \$160 million from corporations, individual people, or other groups).<sup>18</sup> The Court was actually correct to strike the \$1,000 limit on independent expenditures by political committees, as people should be able to aggregate their voices to speak more loudly collectively, and political committees are a tool to do so.

### *Colorado Republican I Money*

FECA limited party committee spending for or against House candidates to \$10,000, which we adjusted for inflation to \$49,000. FECA limited spending for or against Senate candidates according to a state-by-state formula based upon voting age population, with an alternative minimum of \$20,000 (or \$97,000 in 2016). We calculated the inflation-adjusted limit for each state, which ranged from the \$97,000 minimum to \$593,000 in California. We then doubled these limits, since FECA Section 441(a)(d)(3) allowed both national and state parties to spend on behalf of particular candidates, and prior to the *Colorado Republican I* decision it had been common practice for state parties to assign their federal spending limit to the national party committees. This assumption results in attributing \$17.9 million less to *Colorado Republican I* than if we had simply used the statutory limits.

We summed together party independent and coordinated expenditures on behalf of specific candidates, since Congress clearly intended the FECA limits to capture all party spending on behalf of a candidate (independent spending by political parties was not yet a legally cognizable concept when the FECA amendments passed in 1974). We assumed that all of the spending came from the party committee typically associated with this type of spending (DNC or RNC for president; DSCC or NRSC for Senate; DCCC or NRCC for House), and then we spot-checked this assumption to confirm its validity.

To determine the spending attributable to *Colorado Republican I*, we took party spending on behalf of each candidate, subtracted the would-be FECA spending limit, and summed the difference for all candidates that benefited from party spending. Of the more than 1,675 federal candidates in our database, the parties spent money on behalf of only around 160 candidates—35 of whom were in our top 22 competitive races.

One important note is that to calculate party spending beyond FECA's caps, we only looked at spending associated with a particular candidate or race, which leaves out \$929 million that CRP told us was spending by parties not on behalf of any particular candidate. We left this money in our total calculations as “party overhead,” which we understand to be spending on infrastructure (such as fundraising, voter files, staff, buildings, etc.) and other miscellaneous items that do not include express advocacy on behalf of candidates. We did not attribute any of this money to *Colorado Republican I* or any Supreme Court decision.

It is likely that much of the \$274 million in excess *McCutcheon* money identified in this report found its way to the political parties and gave them more resources for overhead or other non-candidate-based expenditures, but we do not have a reliable way of calculating a precise total so have not attempted an estimate. Therefore, leaving the party overhead figures in our overall total and not attributing any of it to Supreme Court decisions makes our reported figures quite conservative.

### **Citizens United Money**

According to Center for Responsive Politics, Super PACs spent \$1.12 billion influencing 2016 federal elections. Outside spending from 501(c)(4), 501(c)(5) and 501(c)(6) organizations accounted for another \$199 million. Note, this estimate is conservative in that it does not include any direct corporate independent expenditures, which CRP does not break out. These are likely minimal, however, as the entire category of expenditures by corporations, individual people, or other groups contains only \$160 million, as noted above.

[Source: [https://www.opensecrets.org/outsidespending/fes\\_summ.php](https://www.opensecrets.org/outsidespending/fes_summ.php)]



## McCutcheon Money

Based upon inflation, Demos estimates that a \$124,900 aggregate contribution limit would have been in place in 2016 without the *McCutcheon* decision.<sup>19</sup> According to data collected and analyzed by the Center for Responsive Politics, 1,724 donors in the 2016 election cycle contributed more than this to federal candidates, parties, and political action committees (PACs) (not including any contributions to Super PACs). These elite donors contributed \$494,163,117 in total. Pre-*McCutcheon*, these donors would have been limited to contributing \$215,327,600. The differential of \$278,835,517 is the total new money that can be traced to the Court's decision.

The *McCutcheon* aggregate limit, however, did not apply to contributions to recount committees. According to CRP data on file with the authors, individuals contributed a total of \$29,640,790 to recount committees in 2016. To decide how much of this recount money likely came from *McCutcheon* donors (and therefore should be removed from our *McCutcheon* excess estimate), we performed the following calculations. First, we divided the total amount given by *McCutcheon* donors (\$490 million) by the total amount given by individuals to all parties, candidates and PACs (\$6.02 billion) to determine that *McCutcheon* donors were responsible for approximately 8 percent of all individual contributions. We then doubled this to be conservative, assuming that *McCutcheon* donors are likely targets for recount funds, and assumed that 16 percent of the \$29.6 million in recount funds came from *McCutcheon* donors. We therefore removed approximately \$4.7 million from the *McCutcheon* excess, for a final *McCutcheon* money figure of \$274 million.

[Source: <https://www.opensecrets.org/overview/topindivs.php?cycle=2016&view=hi>]

## Total Court Cash and Division of Costs

We estimate that \$3.078 billion in 2016 campaign funding can be immediately tied to Supreme Court decisions. According to current CRP estimates, the total cost of all 2016 elections was \$6.917 billion. That means that 45 percent, or a bit less than half of all spending in the 2016 election, can be traced to Supreme Court decisions. [Source: <https://www.opensecrets.org/overview/cost.php>]

As noted, we used CRP's estimate of \$6.917 billion as the total cost of the election. We also got from CRP or calculated from their data the following figures: candidate committee spending (\$3.217 billion); party spending (sum of \$929 million in party overhead and \$292 million spent on candidates); and non-party independent spending (\$1.436 billion). The remaining \$1.043 billion we considered general PAC overhead and other miscellaneous spending. We did not attempt to attribute any of this money to any Supreme Court case.

We were able to divide the total spending between presidential and congressional races for all categories except for the PAC overhead and miscellaneous category. We divided the miscellaneous total between the presidential and the congressional elections by allocating it so that our ratio between total presidential and congressional spending would match CRP's ratio as closely as possible (\$2.651 billion for president and \$4.267 billion for congressional). This caused us to put \$92 million into the presidential category and \$951 million in the congressional category.

The inclusion of these miscellaneous funds is conservative because it is all allocated against the Supreme Court money total. The division of these funds between presidential and congressional is essentially neutral for our purposes, since putting more money in the presidential category will tend to make our percentage of Supreme Court money lower there but higher in the competitive congressional races, and vice versa.

### Competitive Race Analysis

We define competitive races as those where the victor won by less than 5 percentage points. In 2016 there were 22 of these races, 17 in the House of Representatives and 5 in the U.S. Senate. These 22 races account for 5 percent of all congressional races in the 2016 elections.

We viewed congressional election results at [Ballotpedia.org](http://Ballotpedia.org). The following races were decided by 5 percentage points or less and hence were used in our analysis:

#### HOUSE

California: Districts 7, 10, 44, and 49

Florida: Districts 7 and 13

Minnesota: Districts 1, 2, 7, and 8

Nebraska: District 2

New Hampshire: Districts 1 and 2

New Jersey: District 5

Nevada: Districts 3 and 4

Texas: District 23

#### SENATE

Missouri, New Hampshire, Nevada, Pennsylvania, Wisconsin

To calculate the effect of *Buckley v. Valeo* in these races we used the amount of money that exceeded the total per-candidate spending caps. We estimate that 55 candidates in these races exceeded their would-be spending caps in 2016 by \$201,370,974. These candidates spent \$274,471,914, and their spending would have been limited to \$73,100,940 under the FECA caps.

To calculate the effect of *Citizens United* in our 22 competitive races, we calculated total non-party independent spending in these races from CRP data (\$356,042,799), multiplied this by the proportion of independent spending attributable to *Citizens United* throughout the entire system (91%), and considered the resulting total (\$323,998,947) to be the amount attributable to *Citizens United* in our competitive race pool. This assumption is slightly conservative because any independent expenditures by for-profit corporations (which are in fact attributable to *Citizens United*) appear in a catch-all “other” category in CRP’s data (along with individual and regular PAC spending), which shows up in the 9% on the other side of the equation. In addition, while all types of spenders on both sides of the equation (Super PACs and (c)(4), (c)(5), (c)(6) nonprofits on the *Citizens United* side and regular PACs and individuals on the other side) are likely to spend more money in competitive races, we were unable to identify any reason why the ratio of this spending would be different in competitive races than throughout the system.

We did not attempt to assign *McCutcheon* money to specific competitive races, since it is impossible to determine if *McCutcheon* donors would have given to one race or another (or given as much to any given race) had they been subject to an overall cap on their total contributions. Center for Responsive Politics did, however, provide us with a list of *McCutcheon* donors (those who gave more than the would-be aggregate limit) who contributed to candidates in the competitive races. In total, 1,499 elite donors contributed \$23.4 million to the candidates in the 22 most competitive congressional races.

We allocated 5 percent of the cost of party overhead, PAC overhead, and miscellaneous expenditures to our 22 competitive races, since these constituted 5 percent of the overall number of races and we assumed that overhead costs are spread evenly across parties, unlike candidate-specific expenditures, which are concentrated in competitive races. One reason we believe this estimate to be conservative and reasonable is that although there may be some additional staffing costs associated with competitive races, other infrastructure costs such as office rent will tend to be higher in large cities where races tend to be less competitive.

## Endnotes

1. Adam Lioz, *Breaking the Vicious Cycle: Rescuing Our Democracy and Our Economy by Transforming the Supreme Court's Flawed Approach to Money in Politics*, Demos, 2015, <http://www.demos.org/publication/breaking-vicious-cycle-rescuing-our-democracy-and-our-economy-transforming-supreme-court>.
2. *Citizens United v. Federal Election Com'n*, 558 U.S. 310 (2010).
3. *Buckley v. Valeo*, 424 U.S. 1 (1976); *Colorado Republican Federal Campaign Committee v. Federal Election Com'n*, 518 U.S. 604 (1996); *Citizens United v. Federal Election Com'n*, 558 U.S. 310 (2010); *McCutcheon v. Federal Election Com'n*, 134 S.Ct. 1434 (2014).
4. We did not factor *McCutcheon v. FEC* into these calculations because in this section we are analyzing election spending and *McCutcheon* was about contributions, and also because it is not possible to say precisely how much *McCutcheon* money went to specific competitive races. We discuss the impact of *McCutcheon* in more detail below.
5. See note 13 below.
6. 424 U.S. 1 (1976). For an accessible but thorough analysis of *Buckley's* impact, see Adam Lioz, *Buckley v. Valeo at 40*, Demos, 2016, <http://www.demos.org/publication/buckley-v-valeo-40>. *Buckley* also struck a \$1,000 limit on “independent expenditures” by individuals and political committees. We have not factored these policies into our analysis for reasons explained in our Methodology.
7. The Federal Election Campaign Act (FECA) did not provide for these limits to be adjusted for inflation, but we have done so in our analysis for reasons explained in our Methodology.
8. As noted in our Methodology, Congress did not adjust these self-funding caps for inflation but we chose to do so in our analysis to be conservative.
9. These limits were doubled in practice due to agreements between state and national party committees. See the Methodology for further explanation.
10. A D.C. Circuit Court decision called *Speech Now v. FEC* technically empowered Super PACs to accept unlimited contributions, but this was a unanimous decision that came closely on the heels of *Citizens United* and closely followed its logic. *SpeechNow.org v. Federal Election Com'n*, 599 F.3d 686 (D.C. Cir. 2010).
11. Bernadette D. Proctor, Jessica L. Semega, and Melissa A. Kollar, *Current Population Reports: Income and Poverty in the United States: 2015*, United States Census Bureau, September 2016, <https://www.census.gov/library/publications/2016/demo/p60-256.html>.
12. CRP: <https://www.opensecrets.org/overview/donordemographics.php> (viewed 3/7/17).
13. The vast majority of Super PAC money comes in very large checks; according to Center for Responsive Politics (CRP) data, the top 100 donors to Super PACs gave 60.8% of the money, or \$1.09 billion. *McCutcheon* money by definition comes from donors who gave more than \$124,900. It would be extremely difficult to exceed *Buckley's* spending limits by raising only small donor money of \$200 or less; this would require a general election congressional candidate to raise money from more than 3,400 separate donors. This is significantly more donors than congressional candidates typically raise money from, even in highly competitive races.
14. Sean McElwee, *Whose Voice, Whose Choice? The Distorting Influence of the Political Donor Class in Our Big-Money Elections*, Demos, December 2016, <http://www.demos.org/publication/whose-voice-whose-choice-distorting-influence-political-donor-class-our-big-money-electi>
15. *Id.*
16. *Id.*
17. *Id.*
18. Summary of outside spending, available at: [https://www.opensecrets.org/outsidespending/fes\\_summ.php](https://www.opensecrets.org/outsidespending/fes_summ.php)
19. The aggregate contribution limit in 2014 was \$123,200. That limit was increased from \$117,000 in 2012. Demos adjusted for inflation using the Bureau of Labor Statistics, Consumer Price Index (CPI). For more, see: <http://www.demos.org/publication/mccutcheon-money-projected-impact-striking-aggregate-contribution-limits>

**demos.org**