



PhilanthropyRoundtable

STRENGTHENING OUR FREE SOCIETY

Protecting Donor Privacy

Philanthropic Freedom, Anonymity
and the First Amendment

www.PhilanthropyRoundtable.org
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Executive Summary

The right of charitable donors to remain anonymous has long been a hallmark of American philanthropy for donors both large and small. Donor privacy allows charitable givers to follow their religious teachings, insulate themselves from retribution, avoid unwanted solicitations, and duck unwelcome publicity. It also upholds and protects important First Amendment rights of free speech and association. However, recent actions by elected officials, activists, and organizations are challenging this right and threatening to undermine private philanthropy's ability to effectively address some of society's most challenging issues.

Several court cases have established donor privacy as a constitutionally protected right. The Supreme Court ruled unanimously in *NAACP v. Alabama* in 1958 that "freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment." In a landmark judgment written by Justice John Marshall Harlan II, the Court held that the State of Alabama could not compel the NAACP to reveal the names and addresses of its members because doing so would expose its supporters "to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility" and thereby restrain "their right to freedom of association." In *Buckley v. Valeo* in 1976, the Court upheld a disclosure requirement for donors to political campaigns, political parties, and political action committees, but noted this was a narrow exception to the principles upheld in *NAACP v. Alabama*.

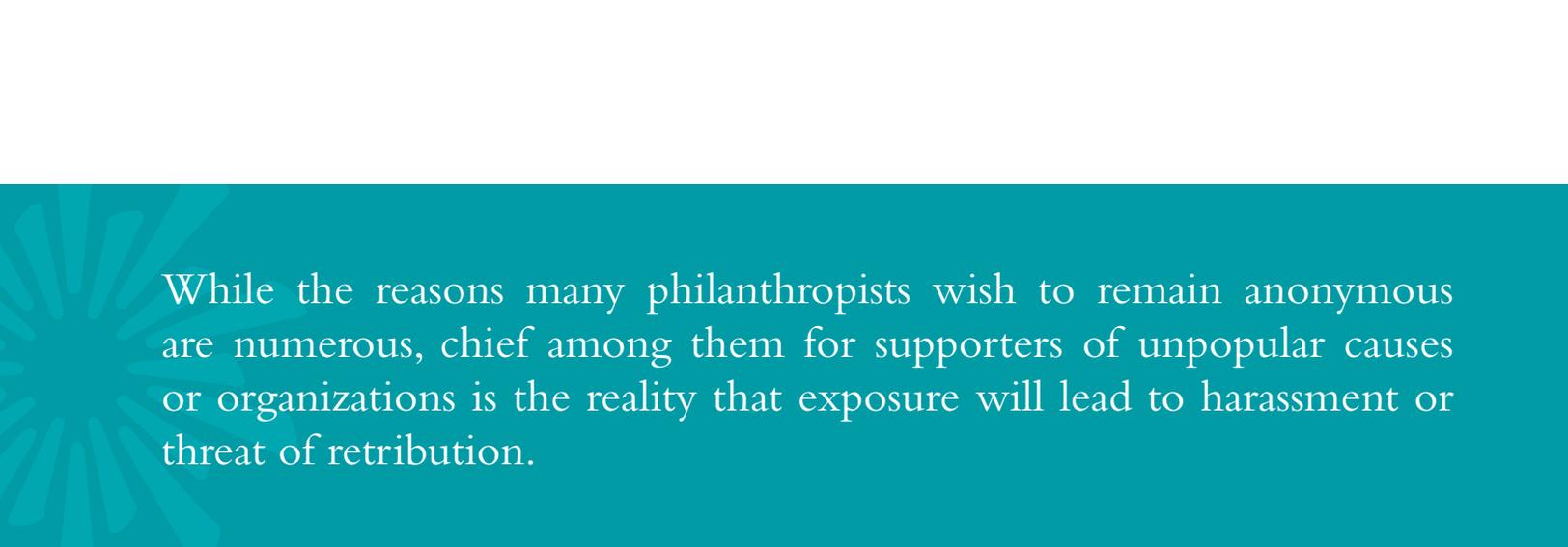
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among them for supporters of unpopular causes or organizations is the reality that exposure will lead to harassment or threat of retribution.

Among the more prominent examples is the harassment of brothers Charles and David Koch, who have helped fund a broad range of nonprofit organizations ranging from Memorial Sloan Kettering Cancer Center to the libertarian-oriented Cato Institute, as well as organizations that engage in political activity. As a result of their giving, the Koch brothers and their companies routinely face death threats, cyber-attacks from the hacker group "Anonymous," and boycotts aimed at the many consumer products their companies make. Because of this attention, the brothers have to hire armed security to keep them, as well as their families, employees, and business operations, safe.

Despite the Supreme Court's unanimous ruling in *NAACP v. Alabama*, a growing number of political leaders and law enforcement officials are calling for donor information, such as the information listed on the Schedule B of the 990 tax form, to be made public. In 2006, New York Attorney General Eric Schneiderman demanded that the annual reports of state-registered charities include the names, addresses, and total contributions of their major donors. Former California Attorney General (and now U.S. Senator) Kamala Harris began in 2010 to demand unredacted Schedule Bs as part of the annual reporting requirement for charities that solicit contributions in that state.

In 2016, The Philanthropy Roundtable filed two amicus briefs in support of groups that are fighting to keep their donors private. In both *Americans for Prosperity Foundation v. Becerra* and *Independence Institute v. FEC*, the Roundtable argued that the reckless disclosure of donor



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information to the government or the public raises serious constitutional concerns, while also undermining philanthropic freedom.

There is certainly a place in philanthropy for accountability and transparency. Because donors are able to deduct charitable contributions for tax purposes, safeguards are in place to ensure the money being given away isn't secretly being used to the benefit of a donor, such as attempting to avoid tax obligations. Private foundations must also disclose their donations to the public to ensure that funds are not being used for the personal benefit of those who give to foundations. However, aside from these modest safeguards to ensure charitable funds are used for charitable purposes, there is little legitimate reason to violate donor privacy principles.

Many groups are taking a leading role in defending donor privacy. State Policy Network, an association of state-based free-market think tanks and other organizations favoring limited government, has launched an initiative called "People United for Privacy," providing information and resources for citizens to understand the importance of protecting donor privacy. The American Legislative Exchange Council, an organization of conservative lawmakers, is also active on this issue as part of its larger effort to defend

free speech. The Center for Competitive Politics, whose work is mainly in the realm of political campaign spending, has taken on the issue of disclosure of charitable donors and represented a think tank, Independence Institute, in its fight regarding improperly applied campaign finance disclosure laws. Other groups that have become active on the issue include the Foundation for Government Accountability, the Goldwater Institute, and of course, The Philanthropy Roundtable.

Though some today would diminish or eliminate the right of charitable donors to remain anonymous, the arguments offered generally range from simple curiosity about who is giving to the desire by some to build what amounts to an "enemies list," allowing them to know whom to target for harassment, whom to boycott, and whom to ostracize from polite society. Neither of these arguments, nor anything lying between them, such as misapplied notions of "accountability" or "transparency," justifies eliminating the right of philanthropists to keep their giving private. Only in the most compelling circumstances, such as an active criminal investigation into a specific charity or donor, should this important right be open to curtailment.

Introduction

The end of 2016 saw the passing of, among many other notable individuals, pop music icon George Michael. Early media coverage of his death focused on his early stardom as a member of the band Wham!, his two GRAMMYs, and his activism on behalf of gay rights and AIDS prevention, among other items. But within a few days, media coverage began to reveal another side to George Michael of which only a select few were previously aware — his incredible generosity through charitable giving, much of which he did anonymously and out of the public eye.

His anonymous donations included millions to Childline, a U.K. philanthropy that gives abused children a telephone hotline to call for help, and Macmillan Cancer Support also acknowledged after his death the singer's generous funding for their programs.¹ He also volunteered regularly at a homeless shelter, under the strict condition that his work there be kept secret.²

It's difficult to pin down exactly why George Michael chose to keep private the charitable side of his life. He was no stranger to the public eye, nor was he afraid of taking a controversial stand, and there were certainly occasions when he could have used some sympathetic publicity when his personal life led to lurid headlines.

In a 1993 MTV interview, he explained that the public had become aggravated “listening to celebrities patting each other on the back saying how generous they are being. And they are right to.”³ This sentiment would certainly be consistent with his desire to keep his charitable giving private.

Like many philanthropists he may not have wanted his support to overshadow the good work of the charities he supported, which at least one recipient of his generosity reported to be the case. Perhaps, living in the spotlight for so many years, he simply wanted to keep his giving private because it was one of the few things he had the ability to keep private.

Though George Michael's fame was unusual for a philanthropist, the desire to keep much of his charitable giving private is a common one among many who share their wealth with organizations devoted to the public's benefit.

Unfortunately this desire, which has generally been respected and protected throughout our nation's history, is being challenged and eroded by a number of elected officials, activists, and organizations. But for a variety of reasons, including religious, cultural, historical, and practical, these efforts should be resisted when it comes to charities organized as 501c3 entities specifically prohibited from campaign intervention, and instead the long tradition of allowing philanthropists to decide for themselves whether to give publicly or privately should be preserved.

A Rich Tradition and History of Anonymous Giving

For some charitable donors, religious convictions drive their decision to give anonymously. For example, Jewish donors may be influenced by the teachings of 12th century rabbi and scholar Moses Ben Maimon (better known as Maimonides), who wrote that the second highest form of giving (of eight

categories) is to give anonymously in such a way that neither donor nor recipient is aware of each other, while the third highest is for the donor to know who received the charity, but the recipient does not know who gave.⁴

The Gospel of Matthew in the New Testament includes injunctions to “Take heed that you do not do your charitable deeds before men,” and, “Therefore, when you do a charitable deed, do not sound a trumpet before you... But when you do a charitable deed, do not let your left hand know what your right hand is doing, that your charitable deed may be in secret.”⁵ A good many Christians follow this guidance. One example of this includes a homeless man in Charlotte, North Carolina, who in 2015 anonymously gave 18 cents to a local church along with a note, drawing national attention and offers of help.⁶ The donor chose to remain anonymous to the public, however. “He’s a very humble person, he doesn’t want to be noticed or recognized,” a church volunteer who knew the man’s identity told the press.⁷ According to the church’s pastor, who also knew the man’s identity, the donor told him “I want this gift to be between me, God and the church.”⁸

The Muslim faith similarly favors anonymous giving. Citing the Koran’s injunction, “If you disclose your Sadaqaat [almsgiving], it is well; but if you conceal them and give them to the poor, that is better for you,” the Zakat Foundation of America explains on its website that, “Islam places a great emphasis and reward on giving charity in secret...”⁹ Similarly, the term for charitable giving in Hinduism is *dān*, and anonymous giving is called *gupt dān*, which is considered to be “one of the most holy forms of *dān*,” according to a leading scholar on giving in different religious traditions.¹⁰

Some philanthropists prefer to keep their giving out of the spotlight because they fear consumer boycotts, retaliation by public officials, and even threats to their safety as a result of having their support for controversial causes exposed to the public.

This is what has already happened with campaign contributions that are disclosed. For example, individual donors supporting California’s Proposition 8 campaign to limit state recognition of marriage to same-sex couples were later forced from their jobs¹¹ or experienced picketing outside of their place of work. *The Wall Street Journal* recounted one such story in December 2008, shortly after Prop 8 passed:

Soon after California’s passage of an initiative banning same-sex marriage last month, dozens of gay activists descended on the El Coyote restaurant with signs and placards. They chanted “Shame on you,” cussed at patrons and began a boycott of the cafe.

The restaurant’s crime: A daughter of the owner donated \$100 to support Proposition 8, the antigay-marriage initiative approved by voters. Gay activists have refused to lift the boycott — which restaurant managers say has slashed revenues by 30%...¹²

On the other side of this issue, anonymous contributions have long been a major source of support for groups focused on expanding gay rights. A recent report documenting the history of funding for LGBTQ causes identifies the top ten funders on the issue from 1970 through 2010, which includes an extended period of time when giving to gay rights causes was far more controversial than today. The single largest giver by far, according to the report? “Anonymous Funders,” who provided over \$90 million compared with

Anonymous contributions have long been a major source of support for groups focused on expanding gay rights.

the second-place funder, who gave just under \$78 million.¹³

Many examples of retribution exacted against donors relate to election campaigns. But there have also been instances that directly involve charitable giving. For example, The Heartland Institute is a free-market think tank located in the Chicago area organized as a 501c3 charity that, among other issues, has taken a skeptical view of what is often described as the consensus view on global warming. When the organization's donor list was stolen and made public in 2011, activists opposed to Heartland's work on global warming organized significant campaigns demanding its corporate donors cut off funding to the group or face consumer boycotts. As a result, Heartland lost several donors.¹⁴

One organization that spearheaded the effort to get donors to end their support of Heartland was Forecast the Facts (now ClimateTruth.org). A *Los Angeles Times* article explained what happened once the group had Heartland's donor list in its possession, as described by its campaign director, Dan Souweine:

"[GM is] out there very actively pushing a green image with high-mileage cars and the Chevy Volt... So funding Heartland,

most of what they do is to deny the existence of climate change, and we thought that stood in stark contrast to the image that GM was trying to develop," said Souweine.

Souweine says his group began flooding GM's Facebook site with requests to stop funding Heartland, and that they believed GM would respond because of their respect for customer loyalty and because they were sensitive to having taken so-called bailout funds from the federal government.¹⁵

Another example is the case of the corporate foundation for Berkshire Hathaway, the conglomerate founded by Warren Buffett. It ceased its support for contraception- and abortion-related causes after boycotts were threatened against one of its many companies, Pampered Chef.¹⁶ While Buffett's family foundation continued to make such grants, it insisted grantees not publicize or in any way discuss the gifts. While publicly available tax records revealed large-scale giving to the area of contraception- and abortion-related causes, there was little indication of what projects or activities were specifically being funded.¹⁷

It isn't only religious conviction and concerns about reprisals that compel or inspire many to keep their generosity private. Many donors

simply prefer to remain anonymous because they do not wish to receive unsolicited requests for contributions, which can be voluminous in some cases. George Eastman, founder of Eastman-Kodak, gave \$10 million to the Massachusetts Institute of Technology in 1912 but insisted that his name be kept anonymous, in part to avoid more requests for funding. *The New York Times*, writing several years later about the unmasking of his giving, noted that he “had abundant occasion to regret that his identity is no longer a secret... he has become quite aware of the perils beset the paths of those pursued by the advocates of endless ‘worthy causes.’”¹⁸

Joan Kroc, the widow of McDonald’s founder Ray Kroc, actually closed down her family foundation in order to limit charitable requests. *The New York Times* recently noted that “Secrecy was a hallmark of her giving,” and the author of a biography of the Krocs explained that “anonymity was a way to protect herself from the deluge of formal requests.”¹⁹ In 1972, she gave \$50,000 to the South Dakota town in which she had previously lived after it suffered devastating floods, asking only that her giving be kept anonymous; and she gave \$15 million to the North Dakota communities of Grand Forks and East Grand Forks following floods in 1997, again anonymously.²⁰ Two of her most notable charitable gifts, \$225 million to National Public Radio and \$1.6 billion to the Salvation Army, came after her death,²¹ when she would no longer be concerned about unsolicited requests for donations.

Though Kroc’s generosity to the Salvation Army was public (if posthumous), that organization is no stranger to anonymous giving. South African krugerrands, containing a full ounce of gold, and other gold coins are routinely donated through the organization’s

iconic red collection kettles, with the donors in nearly all cases managing to maintain their anonymity.²² For example, in Lake County, Illinois, more than 400 gold coins have been dropped into Salvation Army kettles over the past 25 years,²³ and similar donations are made every year across the country.

Keeping the names of some donors anonymous can also be an effective fundraising strategy. Edith and Peter O’Donnell donated \$135 million to the University of Texas beginning in 1983, nearly all of it anonymously.²⁴ The gifts typically required matching funds to be raised, and because of their anonymity (and with the encouragement of the O’Donnells) the university was able to attract new donors with the opportunity to have endowed professorships, chairs, and fellowships named after the second donor.

Many donors simply prefer to avoid the spotlight that their giving might attract. The brief online biography of Pittsburgh banker and philanthropist Charles L. McCune, who established the McCune Foundation upon his passing in 1979, notes that he “gave generously to charitable organizations... while seeking no public recognition of his philanthropy.”²⁵ His distaste for publicity carried past his death, as grantees today are told “McCune Foundation grants are provided anonymously, a policy in keeping with Charles McCune’s charitable practice of seeking no publicity” and instructed “Never put the Foundation’s name in the public press. If you wish to give publicity to the grant please say that it is from a source that wishes to remain anonymous” and “Do not list the Foundation’s name in audits. Do not list the Foundation’s name (or as Anonymous) on donor plaques, buildings, walls, and programs. Do not name scholarship funds for the Foundation and do not reveal the source of the funds to the scholarship

recipients.”²⁶ However, since McCune is a private foundation, its giving is reported on its publicly available 990-PF tax filing.

Philanthropists may also prefer not to have their giving in the public domain because it would allow nonprofits to see what the donor is giving to other organizations. Fundraising consultant Robert Sharpe noted in an article on anonymous giving that, “In some instances, donors don’t want their gifts to one organization compared to their gifts to another. After making relatively modest gifts or reducing their gifts to some charitable interests, donors may wish to conceal larger gifts and/or make a decision to increase their giving to other organizations.”²⁷

Reports listing major donors to a wide variety of organizations and causes often list multiple contributors simply as “Anonymous,” and anonymous giving is common throughout the charitable sector as well. The 2015 report for New York’s prominent cancer treatment center Memorial Sloan Kettering lists donors of \$100,000 or more, and includes multiple anonymous donors of between \$100,000 and \$25 million.²⁸ The annual report of the Chicago Symphony Orchestra for 2015 singles out six “generous donors” for “extraordinary support,” two of which are anonymous.²⁹

Other recent examples of anonymous giving include a new homeless shelter in Florence County, South Carolina, made possible by a single anonymous gift of \$350,000 given in late 2016 to two local nonprofits.³⁰ When Mitchell Elementary School in Racine, Wisconsin, suffered a fire in 2014, an anonymous local resident gave \$2,500 to the PTA to help it recover.³¹

Anonymous giving isn’t just for those capable of writing large checks. For example, the crowdfunding site CrowdRise offers

a platform for a wide range of charitable purposes, and anonymous giving is common at all levels. One Summit Inc. is a charity dedicated to helping pediatric cancer patients, and individuals have launched multiple campaign pages on CrowdRise to support the organization. Donors to the campaigns are listed, and among the hundreds of gifts are numerous donations of \$25, \$50, \$75, and \$100 identified only as “Anonymous.”³²

The ability of donors to nonprofit groups and causes to remain anonymous if they wish has long been an important part of philanthropy, one that is deeply ingrained among donors large and small. It not only allows charitable givers to follow their religious teachings, insulate themselves from retribution, avoid unwanted solicitations, and duck unwelcome publicity, it also upholds and protects important First Amendment rights of free speech and association.

A Constitutionally Protected Right

Because the rights to associate privately and contribute anonymously to organizations are intrinsic to effective exercise of the First Amendment, the Supreme Court has long recognized that compelled disclosure of donors is only acceptable under narrow circumstances.

In 1956, the attorney general of Alabama was locked in a dispute with the National Association for the Advancement of Colored People (NAACP) over whether the group had to register with the Secretary of State in order to conduct business in the state. At the same time, of course, the state was resisting the NAACP’s efforts to end segregation.

“It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute [an] effective restraint on freedom of association...”

~U.S. Supreme Court ruling on *NAACP v. Alabama*

As part of the dispute over state registration, the attorney general demanded that the NAACP turn over its membership list to the state. The NAACP refused, and the case wound up in front of the U.S. Supreme Court. The June 1958 decision remains the cornerstone of jurisprudence on donor and member privacy, with the Court ruling that the attorney general’s demand violated the freedom of association guaranteed under the First Amendment and applied to the state under the due process clause of the Fourteenth Amendment.

“It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute [an] effective restraint on freedom of association... This Court has recognized the vital relationship between freedom to associate and privacy in one’s associations,” Justice John Marshall Harlan II wrote in the court’s unanimous opinion upholding the right of the NAACP to keep its membership private.³³

He also noted that “on past occasions, revelation of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility... [C]ompelled disclosure of petitioner’s Alabama membership... may

induce members to withdraw from the Association and dissuade others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure.”³⁴

Several other cases help further define the constitutionally-protected right of Americans to keep their donations to charitable entities private in most cases, three of which stand out.

The first case, *Buckley v. Valeo* in 1976, upheld a disclosure requirement for donors to political campaigns, political parties, and political action committees, but indicated that this was a narrow exception to the principles upheld in *NAACP v. Alabama*. The Court noted concerns about disclosure deterring the exercise of First Amendment rights but ruled that disclosure of campaign contributions provided the public with valuable information about candidates, helped to deter both real and perceived corruption, and aided in enforcement of contribution limits, all of which it characterized as “substantial governmental interests” sufficient to “outweigh the possibility of infringement” of First Amendment rights.³⁵

Shortly after the *Buckley* decision, the Court affirmed just how narrow the ruling was regarding disclosure. Citing threats of

harassment and reprisal, the Socialist Workers '74 Campaign Committee sued to avoid having to reveal its contributors under Ohio's campaign finance law. Writing for the court in 1982, Justice Thurgood Marshall began his majority opinion by noting that, "The Constitution protects against the compelled disclosure of political associations and beliefs."³⁶ He further wrote of "substantial evidence of both governmental and private hostility toward and harassment of SWP members and supporters" including "threatening phone calls and hate mail, the burning of SWP literature, the destruction of SWP members' property, police harassment of a party candidate, and the firing of shots at an SWP office. There was also evidence that in the 12-month period before trial, 22 SWP members, including four in Ohio, were fired because of their party membership."³⁷ As a minor party with little chance of electoral success, the court ruled that the Socialist Workers Party was exempt from having to reveal its members and donors.

In 1995, the Supreme Court further expanded its defense of the right to remain anonymous, observing that "the interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest in requiring disclosure as a condition of entry" in a case concerning unsigned handbills opposing a local school tax measure.³⁸

Taken together, these and other Supreme Court rulings protect the freedom of donors to remain anonymous consistent with their own preferences and convictions in all but a narrow category of election-related giving.

Yet today, the freedom for philanthropists to decide whether to remain anonymous is under assault.

Activists and Attorneys General Threaten Donor Privacy

There have always been efforts to unmask the donors behind some large gifts to charity. Joan Kroc was identified as the source of contributions to support flood-ravaged communities in North Dakota after a reporter traced the tail numbers of her private jet to determine she had been in town shortly before the announcement of the gift and was likely the donor.³⁹ Chuck Feeney, a founder of a duty-free shopping chain who succeeded in giving away hundreds of millions of dollars anonymously, only revealed his generosity publicly when unrelated court proceedings concerning his business would have exposed his giving to the public. George Eastman's anonymous support for the Massachusetts Institute of Technology in the 1910s, identified only as a gift from "Mr. Smith," prompted a great deal of guessing about the real name of the donor and even inspired a song by students about their mysterious benefactor.⁴⁰ He went public with his giving in part because it involved the transfer of a large amount of his stock and he assumed it would be discovered that he was the benefactor.⁴¹

In more recent years there has been a clamor by some to erode or even eliminate protections for anonymous giving to 501c3 nonprofit organizations. David Callahan at *Inside Philanthropy*, a leading critic of donor privacy, recently wrote the following:

Recent years have seen the rapid growth of a shadow giving system that funnels billions of dollars in gifts in ways that leave no fingerprints... Even today's biggest philanthropists only have to disclose their

identities if they so choose, and more are opting to remain behind a veil of secrecy — including many who are pushing for public policy changes that affect all of us...

*When wealthy donors speak loudly in the public square, using nonprofit proxies, citizens deserve to know who they are, along with what motives they may have — and all the more so when donors are using tax-subsidized dollars. There is a compelling public interest at stake here, one that trumps the ideal of donor privacy. Too often, it has turned out that such privacy is desired for the wrong reasons...*⁴²

Callahan states that he isn't interested in removing donor privacy for "traditional charitable organizations such as hospitals and museums," but that's an almost meaningless assertion. For example, nearly every nonprofit hospital lobbies at the local and state level, and most are members of national trade associations that engage in the sort of public policy advocacy and debate that he finds so problematic. Museums and most other "traditional" charities would be in the same situation. The American Alliance of Museums, for example, has more than 35,000 members and says on its web site that it "has been bringing museums together since 1906, helping to develop standards and best practices, gathering and sharing knowledge, and providing advocacy on issues of concern to the entire museum community."⁴³

He also admits that he finds reduced charitable giving a desirable outcome, at least regarding organizations that engage in some public policy advocacy:

As for disclosure-related fears of donors, I don't see a clear solution here, except to ask them to live with it on those occasions that arise. Or perhaps allow waivers. On

*any given controversial cause, you'll find nonprofit leaders and staff who are public-facing and visible. If they can take the heat, the donors backing them should be able to do the same. And if the donors can't, they can choose not to give. A little less philanthropic money flowing into today's polarized policy and advocacy battles probably wouldn't be a bad thing.*⁴⁴

For Callahan, the simplest way to get at the names of donors is to mandate that Schedule B of the 990 tax form filed by most nonprofits with the IRS be made public. This document lists the name, address, and amount given by each major donor to each charity. These are considered confidential tax documents,⁴⁵ and the IRS has stiff penalties for unauthorized release of this sensitive information and a generally good track record of keeping it confidential (though this didn't stop an IRS employee from leaking the Schedule B of the National Organization for Marriage in 2012).⁴⁶

It appears that at least a couple of state attorneys general have gotten similar ideas to Callahan's in recent years. In 2006, New York Attorney General Eric Schneiderman began to demand that the annual reports of state-registered charities include the names, addresses, and total contributions of their major donors (in other words, the Schedule B). Prior to 2006, it was common for charities to submit a redacted Schedule B with the names and addresses of donors blacked out (or exclude it entirely) with their state filings, and a number of charities continued that practice. By 2013, organizations that were not including complete Schedule Bs with their New York annual reports began to receive notices of filing deficiencies from that state's Charities Bureau.

Similarly, former California Attorney General (and now U.S. Senator) Kamala Harris began in 2010 to demand unredacted Schedule Bs as part of the annual reporting requirement for charities that solicit contributions in that state. This new mandate did not result from any change in law or regulation, and Harris' office stated only that donor disclosure "helps protect the public against fraud."

Both of these actions have been controversial, and several lawsuits have been filed challenging them. In 2014, Citizens United and the Citizens United Foundation brought suit against the New York Attorney General's office on the grounds that mandatory donor disclosure by New York State violated First Amendment rights of free speech and association and conflicted with federal law ensuring the confidentiality of donor information. The challenge lost at the district court level and was recently appealed.⁴⁷

Challengers in California have fared somewhat better than their counterparts in the Empire State. A March 2014 complaint from the Center for Competitive Politics (CCP) filed in the federal court argued that mandatory donor disclosure violated the First Amendment. This suit was a facial challenge, which meant CCP argued the policy should be struck down entirely.

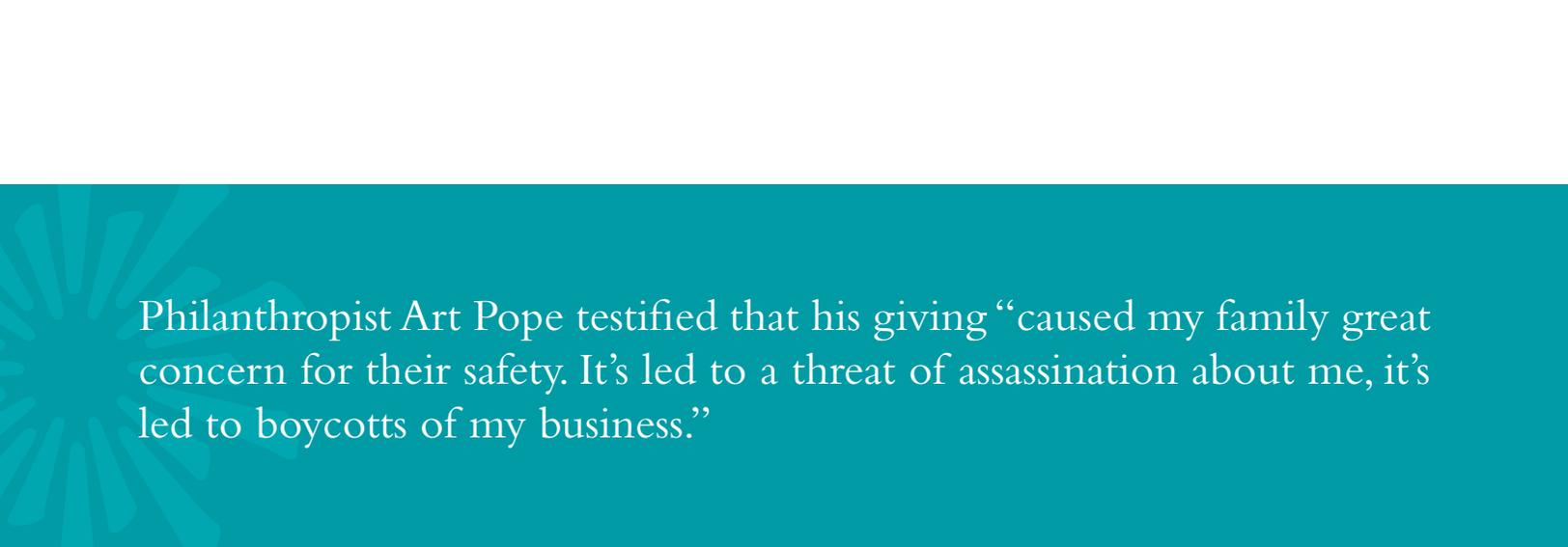
A number of nonprofit organizations filed *amicus* briefs in support of CCP's petition to the Supreme Court, among them The Philanthropy Roundtable. The Roundtable's decision reflected its core belief that philanthropic freedom — the right of Americans to choose how and where to spend their charitable assets — and donor privacy are essential to a vibrant and diverse civil society. The brief noted that "charitable giving is not just a 'sweetener' of our quality

of life," and is "fundamental not only to our civil society but also to our republican form of government. Through charitable contributions Americans exercise some of their most cherished constitutionally protected rights...freedom of speech, freedom of association, and freedom of religion." The brief concluded that, without a clear and compelling reason, "no government agency should compel a charity to identify its donors where, as here, the risk of public disclosure... is grave."⁴⁸

Though CCP lost in the district and appeals courts, and the U.S. Supreme Court declined to hear an appeal, the U.S. Court of Appeals for the Ninth Circuit did allow in its ruling that an "as applied" challenge might succeed if a plaintiff could demonstrate concrete harms to itself as a result of the donor disclosure policy.

A later "as-applied" challenge by the Americans for Prosperity Foundation (AFPF) had more success. In February 2015, a temporary injunction was granted by U.S. District Court Judge Manuel Real, who noted that AFPF had presented clear evidence of donor harassment and that the stated policy of the attorney general's office to keep donor information confidential was insufficient. That policy, he noted, "is not binding and might not withstand legal challenge under California's charity act public inspection law."⁴⁹

That decision was appealed, and the Ninth Circuit reversed the lower court decision prohibiting the collection of donor information, stating that no actual burden on First Amendment rights had been demonstrated. It did, however, issue a preliminary injunction prohibiting public disclosure of Schedule B. AFPF had lost on



Philanthropist Art Pope testified that his giving “caused my family great concern for their safety. It’s led to a threat of assassination about me, it’s led to boycotts of my business.”

the preliminary injunction, but the case would return to District Court for a full bench trial.

At that trial, a much more complete picture of how the attorney general’s office treated donor privacy was revealed. Depositions that had been taken earlier demonstrated that despite the attorney general’s claims of confidentiality, more than 1,700 unredacted Schedule Bs had recently appeared on her office’s website.⁵⁰ Equally damaging was testimony from her chief auditor that the Schedule B had never triggered an investigation and that his team had consulted Schedule B only five times in hundreds of investigations over ten years.⁵¹

One of the more disturbing elements of the trial was the testimony of Art Pope, a philanthropist from North Carolina who has given to policy-oriented organizations over the years through his family foundation. He testified that public knowledge of his giving “caused my family great concern for their safety, my safety. It’s led to a threat of assassination about me, it’s led to boycotts of my business.”⁵²

In April 2016, Judge Real ruled the Schedule B disclosure requirement unconstitutional as applied to AFPF and granted its motion for a permanent injunction to enjoin the collection of donor data by the attorney general’s office.

He rejected the claim that the attorney general’s use for donor data was compelling, noting that “over the course of trial, the Attorney General was hard pressed to find a single witness who could corroborate the necessity of Schedule B forms in conjunction with their office’s investigations.” Judge Real also distinguished between the election context, where he wrote that “substantial governmental interests” warrant disclosure requirements, and activity not connected to an election where the government’s legitimate ends “can be more narrowly achieved.” Third, Judge Real cited the “threats, protests, boycotts, reprisals, and harassment directed at those individuals publically associated with AFP.” And finally, he dismissed the idea that the attorney general would maintain the confidentiality of donor data, citing the 1,778 Schedule Bs that had been posted on the attorney general’s public website, among them the Schedule B for Planned Parenthood Affiliates of California. “Once...donor information is disclosed,” he remarked, “it cannot be clawed back.”⁵³ The California attorney general appealed Judge Real’s decision to the Ninth Circuit, and the case is currently pending.

Legislators Seek to Undermine Anonymous Giving

Federal lawmakers have also targeted Schedule B for public disclosure. In February 2017, Senator Jon Tester filed legislation that would require the IRS make available upon request and put online the Schedule B of any organization that “has or plans to spend money attempting to influence the selection, nomination, election, or appointment of any person to a public office” or that is judged to have engaged in either an independent expenditure or electioneering communication in support of or opposition to a candidate.⁵⁴

On its face, this would seem to exempt charities organized as 501c3 entities, which are not allowed to intervene in campaigns for public office. Unfortunately, the way campaign finance laws are written, they often encompass speech by charities related to issues, not candidates or elections. This is exactly what happened to the Independence Institute, a Colorado-based think tank organized under section 501c3 of the federal tax code and thus prohibited from intervening in elections. In 2014, it wanted to pay for radio advertisements encouraging Coloradoans to contact their two senators and urge them to support criminal justice reforms, something well within the scope of proper activity for a charity.

But because one of the state’s two senators was running for re-election at the time, the Independence Institute would have been forced to reveal its major donors if it had run the ads.⁵⁵ It decided not to run the ads and sued to challenge the application of campaign finance law to organizations that cannot

legally intervene in election campaigns, but in February 2017, the U.S. Supreme Court upheld a lower-court ruling applying the disclosure requirement to the Independence Institute’s proposed ads.⁵⁶

Meanwhile, politicians, activists, and bureaucrats in other places are trying to force disclosure of the identities of donors to a broad range of organization types, including 501c3 groups, through legislation, ballot measures, or administrative rules. A state referendum that passed in South Dakota in 2016 could have forced charities to reveal their donors for such acts as hosting a forum on agricultural issues where elected officials are invited speakers, or notifying supporters that an elected official has introduced legislation relevant to their interests.⁵⁷ A state judge enjoined the law as unconstitutional shortly after it was passed,⁵⁸ however, and in February 2017, South Dakota’s governor signed legislation repealing the law.⁵⁹

Other states have also considered legislation that would strip away donor privacy for charitable giving this year. Far-reaching legislation in New Mexico could, for example, require a church to report its donors if its pastor references elected officials in a sermon, even just to ask congregants to pray for them as they carry out their official duties.⁶⁰

A bill filed in South Carolina at the beginning of 2017 could likewise force charities to disclose their donors publicly if they were to urge the state’s residents to contact their state legislators on any issue.⁶¹ In Connecticut, legislation was introduced that would require a handful of charities that operate charter schools to reveal their donors;⁶² and a bill in Oklahoma would require disclosure of donors to organizations that simply offered

educational material regarding any state ballot initiative.⁶³

These are only a few of the more recent efforts to curb or eliminate the right of individual donors to retain their privacy when making charitable contributions. Proponents of these efforts often suggest this right is no longer needed, and that the concerns of donors are outdated or overblown, or at least outweighed by some asserted public interest. But a closer look at the current world of philanthropic giving and our polarized society demonstrate just the opposite.

Is Anonymity Still Needed?

Some might wonder if donor anonymity is still necessary. After all, it is not 1956 any longer, when the Alabama attorney general's efforts to get the NAACP's membership list posed obvious and imminent dangers to citizens exercising their First Amendment right to freely associate. Nor is it 1835 again, when President Andrew Jackson, angered by the attempts of northern abolitionists to circulate their antislavery newsletters among community leaders in the South, urged Postmaster General Amos Kendall to take down the names of subscribers and make them public so that "every moral and good citizen will unite to put them in coventry, and avoid their society" (in those days, "subscribers" was often analogous to "donors").⁶⁴ Although few, if any, southerners had actually ordered the abolitionist tracts they were receiving, Jackson's intentions were clear: donors to an unpopular cause were to be identified and then ostracized, or worse.

But there are more than enough modern cases in which charitable supporters of unpopular causes, or those seen as being affiliated with them, have faced the wrath of others once that support has become public. That wrath can often be directed, or at least inspired, by government officials.

Probably the most obvious example of this is the case of brothers Charles and David Koch, who have helped fund a broad range of nonprofit organizations ranging from Memorial Sloan Kettering Cancer Center to the libertarian-oriented Cato Institute, as well as organizations that engage in political activity. Although their general ideological perspective has long been known — David Koch was the Libertarian Party's candidate for vice president in 1980 — in recent years they have come under withering assault from officeholders, individuals, and organizations that oppose their agenda. Both President Obama and then-Senate Minority Leader Harry Reid singled the brothers out for attention, with the latter making more than 130 documented references to them in Senate floor speeches, interviews, and other public comments.⁶⁵

As a result of their prominence, the Kochs and their companies routinely face death threats, cyber attacks from the hacker group "Anonymous," and boycotts aimed at the many consumer products their companies make. In order to facilitate boycotts, there is even an app people can use to identify the products made by Koch-owned companies as well as other major corporations.⁶⁶

Because of this attention, the brothers have to hire armed security to keep them, as well as their families, employees, and business operations, safe. While they seem willing and able to bear the costs and endure the vitriol

“Any time a donor appears and is public with us that donor gets attacked.”

~Atlanta, Georgia homeless shelter director

directed at them for their charitable and other giving, not all philanthropists are so capable and resolute.

Retaliation from elected officials is a serious concern for many philanthropists as well. A popular restaurant chain was targeted by local government officials over the owner’s family’s giving to organizations seen as hostile to gay rights. In Boston, Chicago, and Denver, city council members and mayors all threatened to forbid the company from opening restaurants in the city over the issue.

And it isn’t only on obviously contentious issues like gay rights that philanthropists may want to avoid the wrath of public officials. The Peachtree-Pine homeless shelter in Atlanta, Georgia, would not seem at first glance to be a controversial cause. Located in the city’s business district and housing an average of 500–700 men, women, and children each night, the charity provides a wide range of services to those in need, including finding more permanent shelter for homeless individuals and families.

But city officials have long targeted the shelter for closure and sought to claim the land it sits on via eminent domain in order to build a combined fire and police station on the site. In 2014, behind on its water bill by

nearly \$580,000, several anonymous donors contributed enough to allow them to pay off the bill. The shelter’s director explained to local media the reason the donors wished to remain anonymous: “Any time a donor appears and is public with us that donor gets attacked.”⁶⁷

On occasion it can be private entities collaborating with or pressuring elected officials to take action against donors to causes and organizations they find troubling. For example, the American Federation of Teachers pieced together information on the personal philanthropic donations of several dozen hedge fund managers who had given support to charter schools or public policy think tanks favoring pension reform, and then threatened to use its influence to have state-run pension plans stop investing in their funds.⁶⁸ According to news reports, several of the donors did end their support as a result, and the Rhode Island state pension fund pulled out of one fund whose manager refused to end his giving. According to *The Wall Street Journal*, “Roger Boudreau, a member of the teachers union and an elected adviser of the Rhode Island fund at the time, says the donations played a role.”⁶⁹

The point is not to argue that philanthropy should be completely opaque to all but the donors, or that there is no reasonable level

of transparency that can be expected from the charitable sector. But it's important to acknowledge and understand that while some level of transparency is appropriate, this concept can go too far and inflict real and lasting damage on America's vibrant culture of giving.

Confusing Politics, Government, and Charity

It's worth noting that efforts to curtail philanthropic donor privacy are occurring at the same time as an energetic campaign to bring greater disclosure of spending connected to election campaigns, as well as a growing movement to increase accountability and transparency in government. In many cases, it seems these issues have become conflated in some people's minds, where language and concepts perhaps properly applied to election campaigns or government are inappropriately being applied to the philanthropic sector.

Consider the term "dark money," referring to undisclosed donations to nonprofit organizations that engage in some election-related spending and coined in the years after the U.S. Supreme Court ruled in *Citizens United v. FEC* that corporations, unions, and other organized groups of persons could spend unlimited amounts of money independently supporting or opposing candidates for office.

Within just a few years, that same term began to be applied to donations made to charitable nonprofits. A few examples include Donors Trust, a donor-advised fund that typically makes grants to conservative- and libertarian-oriented think tanks and other 501c3 nonprofits, which was described by

the left-wing publication *Mother Jones* as "The Dark Money ATM of the Conservative Movement,"⁷⁰ and an article singling out the Democracy Alliance and the Tides Foundation for criticism in the conservative *Washington Free Beacon* referring to "Progressive billionaires and the dark money philanthropies they have endowed."⁷¹

Additional examples include the book *Dark Money* by Jane Mayer, which focuses extensively on the "interlocking network of think tanks, academic programs and news media outlets" funded by libertarian philanthropists Charles and David Koch⁷² (primarily 501c3 entities). Even the charitable arm of the Super Bowl 50 Host Committee for the 2016 game played in San Francisco was accused of accepting "dark money" because it didn't disclose all of its donors.⁷³ Intentional or not, these and countless similar examples blur what should be a clear distinction between organizations that intervene in political campaigns and those that serve charitable purposes and are barred from political campaign intervention.

At the same time the line is blurred between political campaigns and charity, the distinction between charitable organizations and the government is similarly confused in some minds. There are serious and often reasonable efforts to bring greater accountability and transparency to the operations of government. Democracy Web, a project run by the foundation of former American Federation of Teachers president Albert Shanker, explains that accountability and transparency in government is important because, "In a democracy, the principle of accountability holds that government officials — whether elected or appointed by those who have been elected — are responsible to the citizenry for their decisions and actions. In order that

officials may be held accountable, the principle of transparency requires that the decisions and actions of those in government are open to public scrutiny and the public has a right to access government information.”⁷⁴

There is certainly a place in philanthropy for accountability and transparency. Boards of directors hold staff accountable for the work of charities; donors hold grantees accountable for executing the programs that have been funded; organizations like Charity Navigator, the National Committee for Responsive Philanthropy (on the left), and the Capital Research Center (on the right) provide the nonprofit community and public with information and analysis aimed at fostering what they view as more effective and just philanthropy; and the government establishes and enforces minimum standards to ensure charitable dollars are used for charitable purposes.

And because donors in most circumstances are able to deduct charitable contributions for tax purposes, it isn't too much to ask that there be some safeguards such as a modest degrees of transparency to ensure the money being given away isn't secretly being used to the benefit of a donor attempting to skirt his or her tax obligations. For example, nonprofits must provide information to the IRS on how they spend their money and who their leading donors are.

Private foundations must also disclose their donations to the public, in large part to help ensure that funds are not being misused for the personal benefit of those who give to foundations. It was the prohibition on private benefit that in late 2016 caused the IRS to reject the application for tax-exempt status of a foundation established to provide college scholarships to graduating students

at one high school who would be attending a specific college. Based on the information required by the would-be foundation as part of the determination process, it turned out that only a single student qualified for the scholarship — the son of the couple who established the foundation.⁷⁵

But accountability and transparency in philanthropy are substantially different from those concepts when applied to election campaigns and government. As the Democracy Web definition indicates, accountability is a vital and explicit component of democracy, and transparency is a requirement for that accountability. Philanthropy is a private and voluntary activity, however, and as the extensive history of charitable donor anonymity demonstrates, forcing giving to be more public is likely to damage the sector and result in less giving, not to mention infringements on the First Amendment rights to speak and associate freely.

It should also be noted that in the context of charitable donor privacy, the term accountability is often little more than a euphemism for boycotts and public pressure campaigns, at a minimum, aimed at forcing donors to controversial and unpopular causes to cease their support; transparency is simply a tool for facilitating such accountability. But a basic understanding of the First Amendment should recognize that the whole point of free speech and free association is that the government generally *should not* hold people accountable for what they say or believe, or with whom they choose to associate. It might even be argued that one of the key attributes of a free society such as ours is that there are a great many things for which Americans generally cannot and should not be held accountable by our government, such as how we vote, with whom we socialize, what faith

Philanthropy is a private and voluntary activity, however, and as the extensive history of charitable donor anonymity demonstrates, forcing giving to be more public is likely to damage the sector and result in less giving, not to mention infringements on the First Amendment rights to speak and associate freely.

we profess (or decline to profess), and where we choose to direct our philanthropy.

Calls for greater accountability and transparency in philanthropy also ignore the fact that philanthropy must be largely (though not entirely) unaccountable to the government if it is to be anything more than an appendage of the state, unable to challenge the status quo. Should donors to environmental groups challenging the Trump Administration on climate change policy be accountable to that very same administration? Should contributors to the cause of same-sex marriage be accountable to the officeholders they are fighting in court and the legislature? Should the NAACP have been accountable to the State of Alabama while it was attempting to end segregation? To ask these questions is, for most, to know and understand the answer.

Boycotting businesses and urging donors to cease support for controversial causes is wholly protected by the First Amendment, of course, and should be. The question here isn't whether a citizen has the right to decide with whom they will and will not do business or otherwise interact. Instead, the question is whether the government should force individuals and organizations to reveal their beliefs and associations to the public so that, simply put, "enemies lists" can be created.

While many Americans, and perhaps most, are willing to tolerate such behavior in the rough-and-tumble world of politics, it needs to be asked: Are Americans similarly willing to embrace it in the world of philanthropy and charity?

Ideology and Donor Privacy

Concern over the dangers of forced disclosure for charitable giving should be non-partisan and non-ideological, but it often gets caught up in arguments connected to campaign finance regulation and disclosure of donors to groups working to either elect or defeat candidates for office. As a result, most calls for forced disclosure of charitable contributions tend to come from Democrats and the progressive side of the ideological divide, for whom undoing the Supreme Court's *Citizens United* decision and curbing the amount of money spent in the political process has become a core principle. And the groups taking a leading role in defending donor privacy are more often associated with conservative and limited-government causes.

State Policy Network (SPN) is an association of state-based free-market think tanks, as well as other organizations generally favoring limited government. SPN has launched an initiative called “People United for Privacy” that provides information and resources for citizens to understand the importance of protecting donor privacy, including a series of videos that help illustrate the issue.

“It is our right to support charities and interest groups without the government standing over our shoulder and sharing the information with the wider world,” the group states on its website, unitedforprivacy.com, noting as well that, “Just as the right to pull the curtain closed behind us as we vote for our chosen candidates is sacrosanct, so too is our right to support charities and interest groups without the government standing over our shoulder and sharing the information with the wider world.”⁷⁶

The American Legislative Exchange Council, an organization of conservative lawmakers, is also active on this issue as part of its larger effort to defend free speech. In a recently adopted resolution, the group advises state legislatures to exempt 501c3 organizations from campaign finance laws and prohibit any state officer or agency from demanding charities submit their Schedule B forms, as well as ensure information about donors is not subject to state public records laws.⁷⁷

A third group working to defend donor privacy is the Center for Competitive Politics, an organization whose mission is to “promote and defend the First Amendment political rights of speech, assembly, and petition.” Though much of its work is in the realm of political campaign spending, it has also taken on the issue of disclosure of charitable donors and represented the Independence Institute

in its challenge to the ruling that campaign finance disclosure laws could be applied to the Colorado think tank.⁷⁸

Other groups that have become active on this issue that are typically considered right-leaning include the Foundation for Government Accountability, the Goldwater Institute, and of course, The Philanthropy Roundtable.

Assaults on donor privacy come from political leaders of both parties. For example, it was Republican U.S. Senator John McCain who teamed up with Democrat Russ Feingold to pass the law that muzzled the Independence Institute’s ads calling for criminal justice reform, and the legislation described earlier in New Mexico, Oklahoma, and South Carolina all have Republican sponsors.

There are also groups typically seen as either progressive-leaning or neutral in ideological alignment that support donor privacy. The American Civil Liberties Union and its state affiliates have in the past weighed in on the side of protecting donor anonymity,⁷⁹ as has the Alliance for Justice, an organization that bills itself as “representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”⁸⁰ Independent Sector, an association of charities and philanthropic funders, has also voiced strong support in the past for donor privacy.

Most notably on the left, the NAACP Legal Defense Fund recently submitted an *amicus* brief in the case *AFPF v. Becerra*. Its brief declares that, “In an increasingly polarized country, where threats and harassment over the internet and social media have become commonplace, speaking out on contentious issues creates a very real risk of harassment and intimidation by private citizens and by the government itself... Thus, now, as

much as any time in our nation's history, it is necessary for individuals to be able to express and promote their viewpoints through associational affiliations without personally exposing themselves to a legal, personal, or political firestorm.”⁸¹

And even David Callahan, a leading proponent of limiting charitable donor privacy, recognizes the very real likelihood that once made public, many contributors will be exposed to harassment, threats, and retribution. He wrote the following in early December 2016:

With all branches of the federal government in conservative hands, progressive civil society will be a central locus of resistance to the Trump agenda....

Who'll be footing the bill for much of this work? Places like Ford and the Open Society Foundations, as well as top progressive philanthropists like Tom Steyer and the partners of the Democracy Alliance... An obvious strategy of the Trumpist right might be to try to intimidate funders into not backing the kind of hard-hitting opposition work that this moment requires....

The federal government could join that attack, too... It's not a stretch to imagine that the right's newly bolstered inquisitorial state apparatus will come to fix its attention on the philanthropic left...⁸²

Callahan notes that for foundations, the risks are modest:

They have plenty of money to lawyer up, hire PR firms, and even pay for private security if it comes to that... They don't have products to boycott.⁸³

But only a small percentage of donors to charity are foundations. More than three-

quarters of all charitable giving in the U.S. is done by individuals, most of whom do not have spare money to hire lawyers, public relations professionals, and personal bodyguards. The same is true for many corporations, at least those that aren't Fortune 500-sized and do have products to boycott. And even if they did — is this really the price we want to impose on Americans for contributing money to charitable causes?

Donor Anonymity is Worth Protecting

There are numerous reasons why individuals prefer to keep their charitable contributions private. Some of the more obvious reasons have been recounted in this piece, such as religious conviction, a desire for privacy, and concern about retribution from either citizens or public officials who find the work of some charities objectionable.

An episode of the television series “Gilmore Girls” provided one humorous illustration of a less obvious reason why some might prefer anonymity. In the show, the wealthy grandparents of Rory Gilmore announce to her, with great enthusiasm, that they will be donating a sizeable amount of money to Yale University in her name, with the intention of getting a building named for her. Rory, still an undergraduate at Yale, is horrified at the prospect that her classmates might take classes in the Rory Gilmore Political Science Building or attend performances at the Rory Gilmore Auditorium. Acknowledging the notion that much of philanthropy is controversial to someone, the idea of the Rory Gilmore Medical Research Center is offered by the grandfather only to be swiftly

rejected by the grandmother, who notes, “No, that sounds like monkey research, people will picket!”

As fundraising consultant Robert Sharpe wrote in a 2009 article on anonymous charitable giving, “a donor may wish to remain anonymous out of concern that a gift could bring unwelcome attention to a child or other loved one who is a student.”⁸⁴ Though in this fictional and fanciful case it’s Rory’s grandparents’ money that would be funding the edifice, it does illustrate one of many reasons a person might rather her name not be associated with a charitable gift. It also makes a key point regarding donor privacy: everyone has reasons for wanting to keep philanthropic giving out of the public eye (or in it, if that is the decision), some of which may seem compelling, others less so.

Just as the right to free speech covers both finely written manifestos on matters of great national import and hastily composed Facebook posts musing on whether Sammy Hagar or David Lee Roth was the superior vocalist for the rock band Van Halen, so too the right to donor privacy protects Americans who have a wide range of motivations in keeping their giving private. Whether it is a concern about loss of employment, fear of angry politicians and citizens exacting retribution, trying to fulfil religious convictions, a reluctance to overshadow the organization’s work, or simply trying to avoid the embarrassment of walking by the eponymous Rory Gilmore Astronomy Building with the name in 30-foot lettering (which appears to be what the grandparents in *Gilmore Girls* settled on), the First Amendment requires us to respect this right.

Though some today would diminish or eliminate the right of charitable donors to remain anonymous, the arguments offered

generally range from simple curiosity about who is giving to the desire by some to build what amounts to an “enemies list,” allowing them to know whom to target for harassment, whom to boycott, and whom to ostracize from polite society. Neither of these arguments, nor anything lying between them such as misapplied notions of “accountability” or “transparency,” justifies eliminating the right of philanthropists to keep their giving private. Only in the most compelling circumstances, such as an active criminal investigation into a specific charity or donor, should this important right be open to curtailment.

So we don’t have to know why George Michael opted to keep his charitable giving anonymous — it is enough to know he preferred to do it that way, that it was his right to do so, and that it is a right that should not be lightly considered or tossed aside.

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The Philanthropy Roundtable is America's leading network of charitable donors working to strengthen our free society, uphold donor intent, and protect the freedom to give. Our members include individual philanthropists, families, and private foundations.

About the Author

Sean Parnell is vice president of public policy at The Philanthropy Roundtable. He joined the Roundtable staff in October of 2016. He is responsible for directing legislative, coalition, and communications efforts on policy issues related to charitable giving and philanthropic freedom at the federal and state levels, working with the Alliance for Charitable Reform.

Sean has more than 20 years of experience advocating for causes and candidates, most recently as an independent public policy consultant working primarily for think tanks and advocacy organizations. He previously was president of the Center for Competitive Politics, an advocacy organization focused on the First Amendment's political rights of speech, assembly, and petition. Parnell also served as vice president for external affairs at The Heartland Institute and as campaign manager and fundraiser for former Congressman Greg Ganske of Iowa. He has written two books, *Unbound: The Conscience of a Republican Delegate* and *The Self-Pay Patient: Affordable Healthcare in the Age of Obamacare*.

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