

*University of Southern California Law
School*

Legal Studies Working Paper Series

Year 2017

Paper 254

Show Me the Money: “Dark Money” and the
Informational Benefit of Campaign Finance
Disclosure

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Abstract

Campaign finance disclosure is under threat. While the Court continues to uphold mandatory disclosure, it has also eviscerated much of the legal justification for it. Simultaneously, gaps in the legal framework mean that some campaign activity is subject only to voluntary disclosure – consider “dark money” groups and unregulated Internet campaign advertising. In upholding the parts of the campaign finance regime that mandate disclosure, the Court has assumed that disclosure provides valuable policy information to voters, but it has not considered non-policy information that voters learn about candidates from the choice to disclose more than is legally required. This article provides new survey and experimental evidence that voters value disclosure of campaign finance information and will reward voluntary disclosure while punishing candidates supported by dark money groups. Voluntary disclosure signals transparency and thus trustworthiness. The importance of the second kind of information has not been previously recognized and suggests a role for voluntary as well as mandatory disclosure.

SHOW ME THE MONEY: “DARK MONEY” AND THE INFORMATIONAL BENEFIT OF CAMPAIGN FINANCE DISCLOSURE*

Abby K. Wood[†]

ABSTRACT

Campaign finance disclosure is under threat. While the Court continues to uphold mandatory disclosure, it has also eviscerated much of the legal justification for it. Simultaneously, gaps in the legal framework mean that some campaign activity is subject only to voluntary disclosure – consider “dark money” groups and unregulated Internet campaign advertising. In upholding the parts of the campaign finance regime that mandate disclosure, the Court has assumed that disclosure provides valuable policy information to voters, but it has not considered non-policy information that voters learn about candidates from the choice to disclose more than is legally required. This article provides new survey and experimental evidence that voters value disclosure of campaign finance information and will reward voluntary disclosure while punishing candidates supported by dark money groups. Voluntary disclosure signals transparency and thus trustworthiness. The importance of the second kind of information has not been previously recognized and suggests a role for voluntary as well as mandatory disclosure.

* This work benefitted from helpful conversations with and feedback from Sam Erman, Mike Gilbert, Benjamin Graham, Christian Grose, Erin Hartman, Daniel Klerman, Morris Levy, Dan Simon, Doug Spencer, seminar participants at Pepperdine and USC, my fellow members of the Federal Bipartisan Campaign Finance Task Force, and members of the Google policy team. Dara O’Neill, Oliver Wu, Danielle Stierna, Mimi Sanicola, and Rachel Abanonu provided excellent research assistance. I gratefully acknowledge support from the Hewlett Foundation and the Democracy Fund.

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1. INTRODUCTION

Campaign finance has changed enormously in the past decade. One of the biggest changes has been the amount of political spending that happens without any disclosure. Many political actors and many times of political messaging remain anonymous, with their sources of funding only rarely disclosed voluntarily. Most of the so-called “dark money” is spent by groups who organize under section 501(c) of the tax code (usually 501(c)4 and 501(c)6). Since *Citizens United v. FEC* (558 U.S. 310 (2010)), these “social welfare” organizations have been able to make unlimited expenditures in elections. They can receive unlimited contributions from individuals, corporations, and unions, and they do not have to disclose the sources of their money. Their political activity is supposed to be limited, but the IRS does little to enforce limits on political activity by social welfare organizations. The groups buy television ads, place ads online, and assist with get-out-the-vote efforts.

In the 2016 U.S. election cycle, \$183 million was spent via dark money avenues for television and radio advertisements, up from \$6 million in 2006, but down from \$300 million in 2012 (Center for Responsive Politics 2017). Presidential races attract the most dark money, followed by Senate races, then House races. In 2016, non-disclosing groups ran approximately one third of all ads in House and Senate races that aired two or more months before the general election.³

Online political advertising has exploded since 2008, but mandatory disclosure requirements cover only a small fraction of online political ads. The disclosures for political advertising include disclaimers, the “stand by your ad” requirements at the end of an advertisement. They include the name and address of the group running the ad, or the candidate saying “I’m so-and-so, and I approve this message.” We lack a measure of the amount of online advertising without disclaimers, but it is both vast and growing. The rise in online advertisements provides additional opportunities for voters to receive anonymous campaign messages.

No campaign finance law *prohibits* candidates or groups from voluntarily disclosing the sources of their support. Indeed, two well-known 501(c)4 groups do voluntarily disclose. Do voters care about voluntary campaign finance disclosure? Transparency is widely believed to be popular with voters. But what will voters do when faced with a politically attractive, but non-transparent, candidate or campaign? Will they punish a candidate whose supporting groups do not disclose the sources of their funds? Will they reward a candidate who discloses more than the law requires?

Researchers have largely ignored these questions. We have few studies about whether voters react to learning about dark money, and results are mixed (Brown & Martin 2015, Theodoridis & Spencer 2017, Rhodes et al 2017). I argue that voluntary disclosure of campaign finance reveals valuable information to voters about candidates’ non-policy candidate traits. Even in a voluntary disclosure regime, voters can learn about candidate transparency from the candidate’s choice to disclose.

I present results from a survey and experiment to address this argument. The results demonstrate that candidate and group choices about campaign finance disclosure affect how people vote. Respondents observe two candidates of the same party, one who

³ Dark money activity is most common in the time before the FEC’s mandatory disclosure windows at 30 days before a primary and 60-days before a general election.

voluntarily discloses more than is required by law and one who is supported by dark money groups. Respondents reward the more transparent candidate and punish the candidate connected to dark money groups. The size of the effect is large enough to swing an election – around 15 percentage points.

Why does this matter? Even as it has struck down statutes and regulations aimed at limiting campaign financing, the Supreme Court has long upheld mandatory disclosure regulations, partly on an assumption that the disclosed information improves voter competence by helping voters to know about the kinds of policies a candidate will pursue once in office. The results presented here enrich our understanding of the information voters glean around campaign finance disclosure: in addition to whatever policy information voters learn from disclosures, candidate and group decisions to voluntarily disclose (or not) inform them about candidate trustworthiness.

The jurisprudential landscape could soon change. The Court recently lost a disclosure advocate in Justice Scalia. His successor, Justice Gorsuch, is more skeptical of campaign finance disclosure, as revealed in his confirmation hearing. The political landscape has also changed. The same lawyers who used to urge the courts to strike down campaign finance limits and bans (e.g. bans on corporate independent expenditures in *Citizens United*) while upholding disclosure are now turning their sights on disclosure. More court challenges will undoubtedly follow.

Candidates and groups can capitalize on the findings presented here by disclosing voluntarily. Candidates who disclose more than required by law can also campaign against candidates who are supported by dark money groups by highlighting their opponent's lack of transparency and thus lack of trustworthiness. The results can also help policymakers, as they attempt to optimize the design of campaign finance disclosure regimes. Policymakers must trade off two effects: providing information about policies the candidate might pursue once in office in an effort to please supporters, and providing signals about transparency and trustworthiness of the candidate who chooses to voluntarily disclose. A completely voluntary regime (with no mandatory disclosures) would maximize information about transparency/trustworthiness, but it would reduce information about policy in the event that candidates and groups continue to take advantage of loopholes in the system that allow for nondisclosure. Conversely, a regime with comprehensive mandatory disclosure would maximize information about candidates' future policies but minimize information about transparency and trustworthiness. An optimal campaign disclosure regime would strike a balance between these extremes.

2. BACKGROUND

Disclosure is the last robust regulation of campaign finance. Our federal campaign finance transparency regime has plenty of mandatory disclosure, but there are several areas in which disclosure is voluntary, such as disclosure by 501(c) groups. Prior research suggests that voters can benefit from additional information about candidates or ballot initiatives, but whether campaign finance disclosures themselves improve voter competence has rarely been examined. Campaign finance disclosures can improve voter competence by enhancing the credibility of the candidate or outside group's promises. The rest of this section explains in more detail.

2.1 DISCLOSURE: THE LAST REGULATION STANDING

Little by little, the courts have emptied the campaign finance regulatory toolkit, by ruling that campaign finance regulations unconstitutionally infringe on the First Amendment rights to free speech or free association. Most famously, the Supreme Court has recently lifted aggregate contribution limits (*McCutcheon v. FEC*, 134 S. Ct. 1434 (2014)) and removed bans on corporate independent expenditures (*Citizens United v. FEC* 558 U.S. 310 (2010)). As a result, regulation of money in elections centers more and more heavily on disclosure (Levinson 2016; Shaw 2016). While the existing disclosure regime has significant loopholes, the Court seems generally bullish on disclosure.

Disclosure comes in several forms. Campaigns for federal office must gather information about donors (name, address, amount contributed, and employer). If a donor's aggregate contributions reach the \$200 mandatory disclosure threshold, the donor's information is reported to the FEC in the campaign's periodic filings. Most states follow a similar system, though mandatory disclosure thresholds vary considerably. Expenditures are also subject to disclosure requirements. Disclaimers attached to "electioneering communications" are another common type of disclosure. The "Stand by Your Ad" requirements, with the candidate saying, "I'm So-and-So, and I approve this message" are the most familiar example. Disclaimers are required on many kinds of political messaging, like mailers and some (but far from all) online ads. Disclosure and disclaimer requirements apply to parties and some outside groups, like SuperPACs, as well.

The Court analyzes campaign finance regulations under a First Amendment framework. It prefers disclosure to monetary limits and bans for regulating campaign finance, as disclosure regulations are a less restrictive means to meet important governmental interests. Disclosure laws "impose no ceiling on campaign related activities" (*Buckley* at 64) and "do not prevent anyone from speaking" (*McConnell* at 201). Indeed, the Court followed the urging of deregulation proponents in adopting this "deregulate and disclose" approach. However, after their successes in the courts, deregulation proponents now argue that disclosing the identity of donors impermissibly burdens First Amendment speech (Lowenstein et al 2012; *see, e.g.* Primo 2011; ACLU 2010).

2.2 JURISPRUDENTIAL LANDSCAPE

The Supreme Court has upheld disclosure laws three times in the past six years, though it has done so with "reasoning more broad than deep." (Shaw 2016). The court also recently denied certiorari on a disclosure challenge.⁴ The court's recent, brief rejections of disclosure challenges are not necessarily a sign that the court will continue to embrace disclosure, especially in this deregulatory political climate.

⁴ *Del. Strong Families v. Denn*, 136 S. Ct. 2376 (2016). The Delaware Strong Families case is a familiar fact pattern, in which a perfectly sympathetic plaintiff will be burdened by disclosure requirements established by the state and so challenges the requirements. In this particular case, a nonprofit organization put out a voter guide in 2012 and planned to do so again in 2014. In the intervening time, in the wake of the surge in dark money enabled by holes in the federal disclosure regime, Delaware amended its disclosure laws to require disclosure of donors or persons supplying "electioneering communications", which include the voter guide. Delaware Strong Families challenged the law, because it did not want to disclose donor information.

The Court has long assumed, without conclusive empirical evidence, that disclosure “chills” political speech protected by the First Amendment.⁵ Because of the (assumed) intrusion on a constitutionally protected right, the court uses an amorphous “exacting scrutiny” standard to analyze the constitutionality of disclosure regulations. Exacting scrutiny requires that governments defending their disclosure laws must identify a state interest sufficient to overcome the burden. Depending on the case, the interest must be “overriding” (*McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334 (1995)), “sufficiently important” (*Citizens United*), or even “compelling” (*McCutcheon*). Finally, the court analyzes whether the regulation is “substantially related” (*Buckley v. Valeo*, 424 U.S. 1 (1976), *Citizens United*), or even “narrowly tailored” (*McIntyre*) to the government interest.

The *Buckley* court listed three governmental interests that courts since that time have adopted without alteration. They are: enforcement of campaign finance laws, deterring corruption or the appearance of corruption, and providing information to voters.

Enforcement. There are few substantive campaign finance regulations left. The primary bans that remain are the ban on corporate and union contributions and the ban on foreign donors. The most important limit that remains is the contribution limit to each candidate in each cycle. Practically everything else – aggregate contribution limits, limits on independent expenditures, bans on corporate and union independent expenditures – has been struck down under the First Amendment. The *Buckley* court explained that information from disclosure can help aid enforcement of the limits that remain, but enforcement is not an important driver of disclosure jurisprudence. Indeed, no disclosure challenge has turned on the way disclosure aids the government in enforcing substantive limits and bans. And while FEC conducts enforcement actions based on the information revealed in campaign finance disclosures, FEC enforcement is both slow and rare (McGehee 2015).

Corruption. Deterring corruption and the appearance of corruption is important to voters’ faith in democracy. Nevertheless, under Chief Justice Roberts, the Court has narrowed the definition of “corruption” such that the government’s interest in deterring corruption is only in preventing *quid pro quo* bribery (*Citizens United* at 136, *McCutcheon v. FEC*, 134 S.Ct. 1434 at 1435-36, 1454-56). *Quid pro quo* bribery requires at least two people – one to offer the bribe, and one to accept it. The narrowing of the definition of “corruption” therefore brings into question whether the state’s interest in combatting corruption or its appearance can be met when there is no candidate involved.

For example, the court has ruled that the money given in support or opposition of ballot initiatives cannot corrupt. A ballot initiative is not a candidate, so a ballot initiative cannot receive a bribe. Similarly, outside groups are formally independent of campaigns, due to the prohibition on coordination between campaigns and supporting outside groups. Relying on the ban on coordination and similar language from *Buckley* (repeated in *Citizens*

⁵ Whether disclosure, on net, chills or thaws speech is an open, empirical question, and the Court’s assumption has so far been tested only rarely. *See, e.g.*, Wood & Spencer 2016, La Raja 2014. In the language of Michael Gilbert, disclosure probably *thaws* some speech. Some thawing results from disclosure revealing cross pressures on the candidates and candidates’ credibility in a given policy area (Gilbert 2013). Other thawing results from people who are eager to “go on record” as supporting a candidate (Wood & Gilbert 2016).

United), the D.C. Circuit has ruled that independent expenditures cannot corrupt (*SpeechNow.org v. FEC*, 389 U.S. App. D.C. 424, 431 (2010)). Disclosure has not been struck down ballot initiatives or independent expenditures, but if the court's definition of corruption is now "quid pro quo" in the campaign finance context, a state attempting to defend its disclosure regime would do well to not rely solely on the state's interest in reducing corruption or its appearance.

Information. With the enforcement and anticorruption interests unavailable, disclosure regulations "hang on this single thread" of the information benefit (Ortiz 2012). An informed electorate is crucial to the health of a representative democracy. While voter competence – the ability of voters to choose the people and policies that represent their values – is not mentioned explicitly in the constitution, scholars have argued that it is a constitutional value (Garrett 1999), and that an "effective accountability" canon or "democracy" canon should be recognized in statutory interpretation (Elmendorf 2010; Hasen 2009).

The informational interest is, essentially, the government's interest in ensuring voters are competent to vote in line with their interests, the way they would if they had full information (Garrett 1999; Gerber and Lupia 1999). According to the *Buckley* majority, the information disclosed pursuant to campaign finance disclosure regulations "allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive, and thus facilitate predictions of future performance in office" (*Buckley* at 67). The court's understanding is one-dimensional, left-to-right policy dimension on which voters place candidates.

The disclosure holdings in *McIntyre* and *Citizens United* engaged the information rationale, though neither did so very extensively. In *McIntyre*, the liberal wing of the court voted to strike down an Ohio law requiring disclosure on pamphlets. Justice Stevens, writing for the majority and joined by Justices O'Connor, Souter, and Breyer, with Justices Ginsburg and Thomas concurring, ruled that disclaimers on pamphlets are not that informative to voters, and even if they were, the informational interest is "plainly insufficient to support the statute's disclosure requirement, since the speaker's identity is no different from other components of a documents' contents that the author is free to include or exclude, and the author's name and address add little to the reader's ability to evaluate the document in the case of a handbill written by a private citizen unknown to the reader" (*McIntyre* at 348-49). Justice Thomas concurred, saying that he would have analyzed the question of disclosure for a pamphleteer using only the original understanding of "freedom of speech, or of the press", which he believed led to the result in the majority opinion overturning the disclosure mandate. Justice Ginsburg's concurrence emphasized "in for a calf is not always in for a cow" and that in other circumstances the state may require a speaker to "disclose its interest by disclosing its identity." Notably, conservative justices Scalia and Rehnquist recognized the importance of disclosure to an informed electorate. They challenged the idea that there has ever existed a "hitherto unknown right-to-be-unknown" when engaging in political speech in a "free, democratic election".

The *Citizens United* majority emphasized that the information provided by disclosure is even more powerful in the age of the Internet, “because modern technology makes disclosures rapid and informative.” According to the majority, “this transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages” (*Citizens United* at 364).

All three Justices from the *McIntyre* era who remain on the court today voted to overturn the statute in *McIntyre*, but only Justice Thomas has continued to insist that disclosure laws are an unconstitutional infringement on the First Amendment right to free speech (*Citizens United* at 480, *McConnell* at 264). Recent Court turnover matters. Justice Scalia was particularly fond of disclosure, saying “requiring people to stand up in public for their political acts ... fosters civic courage, without which democracy is doomed. For my part, I do not look forward to a society which, thanks to the Supreme Court, campaigns anonymously.... [A country that allows anonymous campaigning] does not resemble the Home of the Brave” (*Doe v. Reed*, 561 U.S. 186 (2010)) Justice Gorsuch, his replacement, recently joined Justice Thomas on a dissent from a summary affirmance in *Republican Party of Louisiana v. FEC*, a case challenging the ban on corporate contributions to parties, signaling his de-regulatory inclinations in the realm of campaign finance. During his confirmation hearing, Justice Gorsuch signaled his willingness to look closely at disclosure laws, saying that the First Amendment contains competing interests. He said that *Buckley* stands for the notion that Congress can regulate money in politics, and that there “may be limits when it chills expression, as it did in the NAACP case, and we have to be worried about that....”.⁶

⁶ The entire exchange was fascinating for a student of campaign finance law. It was one of the more revealing exchanges in the three-day hearing. It continued as follows:

Sen. Whitehouse: “If we have to be worried about the chilling of expression, which is a value proposition that you have just enunciated, should we not – am I not also entitled to ask the question about whether we should be worried about the influence of dark money essentially corrupting our politics? It’s taking a long time to get to what I would think would be a simple answer.”

J. Gorsuch “I’m sorry, Senator, but I don’t think this is simple stuff at all. I think you’ve got First Amendment concerns and precedents in the area that would have to be considered. We’d have to see what law congress enacted. I’d then want to go through the full judicial process....”

Whitehouse: “But you just asserted right here that the value of ‘not chilling speech’ is something that we should consider, right?”

Gorsuch: “I said that the Supreme Court of the United States in *NAACP* recognized that the First Amendment protections we all as people in this country enjoy – can be chilled sometimes. It’s a First Amendment right we’re talking about, Senator.”

Whitehouse: “And where does anonymity – lets’ say a billion dollars in anonymous funding into our elections. Where does that fit in, into the values that you bring to this?”

Gorsuch: “In the first instance senator, it’s for this body to legislate. Then it would come to court, and the record would be made --”

Whitehouse: “Of course *Citizens United* did overrule a law that we had made, so that’s hardly a be all and end all.”

2.3 INCOMPLETE TRANSPARENCY: GAPS IN CAMPAIGN FINANCE DISCLOSURE REGIME

The current disclosure framework produces incomplete transparency of campaign finances. Indeed, if Congress's goal was full disclosure, the *Buckley* court did away with the possibility of full disclosure four decades ago when it limited the application of campaign finance regulations – including disclosure regulations – to political communications using the eight “magic words”.⁷ Since that time, clever donors have found other ways to skirt disclosure rules, to become “veiled political actors” (Garrett and Smith 2005).

The gaps in the mandatory disclosure laws that exist are not part of a grand design. Few gaps were written into FECA or BCRA, for example. Instead, the FEC created some exemptions, technological change created opportunities for other anonymous campaigning that congress and regulators have not kept up with, and the Supreme Court lifted bans which Congress and the FEC have not reacted to by creating disclosure requirements to apply to new actors.

Intentional “gaps” in the disclosure framework include not requiring disclosure of donor details when a contribution is below \$200. Critics argue that disclosure of such small contributions does not further state interests (though they focus on corruption).⁸

Intentional gaps with unintended consequences include requiring campaigns or outside groups only to include disclaimers on online ads if they are “public communications”. “Public communications” on the Internet are only required to have a disclaimer attached if they are “placed for a fee on another person’s website” (11 CFR 100.26). Uploading ads to YouTube, creating memes that go viral, native advertising, and many other activities online do not fall under the FEC’s definition of “public communications” not because of their content – many are express advocacy – but because of their they were not “placed for a fee” (Dykhne 2017; Persily 2015). As more and more campaign advertising moves online, more and more online ads are not required to have disclaimers.

Finally, the Court, in conjunction with congress and the FEC, created the biggest gap in the mandatory disclosure regime: the lack of disclosure requirements for independent expenditures by corporations, including nonprofit organizations. Independent expenditures by these groups are relatively new, having been allowed by *Citizens United*. Before *Citizens United*, corporations and unions were banned from making independent expenditures from their treasuries. Now they can, but they have no disclosure requirements. It is unlikely that the current Congress would amend disclosure laws to

(Justice Gorsuch is referring to *NAACP v. Alabama*, 357 U.S. 449 (1958))

⁷ *Buckley v. Valeo*, 424 U.S. 1, fn. 52 (“This construction would restrict the application of § 608(e)(1) to communications containing express words of advocacy of election or defeat, such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “reject.”)

⁸ We know from experimental research by Kalla and Broockman (2014) that legislators do grant more access to donors. If granting access relates to the appearance of corruption – and the only study to test this so far did not show an effect (Spencer and Theodoridis 2017) – then access for small donors can affect the appearance of corruption. A public list of donors helps us monitor whether donors do get more access, but whether this is enough to justify low disclosure thresholds is an open question.

increase mandatory disclosure, especially for tax-exempt organizations. Indeed, the current appropriations bill again prohibits the SEC from regulating “the disclosure of political contributions, contributions to tax exempt organizations, or dues paid to trade associations” (P.L. 115-31 sec. 635 (May 5, 2017)). The FEC is similarly unlikely to act. It is notoriously deadlocked on the dark money issue (Wilson 2015).

Anonymous corporate political advertising happens one of two ways. Donors seeking anonymity have found it in the past few elections by donating to “social welfare” organizations created under sections 501(c)4 and 501(c)6 of the tax code. The 501(c) organizations use the donations to make independent expenditures on behalf of or against candidates or ballot initiatives – and the 501(c) organizations are not required to disclose their donors for anything but “electioneering communications”.⁹ These social welfare organizations also donate money to SuperPACs. The SuperPACs are required to disclose their contributors to the FEC, but when the contributor is a 501(c) organization, the public is unable to follow the money to its original source. Reformers see 501(c) disclosure as an obvious next step in regulating campaign finance.

Not all 501(c)4 groups take advantage of their right to anonymity. MoveOn.org, a 504(C)4 group, discloses all contributions above \$5,000 used for political messaging. Similarly, Bernie Sanders’ new social welfare group, Our Revolution, announced in 2016 that it would disclose donors as well (Gaudiano 2016), a threshold currently set at \$250. Our Revolution also limits annual aggregate contributions to \$5000, “unless approved by a majority vote of the board.”¹⁰

A second way to avoid disclosure is to establish an anonymous LLC. Now that corporations can give unlimited amounts to SuperPACs, giving to a SuperPAC through an anonymous LLC is another way to donate without exposing the donor’s identity (Briffault 2012). Anonymous LLCs could also hide illegal foreign involvement in our elections (Weintraub 2017). Importantly, LLCs do not have to be fully anonymous for contributions from them to be uninformative to the average voter. Naming an LLC something uninformative will achieve most of the identity protection sought by those seeking to keep their political contributions private. A SuperPAC disclosing its donors can simply disclose the uninformative name (which could be anything from someone’s initials to something vaguely patriotic, like “Americans for America, LLC”). That kind of disclosure provides no real information to voters about the issues or candidates in the advertisement, and it forces the public (or opposition researchers) to track down the real people behind the LLC.

As commonly happens with campaign finance reform, enterprising state governments have led the way, under the assumption that voters will use information about disclosure to form opinions about candidates and issues. For example, the state of Montana recently adopted a proposal by Heather Gerken and coauthors to require disclaimers about non-disclosure of funding sources. Montana adopted a statute requiring groups who do not disclose their donors to “clearly and conspicuously include in all communications advocating the success or defeat of a candidate... the following disclaimer ‘This communication is funded by anonymous sources. The voter should determine the

⁹ Avoiding electioneering communications is easy. Thirty days before a primary, or 60 before a general election, 501(c) organizations stop advertising activities and instead switch to other means of support, like get-out-the-vote campaigns (Wesleyan Media Project and Center for Responsive Politics 2016).

¹⁰ <https://ourrevolution.com/donors/>

veracity of its content.”¹¹ (Gerken et al 2014; Mont. Code Ann. § 13-35-237 (2016)). Some states now regulate online ads more comprehensively than the FEC. For example, Maine requires a disclaimer for a “communication expressly advocating the election or defeat of a clearly identified candidate through ... publicly accessible sites on the Internet “ (Me. Rev. Stat. tit. 21-A, § 1014), and Minnesota requires that online banner ads and other small ads do not require a disclaimer on their face as long as they link directly to a site with the disclaimer (Minn. Stat. Ann. § 211B.04).

2.4 PRIOR RESEARCH ON CAMPAIGN FINANCE DISCLOSURE AND VOTER COMPETENCE

Political scientists dispute how competent voters are (Zaller 1992; Lupia 1994). Voters have long been considered “rationally ignorant” (Downs 1957). They operate based on heuristics, or informational shortcuts, like a candidate’s party identification (Lupia 1994).

In a general election between candidates from different parties, party identification should be a more powerful heuristic than campaign finance disclosure. If my own party identification is strong enough, no matter who funds the candidate from my party, I will prefer my party’s candidate to the other party’s candidate. But not all elections are between candidates from opposing parties. Consider party primary elections, nonpartisan judicial elections, nonpartisan city elections, ballot initiatives, and elections in states dominated by one party that have top-two primaries (like California’s Senate election in November 2016, between Kamala Harris and Loretta Sanchez, both Democrats). Voters cannot use party identification as a heuristic in any of these kinds of elections. Without party identification as an available shortcut, voters look to other heuristics, like endorsements and campaign finance information.

Information is valuable only where it improves knowledge (Lupia & McCubbins 1998). Campaign finance information will only be used by voters for whom it is valuable. Most voters are not undecided – they know for whom or what initiatives they will vote. Only those who remain undecided stand to benefit from campaign finance information. That means that the effect sizes we observe from offering campaign finance disclosure information to all voters (and not just undecided voters) will necessarily be limited. This is especially true because, among the subset of voters who *seek out* campaign finance information, many will be sophisticated voters who have made their choice and are merely curious about the campaigns (Zaller 1992). Small effect sizes do not minimize the policy importance of campaign finance disclosures.

Few studies have attempted to quantify the size of the informational benefit. Knowing which of several ballot initiatives is supported by industry was enough to boost voter competence in Lupia’s study of California insurance reform (Lupia 1994). And while experimental work has examined whether the Court has fallen out of sync with the public by narrowing the legal definition of “corruption” (Spencer and Theodoridis 2017;

¹¹ The statute states: “If a political committee claims to be exempt from disclosing the name of a person making a contribution to the political committee, the committee shall clearly and conspicuously include in all communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising or issue advocacy the following disclaimer: ‘This communication is funded by anonymous sources. The voter should determine the veracity of its content.’” MONT. CODE ANN. § 13-35-237 (2016).

Robertson et al 2016; Brown and Martin 2015), I am only aware of one experiment on the information benefit. Primo's 2013 experiment showed no additional boost in voter competence from campaign finance information. Nevertheless, his study involved an extraordinarily information-rich environment in which most subjects did not access the disclosure information at all. It is not surprising that he found no impact of disclosure in such an environment. After that project, we were unable to say whether there really is no informational benefit of campaign finance disclosure or whether the null effect resulted from the information-rich environment in the design. Here, I use the opposite approach, providing only one or two pieces of information to respondents.¹² I further note that Primo was focused on measuring policy-relevant learning, and I focus instead on learning about non-policy traits.

2.5 PRIOR RESEARCH ON NON-POLICY CAMPAIGN ISSUES AND A THEORETICAL EXTENSION

Voters care about more than policy. They also want elected officials to be competent, persuasive, and honest. The political science literature lumps non-policy candidate and campaign traits into an umbrella category called "valence" characteristics (Stone & Simas 2010; Stokes 1963; Bianco 1994; McCurley & Mondak 1995; Mondak 1995). Valence traits are non-policy traits that voters seek to maximize, regardless of the policy preferences of who is in office (Ansolabehere & Jones 2011; Wittman 2005; Enelow & Hinch 1984). Stone and Simas describe "campaign valence" as the ability to raise funds from others, ability to fund one's campaign, current name recognition in district, ability to attract attention, ability to be persuasive in public, ability to run a professional campaign, and overall strength as a campaigner. "Character valence" includes personal integrity, ability to work well with other leaders, ability to find solutions to problems, competence, grasp of the issues, qualifications to hold public office, and overall strength as a public servant (Stone & Simas 2010).

Scholars have not analyzed voter preference around candidate legal compliance generally, compliance with campaign transparency rules specifically, or voluntary transparency of any kind. This project is a first step in addressing the gap in the literature.

There are few opportunities in campaigns to signal transparency and compliance. Campaign finance disclosure provides an opportunity to signal to voters how transparently the candidate will govern, a signal that is particularly important for a challenger to be able to send. If a campaign files disclosures on time, and if the disclosures do not reveal any prohibited contributions or gaps in required information, voters receive a message of compliance, transparency, clean governance, and competence. This logic can be extended to outside groups as well. If outside groups supporting the candidate disclose their contributors, even where the law permits donor anonymity, voters can infer that the candidate's supporters have nothing to hide. Conversely, if the candidate's disclosures are a mess, either because they are filed late, contain prohibited contributions, or have gaps in required information, voters can infer that the candidate is incompetent, does not prioritize transparency, or both. If supporting groups hide their donors – even where they do so

¹² All designs have limitations. I discuss the limitations of my design in Section 4.4.

lawfully – voters can infer that the supporters, and perhaps the candidate as well, have something to hide.

Voters should prefer more government transparency to less, so for any given set of proposed policies, they should prefer a candidate who signals that she will govern openly by being more transparent during her campaign.¹³ Moreover, for a given set of proposed policies, voters will prefer a candidate who they believe will comply with the law. In addition to rule of law and other higher-order considerations, voter concern with compliance is pragmatic: legal compliance avoids scandal and enables governance to proceed more smoothly.

It would not require a strong preference for transparency itself or strong distaste for scandal to observe this result. Disclosure information lends credibility (or undermines) candidate claims about policies, because it reveals whether the donor's interests and candidate's stated policy preferences match (Gilbert 2013). A dislike for uncertainty along the policy dimension alone could lead voters to abandon candidates who receive dark money support. If dark money groups support a candidate, voters cannot see all of the interest groups to whom the candidate may be responsive on policy matters as a public official, thus increasing uncertainty and undermining credibility. Therefore, voters could abandon candidates who are exactly aligned with their political policies (according to stump speeches and disclosed contributors) but potentially responsive to undisclosed groups with whom the voter disagrees, in order to vote for a candidate who is less well aligned with the voter's policy preferences but a "known quantity" because all of her supporters are disclosed. Put simply, voters might prefer the less politically aligned "sure thing" to the more (seemingly) aligned wild card.

Credibility of mandatory disclosures results from financial penalties for violations of the disclosure requirements. Credibility of voluntary disclosures can be established via a third-party audit. Audits, especially when conducted by a trusted or neutral party, enhance disclosure credibility (Healy and Paleu 2001).

Some observers, particularly those who have expertise in transparency, already follow disclosures closely in key races. For example, the Center for Responsive Politics makes data for most federal races available, and they have tools like an "anomaly tracker" to help voters, journalists, and even opposition researchers follow the money. Sometimes journalists take deep dives that examine donors to particular candidates or spending by groups. These kinds of investigations are helpful, and they can uncover aspects of campaign finance that I examine here, such as support by "dark money" groups or voluntary disclosure beyond what the law requires. However, only more extensive audits, in which auditors examine the campaign's books, bank statements, and similar documentation, would be able to confirm that what the candidate voluntarily discloses constitutes the complete set of potential expenditures and contributions.

¹³ Obviously, transparency can impede effective governance in some settings, like in the case of national security. I do not argue here that voters prefer transparency in *all* policy settings, but that they do prefer transparency in most policy settings. If governing transparently takes time away from policy tasks, they constituents might not want their public officials maximizing transparency, but instead optimizing it subject to resource constraints.

2.6 SUMMARY AND EXPECTATIONS

In sum, campaign finance disclosure is one of the few campaign finance regulations to survive repeated First Amendment challenges, but future challenges to disclosure are on the horizon. Courts have upheld disclosure laws based on the informational interest and the now-narrowed anticorruption interest. The informational interest, as identified by the *Buckley* court, concerns the credibility of candidate claims around policies. But given the number of exemptions and loopholes in our current mandatory framework, it is important to understand whether voters learn from voluntary disclosure as well.

Voluntary disclosures should cause voters to update their valence evaluations of candidates and campaigns. Existing studies on valence effects do not include considerations of transparency and legal compliance, but our theories about voter preferences and valence predict that voters should reward candidates who are more transparent and who model legal compliance. The size of any punishments or rewards will probably be small, because so few voters actually *need* campaign finance information.

All of this leads to three expectations:

1. Voters will reward over-disclosure where a third-party group identifies it.
2. Voters will punish a lack of transparency where a third-party group identifies it.
3. Voter perceptions of candidate trustworthiness (credibility) are one mechanism of rewards and punishments.

To my knowledge, no one has asked voters whether they use campaign finance disclosures and how important they think campaign finance transparency is. Before testing this theory and in order to temper our expectations about effect sizes, I surveyed voters about their use of campaign finance information.

3. VOTER DEMAND FOR CAMPAIGN FINANCE INFORMATION: SURVEY RESULTS

Some observers suspect that campaign finance information is not of interest to the public. It is too complicated, too arcane, or not informative enough to be worth the public's time (Primo 2011; Eber 2006; Overman 2002; Smith 1998; cf. Briffault 2010). Political journalists work hard to distill the information for public consumption, but is anyone paying attention?

As a first cut at these questions, I conducted an online survey concerning campaign finance disclosure. The survey results suggest that a significant portion of the public both demands and uses campaign finance information. They provide a foundation for the experimental results that follow.

3.1 SURVEY DESIGN AND PARTICIPANTS

Every fall for the past decade, political scientists have combined resources to conduct the Collaborative Congressional Research Survey. In November 2015, the Bipartisan Campaign Finance Task Force (of which I am a member) surveyed 2000 online respondents, seeking their views about campaign finance.¹⁴ The survey firm, YouGov,

¹⁴ The task force's participation in the survey was funded by the Hewlett Foundation and Democracy Fund.

draws stratified samples that approximate the characteristics of random samples of the U.S. population. The sampling frame is designed to match the population in the American Community Survey conducted by the U.S. Census and has been augmented with voter and consumer databases.

The survey was conducted at a moment when campaign finance disclosure information was relatively low-salience in our political discourse. It was an off-year for federal congressional elections. The Presidential primaries were underway, but most of the public does not follow the Presidential race until after the conventions, which were still 8-9 months away. Therefore, responses to the survey probably underestimate the demand for campaign finance information.

3.2 SURVEY QUESTIONS AND RESULTS

Respondents answered questions about how often they seek campaign finance information from campaigns and outside groups, how important the information is to them compared to other non-policy traits, and whether they are satisfied with the amount of information available to them. The results are presented in Figures 1-4.

Figures 1 and 2 present the results from related questions: “How often do you seek information about candidate funding” and “How often do you seek out information about independent groups that fund political advertising?” Respondents were provided a sliding scale where the left end was “Never” and the right end was “Always”. Each respondent clicked a spot on the scale, and a number between 0 (never) and 100 (always) was recorded as her response.

The Figures present histograms showing the frequency of each response among the 2000 respondents. The degree to which the public relies on the disclosed information was unknown until now. As Figures 1 and 2 show, around 75% of respondents report seeking campaign finance disclosure information at least some of the time. Over 25% of respondents never seek it out.

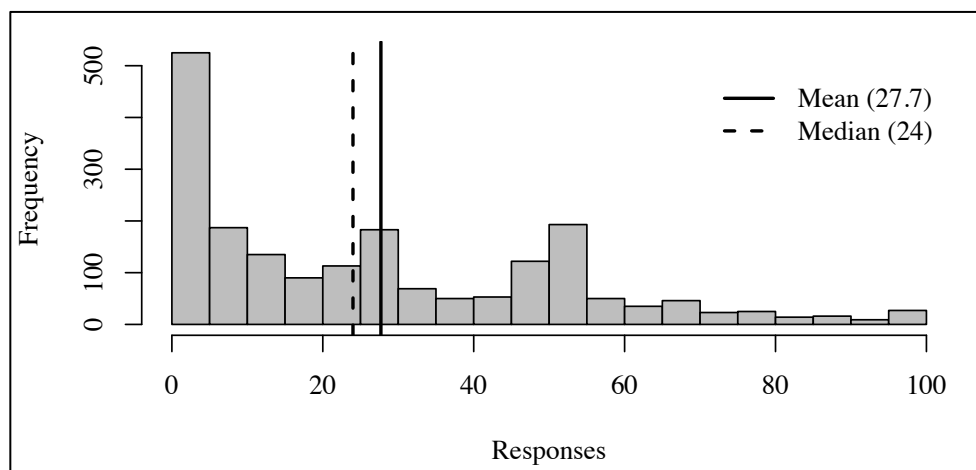


Figure 1. Frequency of responses to the question “How often do you seek information about candidate funding”, 0 = Never, 100 = Always. Dashed line is median response. Solid line is mean response. Source: Cooperative Congressional Election Study (“CCES”) 2015.

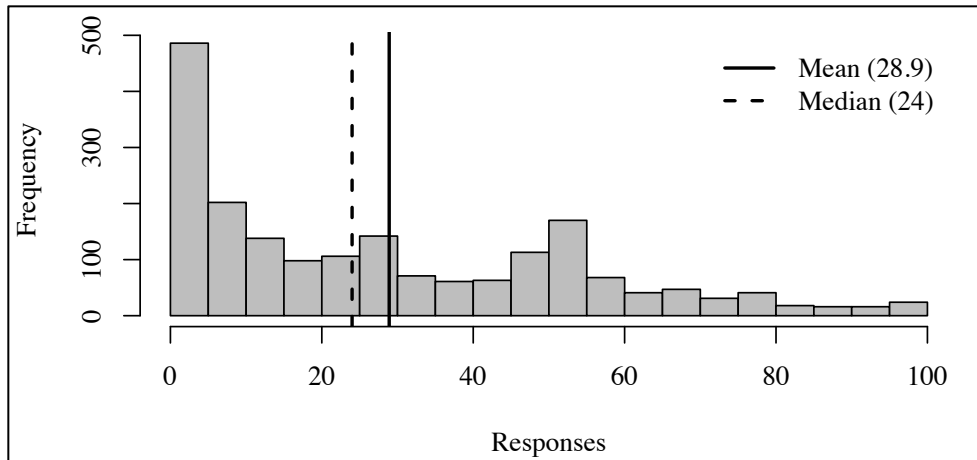


Figure 2. Frequency of responses to the question “How often do you seek out information about independent groups that fund political advertising?” 0 = Never; 100 = Always. Dashed line is median response. Solid line is mean response. Source: CCES 2015.

Of course, respondents might seek out campaign finance disclosure information to learn about candidate policy responsiveness to contributors on the single dimension envisioned by the court in *Buckley*. But how important is the non-policy information conveyed by campaign finance disclosures? I constructed a question to include some of the characteristics considered by other scholars, and I added campaign finance disclosure to the list.

The question asked respondents “When you think about the strength of a candidate for elected office, how important to you are the following considerations?” The survey then presented the considerations below one at a time, in random order. The new item is in boldface.

- The amount of money raised by the campaign
- The amount of money raised by independent groups in support of the candidate
- **The amount of information the candidate provides about his or her sources of funding**
- The ability of the candidate to be persuasive in public
- The candidate’s professional background (government experience, private sector experience, etc.)
- The candidate’s grasp of the issues

Respondents answered that each consideration was “Unimportant”, “Of Little Importance”, “Moderately Important”, “Important”, or “Very Important”. Respondents could also answer “I don’t know”. Figure 3 shows, for each question, what percent chose “Very Important” or “Important” (dark gray), “Moderately Important” (gray), or “Of Little Importance / Unimportant” (light gray) for each item. Each column adds up to 100% of respondents.

As is clear in Figure 3, voters place a good deal of importance on the amount of information provided about each candidate’s sources of funding. The Figure presents the considerations the respondents considered least important to most. Forty three percent of

respondents chose “important” or “very important” for the amount of money raised by campaigns, and 44 percent answered the same for money raised by outside groups. Strikingly, respondents considered candidate transparency about campaign finance as more important than the amount of money raised, with 66 percent of respondents saying the amount of information disclosed is important or very important, and only 14 percent saying that campaign finance information is unimportant or of little importance.

Some of the usual non-policy factors were considered more important than campaign finance transparency. The candidate’s ability to be persuasive in public was considered important or very important by 72%, a candidate’s professional background was considered important or very important by 79%, and the candidate’s grasp of the issues was considered important or very important by 91%.

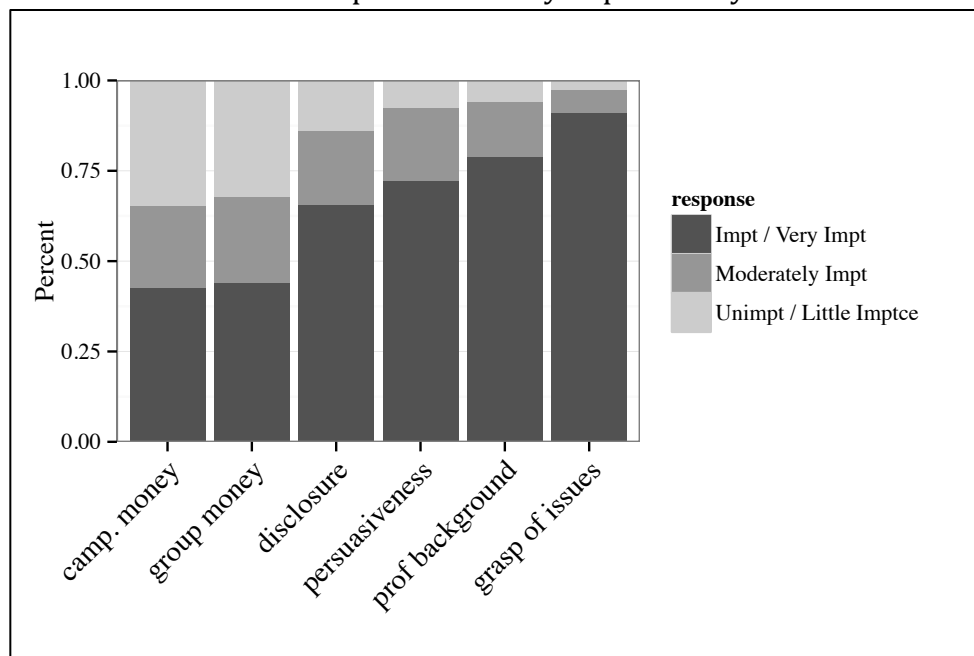


Figure 3. Percent of respondents who responded “Important” or “Very Important”; “Moderately Important”; or “Unimportant” or “Of Little Importance” to the question “When you think about the strength of a candidate for elected office, how important to you are the following considerations?” Source CCES 2015.

Presenting considerations one at a time, as I did with the question, risks inflating the importance of each item. But the bias should inflate all items equally, preserving the relative ordering of items. Of the 2000 respondents, 710 (35.5%) rated campaign finance disclosure as more important than all other items ranked, or of equal importance with all other items ranked.¹⁵ The takeaway is that voters care about the amount of information disclosed by candidates considerably more than they care about the amount of money the campaigns or outside groups raise. Indeed, they value campaign finance transparency almost as much as the candidate’s ability to be persuasive in public.

¹⁵ Raw numbers are interesting here: 566 respondents rated disclosure “very important”; 74 rated disclosure as “important” and nothing else higher; 58 rated disclosure as “moderately important” and nothing else higher; 5 rated disclosure as “of little importance” and nothing else higher; 7 rated everything as “unimportant”.

Not only does campaign finance transparency matter, but the public wants access to more campaign finance information. I asked respondents “How satisfied are you with the amount of information that you can find about who funds political advertising?” The question concerns advertising because the vast amount of spending is on political messaging, usually television ads. Figure 4 displays the frequency of responses to the question. Respondents again clicked on a scale, which can be interpreted as their percent satisfaction. “Not at all satisfied” is coded as 0, and “completely satisfied” is 100.

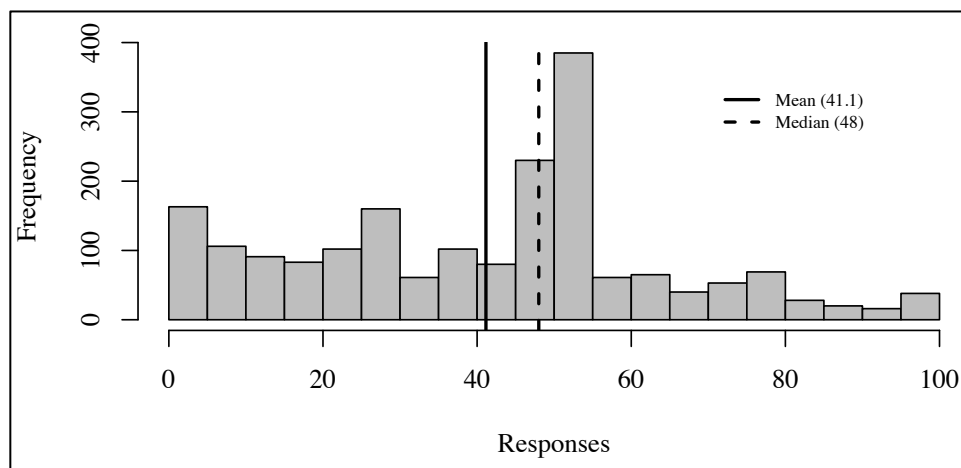


Figure 4. Frequency of responses to the question, “How satisfied are you with the amount of information that you can find about who funds political advertising?” 0 = Not at all satisfied, 100 = completely satisfied. Source: 2015 CCES.

As Figure 4 makes clear, some respondents are completely dissatisfied, around 25% are neither dissatisfied nor satisfied, and a few are completely satisfied.

The survey results imply that campaign finance disclosures are important to voters. Most voters report seeking campaign finance information at least sometimes, and they report seeking it from campaigns and outside groups. They consider the amount of information disclosed to be more important than the amount raised, and almost as important as the ability of the candidate to be persuasive in public. In other words, they glean non-policy information from disclosures. Finally, voters are not entirely satisfied with the amount of information available about campaign finance. Scholars and the Court have overlooked the weight voters give to disclosures independent of any policy information that disclosures might reveal.

4. EXPERIMENT

A separate group of 1000 respondents from the same survey population completed a survey experiment to estimate how much people reward and punish transparency or lack thereof in campaign finance disclosures.

4.1 STIMULUS AND INSTRUMENT

Respondents read a vignette about an election, and a transcript of an attack ad. The context is a primary election for an open seat for the state senate.¹⁶ The candidates are similar in their favored policies. This context amplifies the valence effects of campaign finance transparency. Policy differences between candidates are minimized where the candidates are from the same party, so transparency evaluations should be most salient in primary elections. Incumbents have higher valence evaluations than challengers (Groseclose 2001). To neutralize the incumbent valence advantage, the vignette is for an open seat.

Here is the first part of the vignette:

Julia Johnson and Pearl Conley are competing in the [PARTY] primary for an open seat in the state Senate. A local political scientist working for the [PARTY] party has evaluated the candidates on their policies, with 1 being not at all [liberal if PARTY = Democrat/conservative if PARTY = Republican] and 100 being very [liberal/conservative, as above].

The political scientist scored Johnson a [SCORE] and Conley a [SCORE].

The words and phrases in brackets are populated automatically, based on respondents' answers to prior questions in the survey about their party affiliation and ideology. Both are in the respondent's party (true independents were randomly assigned a party). Whereas the respondent ranks herself on a 1-10 scale, the candidates are presented on a 1-100 scale. The vignette presents Johnson as exactly the respondent's level of liberalism or conservatism (times 10, to scale appropriately).

The groups observed Conley as either 10 or 20 points more extreme in her views than Johnson, unless the respondent is extreme (a 9 or 10), in which case Conley is 10 or 20 points more moderate. As an example, consider a respondent who identifies as a moderate Republican, giving himself a "5" out of 10 on how conservative he is, who is assigned to a group in which Conley is 20 points more conservative than Johnson. Our hypothetical respondent would see the text this way:

Julia Johnson and Pearl Conley are competing in the Republican primary for an open seat in the state Senate. A local political scientist working for the Republican Party has evaluated the candidates on their policies, with 1 being not at all conservative and 100 being very conservative.

The political scientist scored Johnson a 50 and Conley a 70.

The respondents who were randomly assigned to the transparency treatment then read on the same screen about transparency evaluations of the candidates.

¹⁶ Nebraska has a unicameral legislature, and so respondents in Nebraska saw "Legislature" where respondents in other states saw "Senate".

A group of nonpartisan transparency advocates rates candidates based on how much of their campaign finance information is disclosed to the public. They call their ratings “transparency grades”. A grade of “A” means high transparency, and a grade of “F” means no transparency.

Johnson received a transparency grade of “C” and Conley received a transparency grade of “A”. Johnson received a low grade because her campaign has received support from independent groups that allow their donors to remain anonymous. Conley received a high grade because both she and the independent groups supporting her candidacy disclose more campaign finance information than the law requires.

After reading the vignette, respondents answered a series of questions on favorability, vote choice, and trustworthiness that are common in the literature (Gerber et al 2013; Settle et al 2016; Wright et al 2016). First, they answer “[H]ow favorably would you rate the candidates? Please drag and drop them onto the scale below.” The scale is from “Highly unfavorable” to “Highly favorable”, and the order of the candidate names is presented in random order.

Respondents then answer “[h]ow likely would you be to vote for” each candidate, again, presented in random order. The scale is from “Highly unlikely” to “Highly likely”. The screen also features a table reminding the respondent of the relevant information from the prior screen. The control group’s table has one row, for policy ratings. The treatment group’s table has both the policy rating row and a transparency grade row. A treatment group table for our hypothetical moderate Republican is shown in Table 1.

	Johnson	Conley
Policy	50	70
Transparency	C	A

Table 1: Treatment group table for hypothetical moderate Republican.

Finally, respondents are asked how trustworthy the two candidates are. Respondents are asked, in random order “How trustworthy is [Candidate]?” The scale provides ranges from “Extremely Untrustworthy” to “Extremely Trustworthy”.

A. Treatment Conditions

Each of the 1000 respondents was randomly assigned to one of four treatment conditions: a control group with Conley 10 points from Johnson, and Johnson at the respondent’s ideal point (“C10”); a control group like C10, but with Conley 20 points from Johnson (“C20”); a treatment group that saw the policy scores in C10 as well as transparency scores (“T10”); and a treatment group that saw the policy scores in C20 as well as the transparency scores (“T20”). The transparency scores do not change between conditions. Johnson always receives a “C”, and Conley always receives an “A”. The experiment is designed to allow examination of whether transparency allows Conley to be more extreme in her policy positions. Answers from respondents in C10/T10 were practically identical to answers from respondents in C20/T20, so to ease exposition, I present results from C20 and T20 in the main text. Results from C10/T10 are in the

appendix. Randomization on characteristics that might predict reactions to policy or transparency differences succeeded. Randomization results are available in the appendix.

Table 2 summarizes the experimental design and expectations. The rightmost column formalizes my expectations. “J” is “Johnson”, “C” is Conley, “T” is treatment, and “C” is control. The outcomes examined in each cell of the column are average favorability [0-100], average probable vote for each candidate [0-100], and average trustworthiness evaluations [0-100].

Condition	Johnson Policy	Johnson Transp.	Conley Policy	Conley Transp.	N. Obs	Expected effect
C10	Same as Respondent	NA	J + 10	NA	248	J-C > 0
T10	Same as Respondent	“C”	J + 10	“A”	248	J _T -J _C < 0 C _T -C _C > 0
C20	Same as Respondent	NA	J + 20	NA	258	J-C > 0
T20	Same as Respondent	“C”	J + 20	“A”	246	J _T -J _C < 0 C _T -C _C > 0

Table 2. Experimental design. N.Obs is number of observations, or group size. Each participant had a 25% chance of being assigned into each condition, and group sizes were allowed to vary. The rightmost column presents the main expectations for favorability, vote choice, and trustworthiness.

The experimental design allows us to learn whether voters care about transparency and to what degree they are willing to trade policy for it. In other words, as designed, the experiment should give us insight into the shape of respondent indifference curves between policy and transparency. Political scientists assume that voters weigh policy considerations much more strongly than valence considerations (Page & Jones 1979; Krosnick 1988). As it happens, net favorability between Johnson and Conley in the control group was basically constant regardless of whether Conley was 10 or 20 points from Johnson (and, therefore, the respondent). The typical respondent preferred the candidates equally or slightly preferred the candidate who was more extreme than they, themselves, professed to be.¹⁷

Because the policy distance manipulation did not have its intended effect and the groups are therefore basically exchangeable, I could arguably pool C10 and C20, T10 and T20, data and analyze them together. Doing so would have the effect of making the estimates more precise. Even though circumstances prevented timely pre-registration of the research design,¹⁸ I did not plan the experiment with pooled data, and in the interest of methodological transparency and rigor, I do not pool the data for my analysis.

¹⁷ Respondents’ failure to recognize the difference between Conley being 10 points more extreme and her being 20 points more extreme presents a puzzle that is largely beyond the scope of this paper, except that it precludes us from learning about the shape of respondent indifference curves between policy and transparency. The results inform us about the degree to which voters demand campaign finance transparency, and future work will investigate the policy/transparency tradeoff.

¹⁸ My family expanded a month before expected!

4.2 RESULTS

The main experimental results are presented in Figure 5. The top two rows of the Figure show respondents' evaluations of Johnson. The middle two rows show respondents' evaluations of Conley. The difference in means between the treatment and control groups is represented by an open circle. The 95% confidence interval on the estimate is represented by a black line. The t-test p-value is reported above each estimate. All results are statistically significant.

A. Voters Punish Lack of Transparency

We expect that Johnson will suffer favorability and vote choice losses in the treatment group, compared to the control group. In other words, voters punish a lack of transparency, even when the lack of transparency does not violate the law, and even when it is not the candidate's fault. The experimental results are in the direction of the expected effects in Table 2.

The top two rows in Figure 5 indicate that respondents punished Johnson. Compared to respondents who were only provided Johnson's policy information, respondents told that Johnson's supportive "independent groups" chose donor anonymity punished Johnson. They rated her 9.4 percentage points lower in terms of favorability and expressed less willingness to vote for her by 9.2 percentage points.

Figure 5 presents differences, but the underlying levels are interesting as well. The treatment group gave Johnson a favorability rating of 45.9, and the control group rated her 55.3, which results in the statistically significant difference of 9.4 percentage points reported in the Figure. The results for vote choice were similar. Respondents who saw the transparency scores reported 45.6 percent likelihood of voting for her, compared to 54.8 percent likelihood of voting for her among control group respondents.

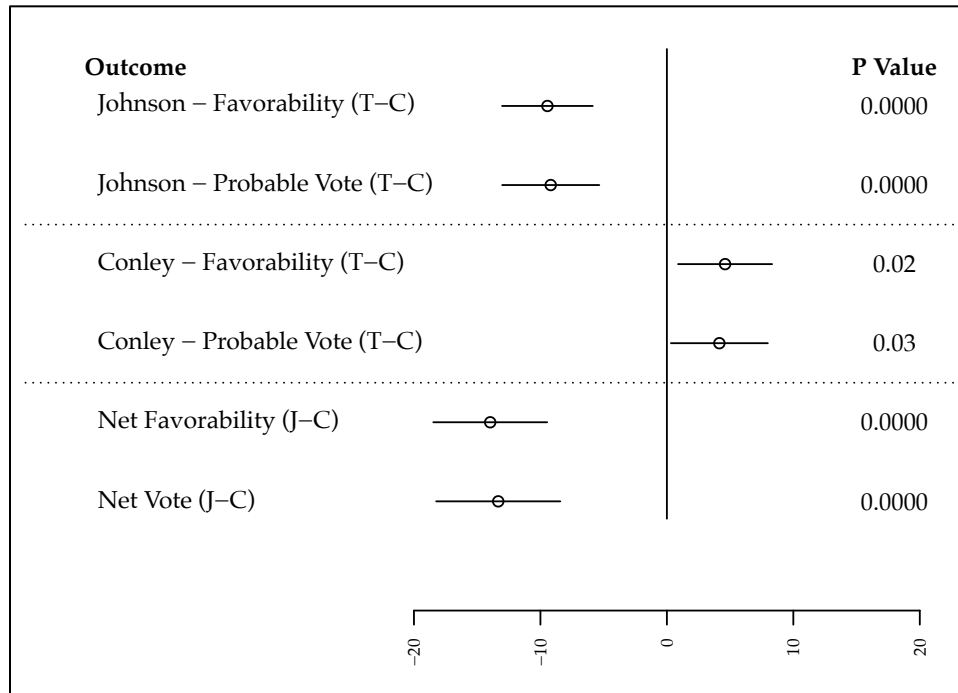


Figure 5. Differences in the mean favorability and probable vote choice among the treatment group, minus the mean favorability and probable vote choice among the control group, for Johnson (top two rows) and Conley (middle two rows). The net effect is presented in the bottom two rows. The vertical line is at 0, where the estimates would be if respondents were not affected by seeing an evaluation of the candidates’ campaign finance information. The horizontal axis measures percentage points. The open circles show the difference in means, and the p-values reported are for a two-sided t-test. The black lines show a 95% confidence interval. All findings are statistically significant.

Without real-world referents for transparency scores, I tread carefully in interpretation of the results. The respondents in the survey are a very close approximation to the voting-age American public. Their reaction to learning more about campaign finance disclosure practices of the campaigns and supporting groups suggest that they care about and react to information about campaign finance transparency.

The law prohibits coordination between independent groups and the candidates they support and assumes that corruption between an outside group and candidate cannot happen. However, respondents in this study reacted similarly to respondents in related studies with regard to coordination (Brown & Martin 2015; Spencer 2017). The respondents here may have assumed coordination between the group and the candidate. Another possibility is that respondents assumed that “clean” candidates attract “clean” money, and “dirty” candidates attract “dirty” money, coordination aside. Future research can help clarify the assumptions held by respondents in these situations.

B. Voters Reward Transparency

My theory also predicts that voters reward transparency. As the second two rows in Figure 5 show, voters rewarded Conley's transparency. They rated Conley 55.3 for favorability when only presented policy information, and 59.9 when presented policy and transparency information, a difference of 4.6. For probable vote choice, voters said they were 58.4% likely to vote for Conley when presented only policy information, and 62.3% likely when presented policy and transparency information, a difference of 3.9, as shown in the fourth row of the figure. The differences are statistically and substantively significant; voters reward transparency.

The bottom two rows of Figure 5 show the net effects and combine the favorability and vote choice losses to Johnson with the favorability and vote choice gains to Conley. I take the net favorability (Johnson - Conley) in the treatment group and subtract net favorability (Johnson - Conley) in the control group. Net favorability in the control group, where only candidate policies are compared, is -0.43.¹⁹ For the treatment group, which also observed differences in disclosure practices, net favorability is -14.4, the result of a punishment of Johnson and a "reward" for Conley. The difference in the net favorability measures is -14, as shown in the fifth row of Figure 6. Relative to Conley, Johnson suffers a net favorability loss of 14 percentage points. Doing a similar analysis for the vote likelihood yields net vote changes of -13.3, as shown in the sixth row.

In the vignette, Conley and her supporting groups are not only complying with disclosure laws, they are *over complying* with disclosure laws.²⁰ In the interest of keeping treatment and control vignettes approximately the same length, the type of over compliance by Conley and supporting groups was left vague in the treatment vignette. As discussed above, it is important to think about *useful* over-compliance versus over-compliance that would allow a candidate to take credit for over-complying but not transmit information that would improve voter competence. Increased disclosure of the entities and people contributing to outside groups would be socially useful. Over-compliance that provides actual names of the actual people behind the money spent for political messaging could improve voter competence. Finally, over-disclosure is a relative concept. Whether over disclosure is useful depends, of course, on what the law requires. None of these issues with over-disclosure are captured in the vignette here, and all are avenues for future research.

C. Interpreting the main effects

How should we think about the scale of these effects? A comparison to negative favorability effects in the experimental context is instructive. The largest campaign expenditure, at least for state or national office, is advertising. Studies of negative ads have shown favorability differences, which vary based on the source of the ad (Dowling & Wichowsky 2015; Ridout et al 2014). Candidates who run negative ads generally

¹⁹ The median difference between candidates in the control group was 0, as expected.

²⁰ This raises the possibility of observational equivalence – voters might not be rewarding transparency *per se*; they might be rewarding over compliance with the law. I asked respondents to fill in a text box about their vote choice. Many of them mentioned transparency, and I did not see over compliance mentioned, so I do not think that voters are rewarding over compliance more generally. Nevertheless, future work can further tease apart these two mechanisms.

experience backlash for doing so, with recent scholarship estimating the backlash of a candidate-run negative ad as causing, on average, = a 20 percentage point drop in candidate favorability (Dowling & Wichowsky 2015).²¹ That study modified an actual video ad from a prior state election to alter the voiceover and disclaimers, but it's the closest analogy in the literature to this project. For Johnson, being supported by outside groups who do not disclose their donors resulted in a favorability drop of about half the magnitude of running a negative ad.

How should we think of the positive favorability boost for Conley? Dowling and Wichowsky's study again provides a useful comparison. Conley's 4 percentage point boost is about three times smaller than the benefit to a candidate of letting outside groups do the "dirty work" of running negative ads found in that study (13 percentage points).

Voters reward Conley for transparency less than they punish Johnson for a lack of transparency, though that difference is not statistically significant. Future researchers can explore this behavioral reaction more deeply. Generally speaking, respondents' eagerness to punish more than reward is not particularly surprising. Behavioral economists and psychologists have previously shown that there is an asymmetry between reward and punishment (Eisenberger et al 2004; Fehr & Gächter 2000, *c.f.* Wang & Leung 2010). Nevertheless, the size of the punishment of Johnson is striking – respondents punish her quite severely for the perfectly legal and commonplace disclosure choices of a supportive independent group.

D. Transparency Creates Trust; Lack of Transparency Creates Distrust

How can we explain the respondents' willingness to switch their votes from Johnson to Conley once transparency information was revealed? One mechanism is trust. Transparency engenders voter trust; lack of transparency engenders voter mistrust.

In response to the question about each candidate's trustworthiness, treatment group respondents rated Johnson as 3.8 percentage points less trustworthy than control group respondents, a result that is shown on the first row of Figure 6. The raw trustworthiness ratings underlying that -3.8 measure are 49 (treatment) and 52.8 (control). Conley, on the other hand, was rated 8.9 percentage points more trustworthy among respondents in the treatment group, compared to respondents in the control group, as shown in the second row of Figure 6. The raw trustworthiness ratings were 63.1 (treatment) and 54.1 (control). Both differences are statistically significant. Finally, the trustworthiness gap between Johnson and Conley was increased when respondents viewed the transparency scores. The Johnson – Conley gap among those viewing only policy scores was -1.3.²² Among respondents in the treatment group, the gap was -14.1, for a between-group difference (treatment gap – control gap) of -12.8. Again, the difference is statistically significant.

²¹ The effect is much higher among co-partisans of the attacked candidate, of course.

²² Based on policy alone, I expected the Johnson-Conley gap to be greater than or equal to zero. Johnson looked exactly like the respondents, in terms of policy, and Conley was 20 percentage points more extreme. The median difference was 0.

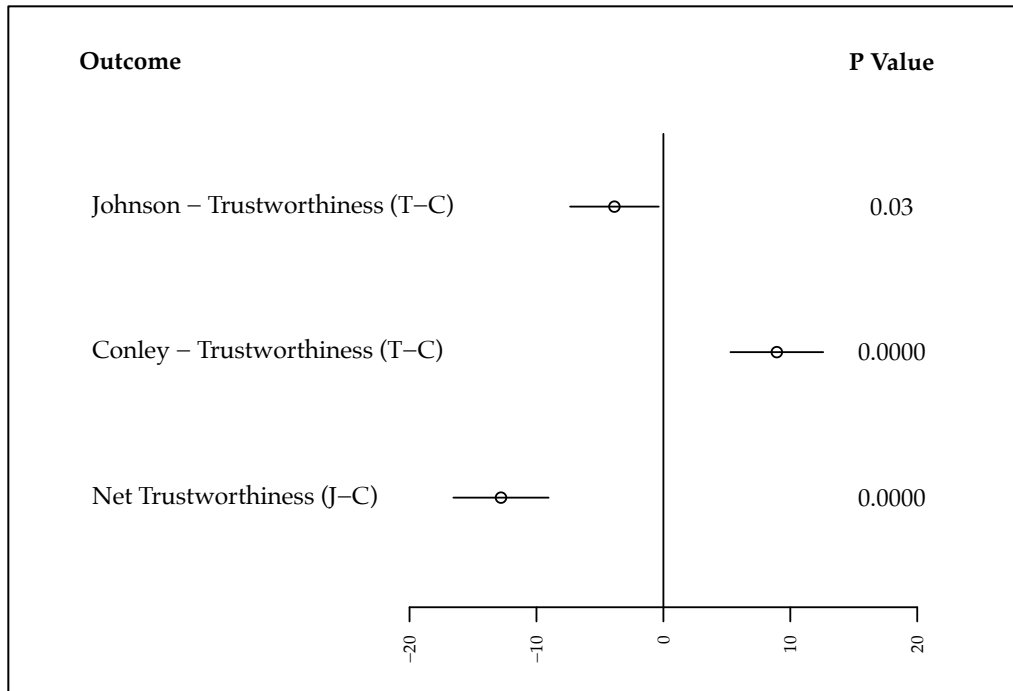


Figure 6. This figure presents the differences in the mean trustworthiness evaluations among the treatment group, minus the mean trustworthiness evaluations among the control group, for Johnson (top row) and Conley (middle row). The net effect is presented in the bottom two row. That quantity is the effect for Conley (Treatment group trustworthiness - Control group trustworthiness) subtracted from the effect for Johnson. The vertical line is at 0, where the estimates would be if respondents were not affected by seeing an evaluation of the candidates' campaign finance information. The horizontal axis measures percentage points. As before, the open circles show the estimate, which is measured as the difference in means between the control and treatment groups. P-values reported are for a two-sided t-test. The black lines show a 95% confidence interval around the estimate. All findings are statistically significant.

Clearly, trust is implicated in the favorability shifts we observe when including information about campaign finance transparency. But whereas in the favorability and voting context, the negative effects outweighed the positive effects, when evaluating trust, the positive rewards to transparency outweigh the lack of trust generated by lack of transparency. While more research would be needed to know why the trust effects were larger for Conley than Johnson, it could be a result of respondent sophistication. Presented with a supporting group using anonymous donors, respondents were willing to rate Johnson less favorably and report that they would be less willing to vote for her. But their impression of Johnson's (personal) trustworthiness is different. Voters may have been able to disentangle Johnson's personal trustworthiness from the general decline in favorability toward her as a candidate who receives support from "dark money" groups.

The rewards to Conley tell the opposite story. Whereas she only received a 3.9-4.6 percentage point boost in favorability and vote choice from her transparency score, respondents in the treatment group found her to be 8.9 percentage points more trustworthy if they learned that she over-disclosed. The trust effect was more than double

the favorability and voting effect. The trust boost from over-disclosure is interesting, and it echoes results found in the medical context. Disclosures of potential bias in the medical context lead patients to trust doctors who reveal their bias more than those who do not reveal their bias (Sah, et al. 2016).

In sum, the results suggest that voluntary campaign finance disclosure enhances voter perception of candidate trustworthiness, and failure to voluntarily disclose reduces the perception of candidate trustworthiness. The asymmetry in gaining a large amount of trust for transparency but losing only some trust for a lack of transparency could relate to a broader behavioral impulse. Or it could be explained by respondent sophistication in understanding that the lack of transparency is actually on the part of the supportive group, not Johnson herself. Respondents might not have thought that a group's lack of transparency implicated Johnson's trustworthiness, but that it raised enough questions about her policy preferences that they found her less favorable and were less willing to vote for her for other reasons.

4.3 LIBERALS VS. CONSERVATIVES, OR EXTREMISTS VS. MODERATES?

Can we identify particular characteristics of respondents that might drive the results? Scholars have argued that liberal voters are most likely to support and demand transparency (Piotrowski & Van Ryzin 2007; Marguardt 2013), and members of the media make the same assumption (*see, e.g.*, Faturechi 2016). Here, I present exploratory subgroup analysis based on respondent ideology.²³

Figure 7 shows the same measures used in Figures 5 and 6, by political ideology. The Figure is presented in two columns, Johnson (left) and Conley (right), and three rows, one for each of the outcomes measured. The average of responses in the control condition is shown with open symbols, a triangle for Johnson, and a point for Conley. The average response among treatment condition respondents is shown with a solid version of the symbol. Ideology is presented on the horizontal axis, and it is measured with 1 = extremely liberal, 4 = middle of the road, and 7 = extremely conservative. The average evaluation from each group is on the vertical axis. The arrows in Figure 7 are drawn from the mean response in the control group to the mean response in the treatment group. The U-shape of responses for Johnson in the Figure is striking. Ideologically extreme respondents gave higher evaluations to Johnson than their more moderate counterparts. "Middle of the road" respondents gave the lowest evaluations among control group respondents and often among treatment group respondents as well.

When we examine punishment of Johnson – as the size of the difference between control and treatment favorability, vote choice, and trustworthiness evaluations – the liberal vs. conservative difference predicted by existing scholarship is not apparent. But interestingly, what is apparent is that the extreme respondents punished Johnson more than their more moderate counterparts did – the arrow length is longer for "extremely liberal" or "extremely conservative" respondents.

When it comes to rewarding Conley's transparency, the patterns are murkier. *In general*, left-leaning respondents were more rewarding of transparency than right-leaning respondents. The arrows are longer among respondents in the 2-3 ideological range than in

²³ I note again that I was unable to file a pre-analysis plan for this experiment. This is the only subgroup exploration I have conducted, and it's the only subgroup exploration I intended to do from the outset.

the 5-6 range. Yet politically extreme respondents still behave differently than moderates, and again, extreme conservatives and extreme liberals appear more similar to each other than to their co-partisans. They did not reward Conley for her transparency – they punished her on all three measures.

A full explanation of this behavior will require follow up studies. For now, a few things could be true. First, people on the extreme ends of the ideological spectrum react strongly when an ideologically aligned candidate receives dark money support. But they rate ideologically aligned candidates more highly in both control and treatment groups. Their ratings of Johnson across conditions, and across the matter under evaluation, are higher than those of their more moderate fellow respondents. Perhaps as evidence of policy's primacy among extreme respondents, they refused to credit Conley for her transparency, even using it against her. Second, it seems that both left and right leaning voters are willing to punish the use of "dark money". Finally, right leaning voters seem less impressed with transparency than left-leaning voters. Conley's transparency does not improve her favorability estimates as much among conservatives as among liberals. They view her transparency favorably, but the effect is more muted than the effect among their left-leaning counterparts. All in all, there does seem to be an ideological effect, but it cuts two ways, and policy extremity seems to be an important part of the story.

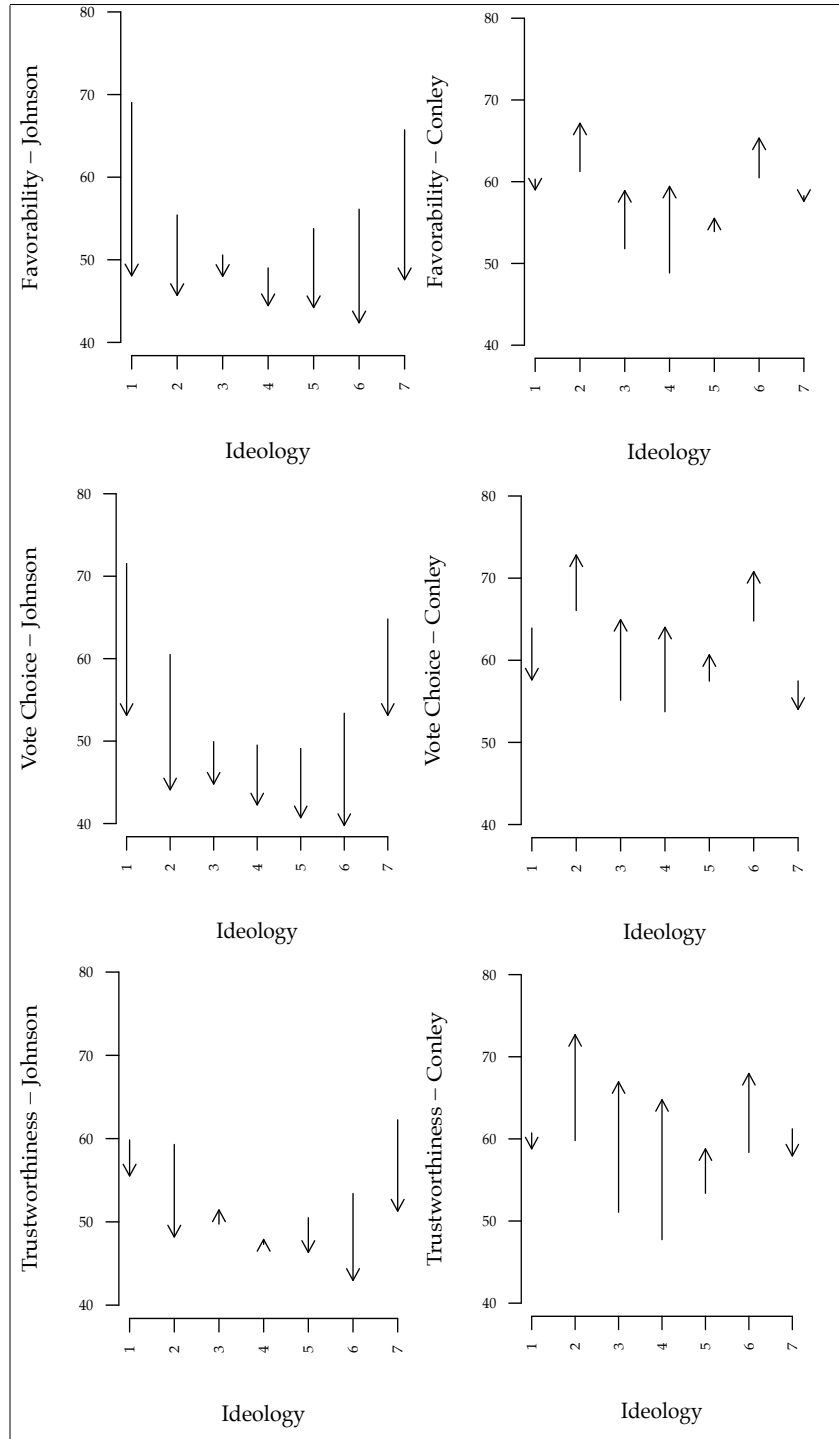


Figure 7: Average treatment and control group evaluations on favorability (top row), vote choice (center row) and trustworthiness (bottom row), for Johnson (left column) and Conley (right column). Group responses are shown by ideology from 1 = very liberal to 7 = very conservative, with 4 being “middle of the road”. Control group evaluations are presented as the tail of the arrows. Treatment group evaluations are presented as the heads of the arrows.

4.4 STRENGTHS AND LIMITATIONS

As with any experiment, this one contains design tradeoffs. Future researchers might make different design choices. First, the treatment text is sparse to keep the length of the vignettes as similar as possible while still including the treatment manipulation. The vignette contains carefully selected details. First, in the vignette, no one has violated disclosure rules. The vignette is set up to offer voters a chance to punish a candidate (Johnson) for a choice that is neither made by the candidate nor illegal. Candidates cannot control anything about the outside organizations that choose to support them or attack their opponents. The Federal Election Campaign Act and related FEC regulations prohibit candidates from coordinating with supportive outside groups after announcing candidacies (2 U.S.C. § 431 (1972), *amended by* Pub. L. No. 93-443, 88 Stat. 1289 (1974), implemented in 11 CFR 109.21 – 109.23). The actions of an outside organization should have, at most, a tenuous connection to the candidate in the eyes of the voter – indeed, the lack of coordination between the candidate and outside organization underlie the main holdings of *SpeechNow* and *Citizens United*. Any punishment of Johnson is a result of voters ignoring (or being ignorant of) the “wall” prohibiting coordination to punish the candidate for receiving support from a group that is choosing, in a voluntary disclosure regime, not to disclose. There is no evidence presented that Johnson attempted to illegally coordinate with the outside group.

Second, Conley has *over complied* with disclosure requirements by voluntarily disclosing. In reality, some kinds of voluntary disclosure are more helpful than others. For example, if Conley discloses the names of all donors, not just those above the reporting threshold, some scholars might argue that she is not increasing voter competence because information about small-time donors is of low informational value (Cain 2010; Hasen 2010). On the other hand, if Conley is investing “costly effort” into disclosure, maintaining records of all donations and disclosing the identity of each donor may tell the voter about the candidate’s commitment to transparency.

Even those who disagree that disclosure of small donors is useful might be able to imagine ways that candidates might over comply, in the sense that they release information they are not required to release, in a way that increases voter competence. For example, a candidate might include a geo-coded “heat map” of zip codes in her district or state, color coded by the number of contributions she has received from each zip code, regardless of amount. Voters would understand whether people in their area were contributing and whether the candidate attracted both urban and rural supporters, which could help inform the voter’s choice. If support is wide enough, the candidate might stand to gain from using contribution information in this way, despite not being required to provide it herself, beyond reporting addresses to the election regulator for contributors whose aggregate contributions have exceeded a certain amount. Finally, voters might reward this level of transparency when C is competing with a less transparent but ideologically similar candidate.

Voter preferences over campaign finance transparency may be stable over time, or they may change. We have so little data that it is hard to know. The current administration has made several moves to reduce transparency, such as refusing to release White House visitor logs (then reluctantly agreeing to release partial logs), increasing the number of daily briefings that are off-camera, and not releasing Presidential tax returns. All of these issues have made it into the media. Furthermore, campaign finance is in the news lately

with the allegations that the Trump campaign and Russia may have coordinated to oppose the candidacy of Hillary Rodham Clinton. Because transparency and campaign finance are much more in the news now, compared to the time the survey was fielded in 2015, the results I find here could under-estimate the effect we might observe if the same survey and experiment were run today.

5. IMPLICATIONS

5.1 FOR COURTS

Almost none of the Court's assumptions about the costs and benefits of disclosure in *Buckley* have undergone thorough empirical analysis. The jurisprudence has not changed in 40 years, but social science progress on the question has been also been slow. The survey results indicate the voters value the amount of information campaigns provide over other indicia of candidate strength, such as the size of the war chest. Moreover, voters value campaign finance information almost as much as a candidate's ability to be persuasive in public. The experimental results suggest that a form of "meta" information about candidate and group disclosure changes voter behavior in a way that improves voter competence.²⁴

We have much more to learn about the informational benefits of disclosure. For now, these results suggest that voters care enough about accessing campaign finance information to change their votes over it.

5.2 FOR CAMPAIGNS AND GROUPS THAT MAKE INDEPENDENT EXPENDITURES

The survey and experimental results suggest that campaigns and so-called "outside groups" stand to gain from (1) pointing out when the opposing side is supported by dark-money groups, (2) requesting that any groups who want to support their side disclose at least some information about their donors, (3) over-complying with disclosure requirements where they can meaningfully inform voters about their sources of support.²⁵

The largest benefit is mobilizing voter sentiment against an opponent supported by dark money. As for over-complying, the experiment did not compare particular approaches to over-compliance with disclosure regulations, but any move that enables a side to credibly claim that they are more transparent than the law requires could result in an electoral boost. Geo-coding donations by neighborhood, as described above, might be a particularly useful and informative way to over-comply. For 501c groups, disclosing above a certain threshold can help the candidate the group supports. A press release aimed at organizations like the Center for Responsive Politics (OpenSecrets.org) could help campaigns and groups capitalize on the effects seen here.

²⁴ I did not ask respondent preferences about candidate transparency before running the experiment, so as not to prime them, which means I am strictly not sure whether they are voting more in line with their interests. I am unaware of a theory that more information *hurts* voter competence, so it seems highly likely that they were better able to vote in line with their preferences.

²⁵ Groups may have good reasons to organize as a 501(c)4 rather than a 527, PAC, or SuperPAC. The 501(c)4 groups can conduct any "social welfare" activity, and in some years they may not engage political campaigning at all. The other organizational forms are campaign focused.

5.3 FOR LAWMAKERS AND REGULATORS

The experimental manipulation here was based on voluntary disclosure. Supporters of one candidate chose not to voluntarily disclose, and supporters of the other candidate – as well as the candidate herself – chose to voluntarily disclose more information than the law requires. These effects can occur without further action on the part of lawmakers and regulators.

Nevertheless, the survey results reveal that campaign finance disclosure is popular, and most voters seek the information at least some of the time. Lawmakers looking to score points with their constituents could do so by introducing more disclosure into the existing framework. Moreover, despite the fact that disclosure is becoming a polarizing issue among political elites, the subgroup analysis in Section 4 indicates that disclosure is not a particularly partisan issue for voters.

As for designing an optimal framework, policymakers must consider the two types of information maximized by mandatory and voluntary disclosure regimes. Mandatory disclosure is thought to increase the information about the policies that candidates will favor once in office. But where policymakers and the court leave room for voluntary disclosure, the results from this experiment suggest that voters learn about transparency and trustworthiness of candidates and the groups that support them.

If reformers err too much on the side of voluntary disclosure, voters will receive a suboptimal amount of information about policy. Despite the experimental findings here, dark money groups are balancing more considerations that “merely” gaining valence benefits for the candidates – namely, many of their donors have chosen to give to a 501c rather than a SuperPAC or other disclosable avenue precisely so that they can remain anonymous. A purely voluntary disclosure regime will under-provide campaign finance information, because many dark money groups will continue to choose not to disclose. If reformers instead err too much on the side of mandatory disclosure, voters will miss out on information about trustworthiness and transparency that comes when candidates and groups voluntarily disclose more than the law requires.

Arguments for changing our disclosure regime have centered on disclosure thresholds, the type of donor information collected and disclosed, forcing mandatory disclosure on 501(c)4 groups, and online advertising. The tradeoffs faced by policymakers for each of these four areas of disclosure are worth a brief discussion.

Modifying disclosure thresholds. Disclosure thresholds vary across jurisdictions. Some states require disclosure of all contributions, and others have thresholds higher than the threshold for federal candidates (\$200). Some lawyers and scholars argue that disclosure thresholds should be raised, meaning that more campaign financing would be subject only to voluntary disclosure (Cain 2010, Beckel 2011), while at least one disclosure scoring group rewards thresholds below \$200 (Center for Public Integrity & Global Integrity 2015). In a world in which individuals can give over \$300,000 to “joint victory funds” and unlimited amounts to SuperPACs, the identity of donors of \$200 probably does add much information to the voter’s information about policies the candidate is likely to pursue once in office. Raising the threshold would also allow more “space” for candidates to voluntarily disclose.

By how much could reformers raise the thresholds? Voluntary disclosure of small donors might not have salutary benefits for voters' perceptions of the transparency or trustworthiness of a candidate.²⁶ Suppose reformers raised threshold modestly, say to \$500. Voters may not reward voluntary disclosure of donors between some smaller amount and the new threshold. Relatively speaking, \$500 is still not much money in our world of big-money politics. Suppose now that policymakers raise mandatory disclosure thresholds by a lot, say, to the federal contribution limit of \$2,700. Candidates and groups choosing to disclose fairly large donors, such as all donors above \$1000 or \$2000, might reap transparency and trustworthiness benefits. Future researchers – and the campaigns themselves – can estimate where the valence benefits kick in. In general, it seems that a modest raise of disclosure thresholds would not do much to affect the mix of information available to the voters, but a larger change in disclosure thresholds could.

Modifying the Type of Donor Information that is Collected or Disclosed. Policymakers may consider changing the donor information gathered and reported by candidates in order to optimize the informational tradeoffs. The FEC currently releases contributor name, city, state, zip code, principal place of business, occupation, date of each contribution, and amount contributed each time. All of this information can be informative with regards to the policies that a donor might support.

For example, a contributor's city and state can help indicate the policies that the candidate's supporter's favor. Consider two California contributors. A contributor from Los Angeles and a contributor from San Diego, despite living only 120 miles apart, probably have different policy concerns. The Angeleno lives in a city culturally dominated by the entertainment industry but also deeply involved in international trade and petroleum. The San Diego donor, on the other hand, lives on the Mexican border and near several U.S. military installations. Zip codes within large cities like these can help voters to refine their estimates of donor policy preferences even more closely. The geographic location of a donor, even just city and state, can help voters know more about the policy pressures a candidate will face.

Donors and voters alike want to protect their economic interests, which includes their jobs. Disclosing the sector in which a donor is employed is useful for predicting future policy responsiveness of an elected official supported by donors from that sector.²⁷ Similarly, a donor's general occupation is useful for predicting policy positions. Consider the healthcare sector. Within the sector, or even within one hospital, if nurses support a candidate but hospital management does not, voters can learn about pressures the candidate may face with regards to labor issues.

Similarly, the date of the contribution provides useful information, insofar as it can help voters (and campaigns) to understand which policy speeches and news stories

²⁶ Contributors may feel "protected" from disclosure when they give below a mandatory threshold, and they may feel unfairly "exposed" if the candidate or group discloses their identity when the law does not require it. This happens more often than one might expect: in state-level races between 2000 and 2008, 17% of all contributions that candidates and campaigns reported were below the state's mandatory threshold. Giving below the threshold is not a safe harbor from being identified (Wood & Spencer 2016).

²⁷ Of course, there are corruption-based reasons for wanting to know the more fine-grained information of the employer, so that the public can hold elected officials accountable for working to benefit donors vs. non-donors.

contributors are reacting to. Famously, the Obama campaign raised \$10 million in the 24 hours following Sarah Palin's speech at the 2008 Republican National Convention. Her speech included policy mentions of energy, state budget surpluses, taxes, and manufacturing. Policy information in the campaign is revealed not only by geography (city, state, zip) and sector, but also over time.²⁸

For any one individual donation, public disclosure of the donor's name is probably the least informative piece of information available to voters. However, name is probably the most important piece of donor information for predicting the ideologies and roll call votes of candidates across time. Donor name is the main piece of information that can reliably link contributions over time. Donor ideology can be estimated with some precision. Adam Bonica has used repeat donations at to state and federal candidates to do exactly that (Bonica 2014). And in turn, donor ideologies, when aggregated within candidates, can be used to estimate the ideology of members of Congress (Bonica, forthcoming). The same effect could be achieved by replacing the donor's name with a donor ID number, so that the donor's name does not become public (Elmendorf & Wood, 2017). That said, there is probably a threshold above which a contributor plays such an outsized role in a campaign or group expenditure that voters need to know the identity of the contributor. Changing a name like "Sheldon Adelson" or "George Soros" to an ID number would represent a real loss of information, about policy pressures on and preferences of candidates.

Should policymakers make any of this disclosure voluntary, rather than mandatory? The two most sensitive items disclosed are contributor name and place of employment/occupation. Replacing name with an ID number would still allow the ideology-predicting benefits of linked donations over time, so that experts could still provide estimates of candidate ideology. There could be some informational losses to people searching the contributions of respected friends, neighbors, or leaders, in making their voting decisions, but to my knowledge it has not been studied. On net, the informational losses about candidate policy pressures that would result from replacing names with ID numbers seem small, at least below a certain "mega donor" threshold. Candidates might be able to gain valence benefits by voluntarily disclosing the names of donors above a certain (very high) threshold, especially in states with no contribution limits. But at the federal level, it is unlikely that many candidates would choose to do so. The system is hydraulic (Issacharoff & Karlan 1999): especially during the primary season, savvy large contributors might choose to give to candidates with similar ideologies who will protect their identities by using only ID numbers to report contributions.

The public disclosure of place of employment and occupation provides voters with policy information for the reasons described above. Were these data no longer required, voters might appreciate seeing them, especially in the aggregate (either counts of amounts contributed by certain groups, for example). Such voluntary disclosure could promote perceptions of trustworthiness and transparency. Policymakers might also choose to continue to require the information but de-link the information about employment and occupation from the identity of the individual making the contribution when posting it online. De-linking occupation and employment information from individual identifying information would only marginally reduce voter information about policy – it rarely

²⁸ The biggest beneficiary of such information is probably the candidate, as Elmendorf & Wood (2017) argues.

matters that Person X in Job Y in Company Z donated. It might matter that Person X gave (especially if the person is a mega donor), and it does matter that people doing Job Y like the candidate and that people at Company Z are contributing.

Forcing mandatory disclosure on donors 501(c) groups

What are the informational tradeoffs faced by policymakers considering mandatory disclosure for 501(c) groups? In federal campaigns, disclosure by these groups is currently entirely voluntary as long as they are not running political ads 30 days before a primary or 60 days before a general election. As this experiment shows, respondents changed their votes based on knowledge that outside groups supporting a candidate disclose more than the law requires, evaluating the candidates supported by these voluntarily-disclosing groups as more trustworthy. Most politically active 501(c)4 groups do not voluntarily disclose their donors.

If policymakers were to require disclosure of at least some donors (especially large donors) to 501(c)4 or 501(c)6 groups, would voters gain policy-relevant information? On net, they would. While the political leanings of the most active groups are already strongly identified with policy positions or ideologies (consider NRA Institute for Legislative Action and US Chamber of Commerce), other groups have names that are not identified with a particular ideology or policy platform (Torres-Spelliscy 2011). Consider “American Action Network”, “One Nation”, “iAmerica Action” and “America Next”, which spent millions in the 2016 elections, and whose names do not indicate their political leanings. The public does not know who supports these groups, whether corporations, individuals, or other organizations.

If disclosure rules change, anonymity-seeking donors might still find nondisclosure within the organization due to the nature of 501(c)4 and 501(c)6 organizations. The organizations can engage in social welfare and policy work outside of election season.²⁹ Requiring mandatory disclosure of the donors whose money goes to support campaign-related activities can therefore create the incentive of 501(c)4 groups to segregate their donors into “disclosable” and “non-disclosable” donors. Money from non-disclosable donors could go to overhead or social-welfare improving activities that are not campaign related. Money from disclosable donors could go to campaign-related activities. The donation form can simply ask contributors whether they are comfortable with their donation being made public. Corporations, in particular, might opt for “nondisclosable” status.

In sum, the hydraulics of campaign finance mean that forcing mandatory disclosure on these “dark money” groups might result in incomplete donor information, because donors who seek anonymity can still have it. The donor information that is revealed is likely to be the least “objectionable” set of donors, from a public opinion perspective – perhaps from the most politically moderate subset of the organization’s donors. Putting aside the ban on coordination between candidates and groups, partial disclosure would provide a skewed estimate of the policy pressures on the candidate as a result of expenditures made by the group.

The policy information gained by increased disclosure must be weighed against the trustworthiness benefits lost by mandating disclosure. The amount of transparency

²⁹ That is why Our Revolution organized under this organizational form, rather than a PAC, in the first place.

information we would sacrifice with more disclosure depends on where the mandatory threshold is set. If policymakers require disclosure of only large donations, say above \$10,000, disclosure-friendly groups could continue to voluntarily disclose below the threshold and voters and the voluntarily disclosing groups will benefit accordingly.

Forcing mandatory disclosure on all online advertising

There are two ways in which online advertising lacks disclaimers. First, the small ads that appear next to search results or on Facebook page are exempt from federal disclaimer requirements under the “small items” exemption for ads so small that including a disclaimer on them is impractical. Second, the FEC exempts from disclaimers any advertising placed “for a fee on another’s website”. This second exemption turns political communication on the Internet into the “wild west” (Persily, 2016).

Plenty of ads supporting or opposing candidates are placed for free and do not require disclosure. Consider ads (or even “fake news”) uploaded to a candidate or group’s webpage, or social media profile, or to YouTube. If those ads go viral, their message reaches a lot of people. If they lack disclaimers, they circulate with no transparency attached. In the 2016 election, most online *video* advertising seemed to be from campaigns and groups posting ads they had made for TV, and most seemed to include the disclaimers that were required for television. In other words, most online video advertising had at least some voluntary disclosure attached, by default. We should not expect this to last – online advertising is always evolving, even in political campaigns.

Especially in the case of fake news, a lack of disclaimers will leave voters unable to evaluate the underlying policy leanings of the candidates who are the beneficiaries of the messages, much less the veracity of the message or even the nationality of the speaker. The imbalance between the amount of political messaging subject to disclosure online (very little) and the amount not subject to disclosure (almost all) is stark. More mandatory disclosure on the Internet is a democratic necessity.

Lawmakers and regulators could start with easy-to-implement reforms, like Minnesota, Maine, and other states have done. Require that the “landing page” of small online ads disclose the identity of the group running the ad (at a minimum). Require a disclaimer at the end of all online video ads, whether placed for a fee or for free. All of this would improve the amount of policy-relevant information that voters receive about the groups running the ads and the candidates benefiting from them.

In the meantime, can voters learn about candidate and group trustworthiness from voluntary disclaimers online? In theory, yes, they can. However, voluntary disclosure is only effective where audits are available, and it is impossible to audit the entire universe of online advertising. Suppose a group called “AmericaPAC” runs an ad, with a voluntary disclaimer, on its own YouTube channel. The fact of the voluntary disclaimer should work to the groups, and the benefitting candidate’s, advantage. But no audit could ever confirm that the group is not also running other, disclaimer-free, ads from anonymous YouTube channels. Therefore, audit reports of group online activity should use careful language to specify that of the material reviewed by the auditors, all of it contained more disclosure than the law requires. Trustworthiness benefits should be moderated, as a result.

5.4 FOR FUTURE RESEARCHERS

These results suggest that, in a voluntary disclosure regime, voters will punish nondisclosure and reward disclosure when they are made aware of the disclosing activities of campaigns and outside groups. The effect sizes are fairly large, but the manipulation is quite strong, and the policy information provided is abstract. The study is merely a first step, and future researchers should focus on this important and timely research question.

Future studies should explore whether voters assume coordination between outside groups and campaigns. The respondents in this study punished a candidate for the completely legal behavior of an uncoordinated group supporting her, but they were not told that the behavior of the independent groups complied with the law, nor did the prompt present details about what “support from independent groups” might mean.

Another fruitful avenue for research would be to disentangle whether respondents here are rewarding over-compliance with the law or transparency. The scores here are “transparency grades”, but Conley receives an “A” for her over-compliance with a transparency rule, in particular. What if the setting were a different voluntary compliance context, such as corporate social responsibility in her professional life?

Finally, the *Buckley* court envisions the disclosed information – donor information and amounts – as being particularly informative to voters. More researchers should tackle this question head-on. Lupia (1994) showed that knowledge of which policies industry preferred improve voter competence, but the source of the knowledge, whether endorsements, campaign finance information, or something else, was not specified. More work is needed to assist the courts in balancing the tradeoffs of campaign finance disclosure.

6. CONCLUSION

For 40 years, the Supreme Court has assumed that campaign finance disclosures can provide valuable information to voters. The assumption has rarely been tested. The survey and experiment presented here provide evidence that people care about campaign finance transparency. Respondents rewarded voluntary disclosure and punished a candidate supported by dark money groups. Information about campaign finance disclosures provided valuable information to voters, who were able to vote more competently as a result of learning it. Respondents were not provided the content of disclosures. The information they received assisted them in evaluating candidate trustworthiness, and it minimized uncertainty around policy positions.

The experiment is designed carefully to reflect our existing campaign finance regime, for which a good deal of disclosure remains voluntary. Were all disclosure mandatory, the experiment would need to be different. Where disclosure is mandatory, over-compliance is more costly and should be more rare. Under-compliance is a violation of the law in a mandatory regime. Voter reactions would likely be different if the experimental context were one of mandatory disclosure.

The survey results indicate that voters would welcome more mandatory disclosure, if Congress and the FEC were to become more open to it. The current regulatory framework suggests voter information could be optimized by making some aspects of campaign finance disclosure voluntary – perhaps by raising the mandatory disclosure threshold – and other aspects mandatory – like 501c disclosure and increasing mandatory disclosure

online. In the meantime, the results of the project suggest that the Supreme Court, in evaluating the next disclosure challenge, should take seriously the information benefits of campaign finance disclosure.

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APPENDIX

Randomly assigning respondents to treatment conditions should create conditions that are balanced on important characteristics, like partisan affiliation, age, or opinions toward various policy areas. Figure A1 presents the distribution of key characteristics across categories.

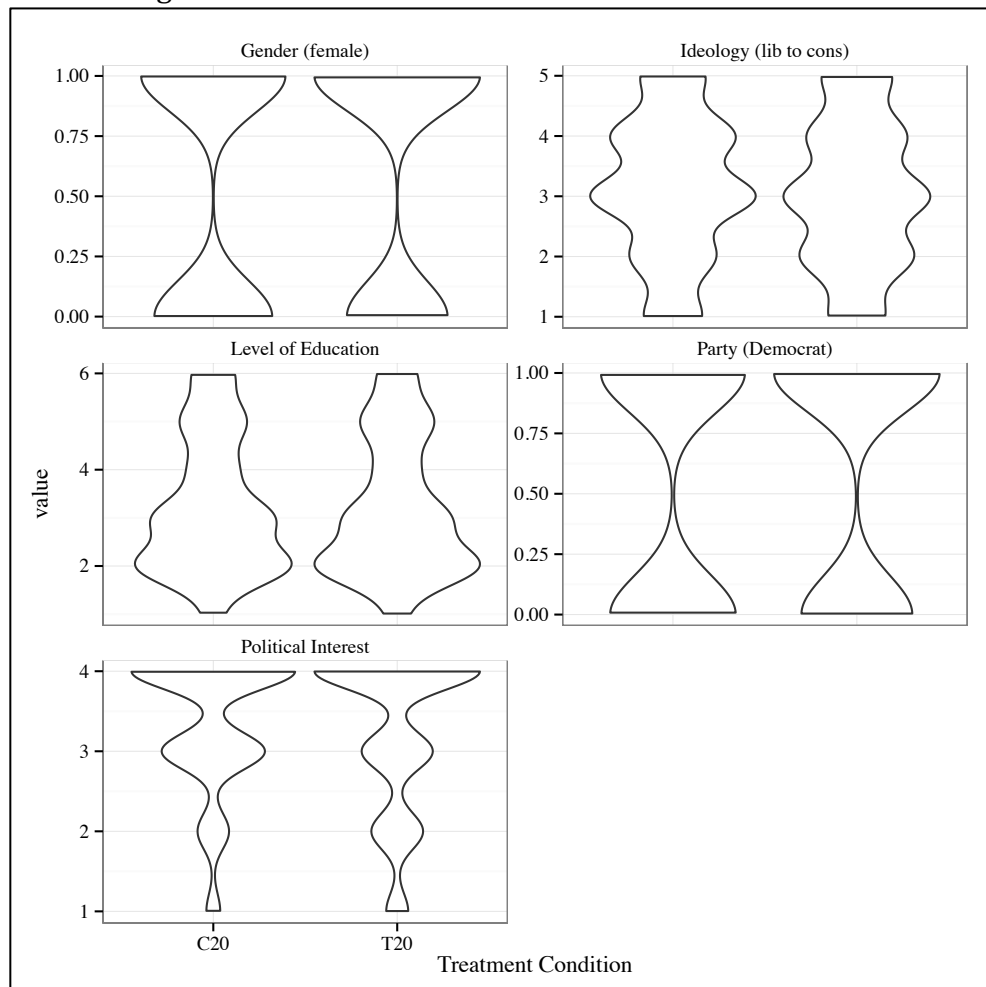


Figure A1: Distribution of respondents' answers to key survey questions on the vertical axis. Treatment condition is on the horizontal axis. C20 and T20 = respondents told that Conley was 20 points from Johnson. Violin plot displays the density of responses at each value, smoothing across levels. Gender is coded 1 for female, 0 for male. Ideology is coded 1 = "very liberal" to 5 = "very conservative". Level of education is coded from 1 = "No high school" to 6 = "Post-graduate". Party (Democrat) is coded 0 for Republicans, 1 for Democrats. Finally, Political Interest is coded for the frequency with which the respondent reads the political news and is coded 1 for "Hardly at all" to 4 for "Most of the Time". Key features of respondents that could influence their reaction to the experiment are evenly distributed among the treatment conditions by the randomization.

As is clear from Figure A1, features that could affect respondent reactions to the experiment are randomly distributed across treatment conditions. In all treatment

conditions, in almost all panels, the distribution of responses is close to identical. We can be confident that the randomization distributed potential confounding factors evenly across the treatment and control groups, such that comparisons between them will give us insight into how voters react to information about candidate campaign finance transparency. The two possible visual exceptions, political interest and ideology, are statistically identical at 0.23 and 0.25 standard deviations, respectively. They are not statistically different ($p = 0.36$ and $p=0.23$ in two-tailed t-test) (Hartman and Hidalgo 2017).

Figure A2 presents randomization checks on the T10 and C10 data.

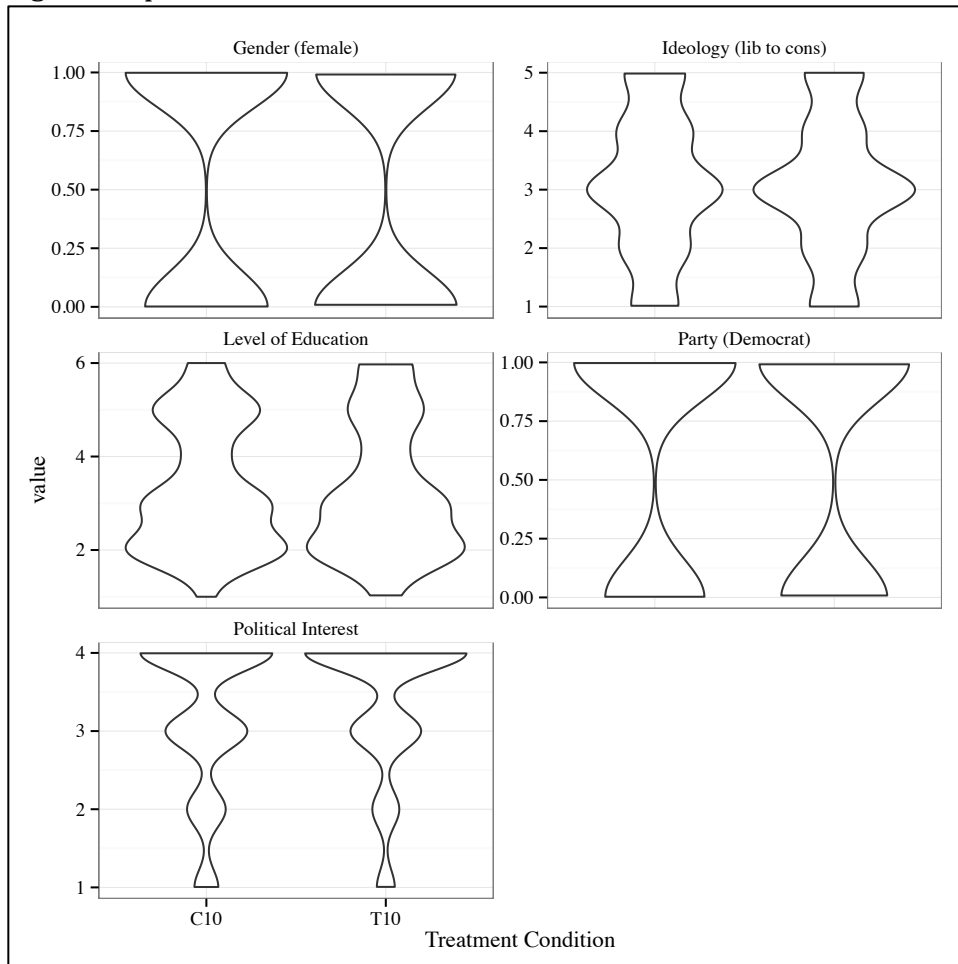


Figure A2: Distribution of respondents' answers to key survey questions on the vertical axis. Treatment condition is on the horizontal axis. C10 and T10 = respondents told that Conley was 10 points from Johnson. Violin plot displays the density of responses at each value, smoothing across levels. Gender is coded 1 for female, 0 for male. Ideology is coded 1 = "very liberal" to 5 = "very conservative". Level of education is coded from 1 = "No high school" to 6 = "Post-graduate". Party (Democrat) is coded 0 for Republicans, 1 for Democrats. Finally, Political Interest is coded for the frequency with which the respondent reads the political news and is coded 1 for "Hardly at all" to 4 for "Most of the Time". Key features of respondents that could influence their reaction to the experiment are evenly distributed among the treatment conditions by the randomization.

As in Figure A1, Figure A2 shows that features that could affect respondent reactions to the experiment are randomly distributed across treatment conditions. In all treatment conditions, in almost all panels, the distribution of responses is close to identical. We can be confident that the randomization distributed potential confounding factors evenly across the treatment and control groups, such that comparisons between them will give us insight into how voters react to information about candidate campaign finance transparency.³⁰

Figures A3 – A5 replicate the findings in Figures 7-9 in the paper for the C10 and T10 data.

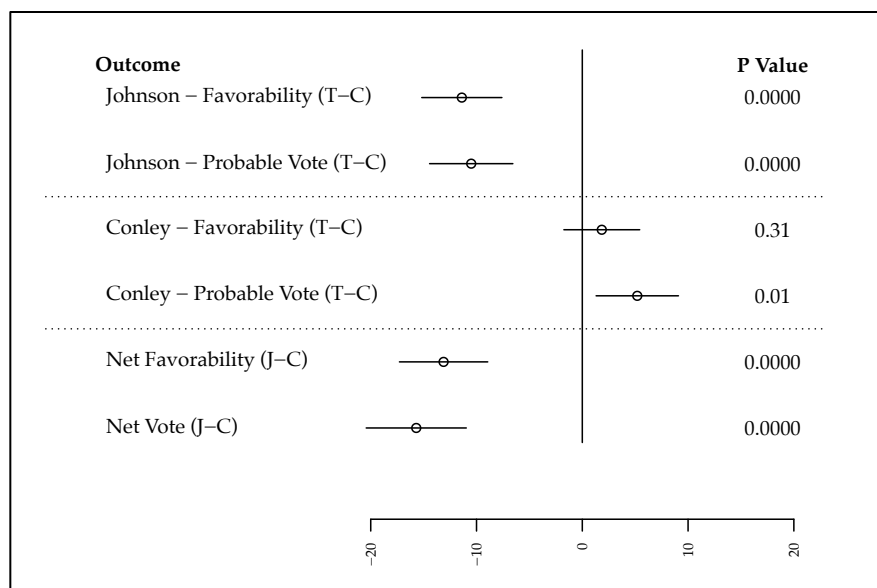


Figure A3: This figure presents the differences in the mean favorability and probable vote choice among the treatment group, minus the mean favorability and probable vote choice among the control group, for Johnson (top two rows) and Conley (middle two rows). The net effect is presented in the bottom two rows. The vertical line is at 0, where the estimates would be if respondents were not affected by seeing an evaluation of the candidates' campaign finance information. The horizontal axis measures percentage points. The open circles show the difference in means, and the p-values reported are for a two-sided t-test. The black lines show a 95% confidence interval. All findings are statistically significant (and the smaller the confidence interval, the more precise the estimate), except for Conley's favorability boost, which is not statistically distinguishable from zero.

As in the main text, I also provide the mean treatment and control values underlying the estimates. Johnson Favorability is 56.85 in control and drops to 45.46 in treatment. Johnson Probable vote is 56.25 in control and drops to 45.75 in treatment. Conley favorability is 57.00 in control and rises to 58.85 in treatment. Conley probable vote is

³⁰ The possible visual exception is ideology. Respondent ideologies in C10 and T10 are statistically identical at 0.19 standard deviations. They are not statistically different ($p = 0.64$ in two-tailed t-test) (Hartman and Hidalgo 2017).

57.55 in control and rises to 62.75 in treatment. The net favorability is -0.67 in control and -13.79 in treatment. Net vote is -1.3 in control and -17.00 in treatment.

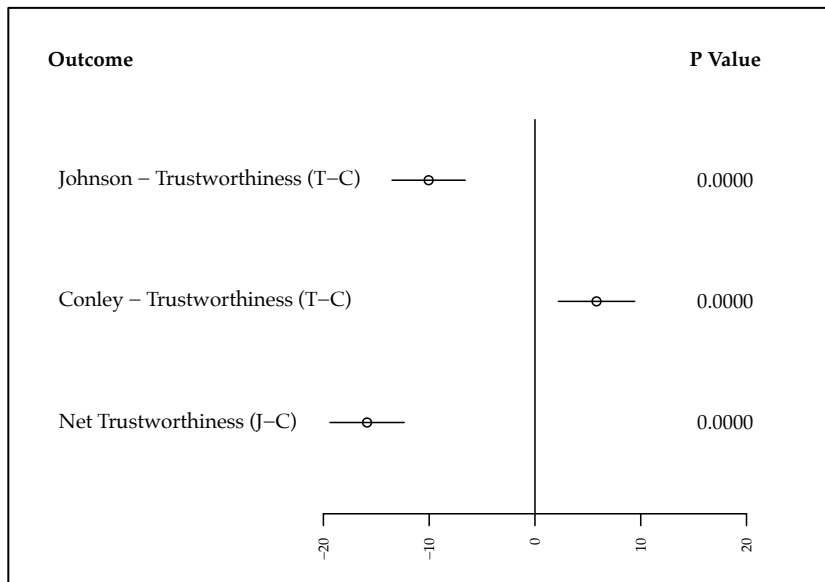


Figure A4: This figure presents the differences in the mean trustworthiness evaluations among the treatment group, minus the mean trustworthiness evaluations among the control group, for Johnson (top row) and Conley (middle row). The net effect is presented in the bottom two row. That quantity is the effect for Conley (Treatment group trustworthiness - Control group trustworthiness) subtracted from the effect for Johnson. The vertical line is at 0, where the estimates would be if respondents were not affected by seeing an evaluation of the candidates' campaign finance information. The horizontal axis measures percentage points. As before, the open circles show the estimate, which is measured as the difference in means between the control and treatment groups. P-values reported are for a two-sided t-test. The black lines show a 95% confidence interval around the estimate. All findings are statistically significant, and the smaller the confidence interval, the more precise the estimate.

As in the main text, I also provide the mean treatment and control values underlying the estimates. Johnson Trustworthiness is 56.52 in control and drops to 46.47 in treatment. Conley Trustworthiness is 56.5 in control, rising to 62.34 in treatment. Net trust is 0.004 in control, dropping to -15.87 in treatment.

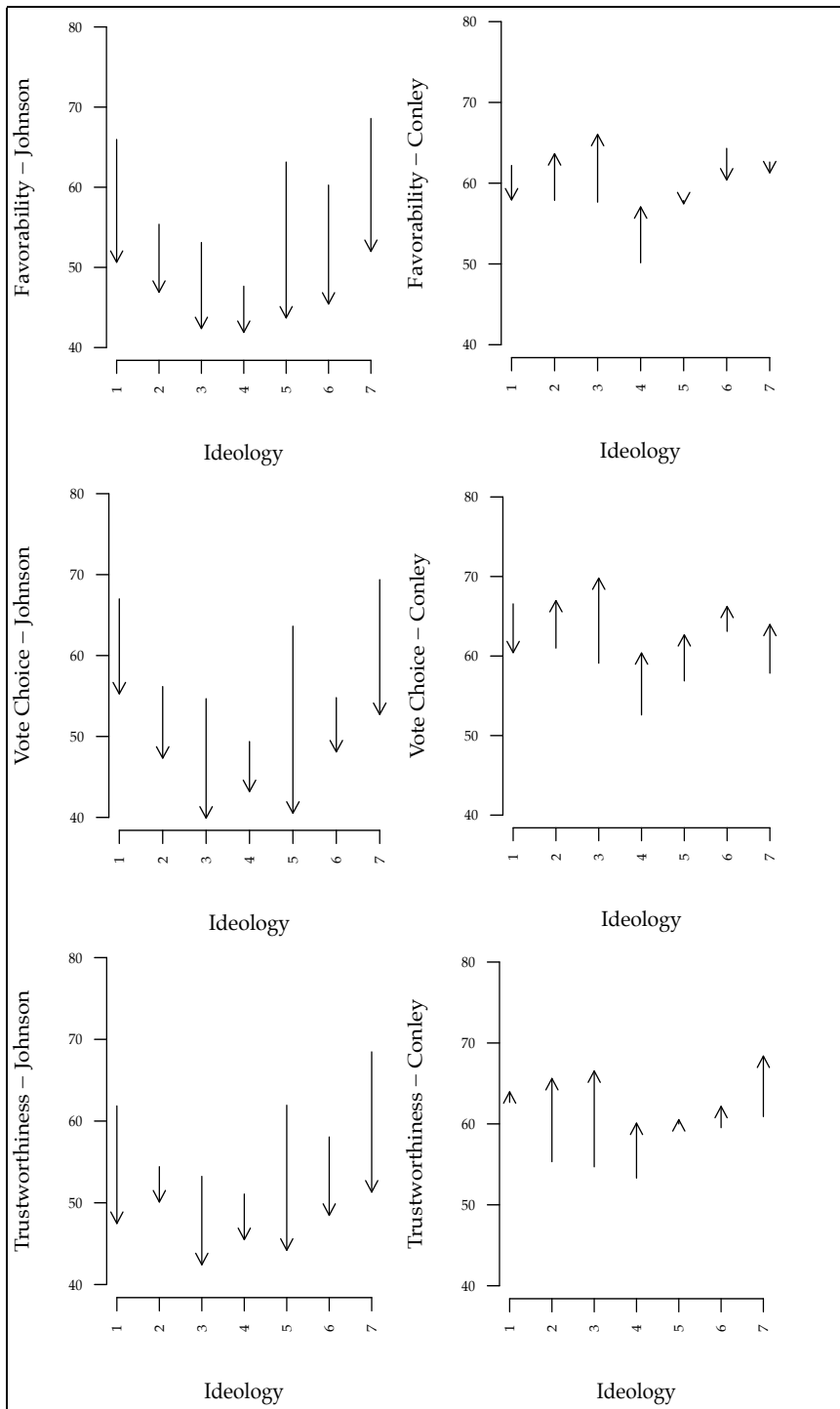


Figure A5: Average treatment and control group evaluations on favorability (top row), vote choice (center row) and trustworthiness (bottom row), for Johnson (left column) and Conley (right column). Group responses are shown by ideology from 1 = very liberal to 7 = very conservative, with 4 being “middle of the road”. Control group evaluations are presented as the tail of the arrows. Treatment group evaluations are presented as the heads of the arrows.