

COULD YOU SPARE A DIME? BETTER MAKE IT \$10,000: CONTRIBUTIONS TO THE CLINTON LEGAL EXPENSE TRUST

Israel Waismel-Manor and Shelley Conroy

ABSTRACT

For all of the concern over the role of money in American politics, President Clinton's Legal Expense Trust, created to ease the burden of the President's legal expenses, has not only gone unregulated (its contribution limits and disclosure rules were self imposed) but also uninvestigated. Using original survey data this article seeks to answer three questions. Who are the donors to Clinton's Trust? Why did they make a contribution? And what determines the amount they contributed to the Trust? The final section of the article explores the possible consequences of this loophole and suggests some possible remedies.

INTRODUCTION

Long before the public learned about Kenneth Starr and Monica Lewinsky, scholars have warned us of the rise of "politics by other means."¹⁴¹ In a balkanized political arena, where parties are weak, and the electorate is somewhat indifferent, political actors resort to all means at their disposal, especially the media, the bureaucracy, and the courts to triumph over their opponents. Ever since Watergate, the use of the criminal justice system as a political weapon against one's opponent has been on the rise. In 1982, there were 158 indictments and 147 convictions of federal officials. By 2001, that number had climbed to 502 and 414 respectively.¹⁴² Most Americans have come to accept the fact that federal investigations and civil lawsuits are a part of the political scene.

¹⁴¹ Benjamin Ginsberg and Martin Shefter. *Politics By Other Means: Politicians, Prosecutors, and the Press from Watergate to Whitewater*, 2nd Ed. (New York: W. W. Norton & Company, 1999).

¹⁴² U.S. Department of Justice, Criminal Division, Public Integrity Section. "Report to Congress on the Activities and Operations of the Public Integrity Section for 2001." Table II. <www.usdoj.gov/criminal/pin/Annual_Report_2001.pdf> accessed May 21, 2003.

To ease the burden of these legal expenses many politicians under investigation have recently created defense funds, and asked their supporters to open their hearts and wallets.¹⁴³ Politicians from Senators Orrin Hatch and Robert Torricelli to House majority Whip Tom DeLay started one, yet no fund has gotten more exposure or money than the Clinton Legal Expense Trust.

While there is an extensive literature addressing campaign contributions, little research has been done about these unique donations. For all of the concern over the role of money in American politics, this avenue of potential influence over the president is not only unregulated but also uninvestigated. This paper addresses the latter. In doing so, it analyzes an increasingly important form of political contribution.

We start with a descriptive account of Clinton's legal odyssey, from his early days as Arkansas' Attorney General, to his impeachment trial. In the second section we tell the story of the President's two Trusts. Using an original survey of contributors to Clinton's Legal Expense Trust, we attempt to answer, in the third section, who are these donors? Why did they give money to the President? And, what determined the amount they contributed to the Trust?

In *Politics by Other Means*, Benjamin Ginsberg and Martin Shefter lament the price American democracy pays for its recent modus operandi. We, however, lament the price the president and other politicians have to pay, literally, to fight these legal battles. Our concern is not with their finances but with the things desperate politicians may do to battle those bills, and especially with public sentiment towards these contributions. The final section of the paper explores the consequences of this loophole and suggests some possible remedies.

PRESIDENT CLINTON'S LEGAL BATTLES¹⁴⁴

President Bill Clinton's legal odyssey goes back to his time as Arkansas' Attorney General. In 1978, together with his wife Hillary, and business partners James and Susan McDougal, Clinton borrowed \$200,000 from Madison Guaranty, a small savings and loan bank, to create the Whitewater Development Corp, a real estate investment. Soon after the Bank collapsed in 1989, following a series of fraudulent loans, accusations of impropriety emerged, naming the Clintons as potential beneficiaries of the illegal activities at Madison. When Vincent Foster, former law partner of Mrs. Clinton and now deputy White House counsel committed suicide in 1993, just a month after he filed delinquent Whitewater corporate tax returns, many observers suspected foul play.

In January of 1994 former U.S. attorney Robert B. Fiske Jr. was appointed special counsel to investigate the Clintons' activities in the Whitewater investment. In August, when it was time to renew Fiske's powers, Republicans charged him as being too soft; he was replaced by former U.S. solicitor, Kenneth Starr. Starr's investigation expanded to other events such as the firing of White House travel office clerks (Travelgate), and the collection

¹⁴³ Holly Bailey. "The Best Defense: Members of Congress and Personal Legal Funds." opensecrets.org. July 12, 2001. <www.opensecrets.org/alerts/v6/alertv6_21.asp> accessed May 23, 2003. and Ann Devroy. "Clinton Aides Setting Up Defense Funds to Pay Lawyers' Bills." *The Washington Post* February 29, 1996. A21.

¹⁴⁴ The following information chronicles the developments of the Clinton's legal struggles, and is taken from *The Washington Post Online* – "Clinton Accused - Special Report". It can be accessed online at <www.washingtonpostonline.com/wp-srv/politics/special/clinton/clinton.htm>

of hundreds of confidential FBI files on prominent Republicans by a minor White House operative in 1993 and 1994 (Filegate). While Arkansas Gov. Jim Guy Tucker (D) and the McDougals were convicted on charges of conspiracy and fraud¹⁴⁵, the President and the First Lady emerged from the investigations relatively unscathed.

President Clinton's legal problems were not limited to the Whitewater scandal. In 1994 Paula Jones filed a civil suit against the President on charges of sexual harassment and assault, three years earlier. Clinton tried to have the case dismissed on grounds of presidential immunity¹⁴⁶, but the U.S. Supreme Court unanimously dismissed the President's claims that a trial would distract him from performing his work.¹⁴⁷ The case went to trial, but a Federal District Judge dismissed it on the grounds that, regardless of the truth of Jones' accusations, she was not seriously harmed to warrant a claim.¹⁴⁸

During the final months of 1997 there had been rumors about a relationship between a young White House intern and the President. These allegations received credibility when Linda Tripp, a friend of the intern Monica Lewinsky, gave Starr tapes of conversations, in which Lewinsky discussed her affair with the President. Starr began to investigate whether Clinton encouraged Lewinsky to lie in the Jones case about the affair.

In January 1998, Clinton testified in the Jones case, and denied having sexual a relation with Lewinsky. Even after the story broke on January 21, Clinton continued to deny a "sexual relationship" with the intern, and said that he never asked her to lie. It was not until his August 17 grand jury testimony that Clinton admitted to his intimate contact with Lewinsky, and later said on television that he had an "inappropriate relationship with Miss Lewinsky."¹⁴⁹ A few months later Jones dropped her lawsuit after the President agreed to pay her \$850,000, offering no apology or admission.

Following Starr's September report to Congress, the Judiciary Committee recommended that the House of Representatives impeach the President for perjury before the grand jury, obstruction of justice, abuse of power, and perjury in the Jones case.¹⁵⁰ The House impeached Clinton for perjury before the grand jury and obstruction of justice, but he was later acquitted by the Senate.¹⁵¹ In a Rose Garden statement Clinton told the nation that he was "profoundly sorry" for his actions, and for the "great burden they have imposed on the Congress, and on the American people."¹⁵² The "great burden" his actions imposed on Congress and the American people was one thing. The burden on the President's bank account was another. There is no doubt that Clinton was "profoundly sorry" for that as well.

¹⁴⁵ Governor Tucker resigned after the verdict. As for the McDougals, they were both convicted and sentenced to prison. Susan McDougal was sentenced to two years in prison, but began her sentence in May 1998, after spending a year and a half in jail for refusing to testify before Starr's grand jury and for her obstruction of the investigation. In March of 1998 James McDougal died in prison, a few months before his expected release.

¹⁴⁶ For further discussion on presidential immunity and other aspects of Clinton's legal affairs see Fischer, Louis. "The Law: Legal Disputes in the Clinton Years." *Presidential Studies Quarterly* 29 (September 1999) 697-707.

¹⁴⁷ Clinton v. Jones 520 U.S. 681 (1997).

¹⁴⁸ Jones v. Clinton LR-C-94-290 U.S. District Court Eastern District of Arkansas Western Division (1998).

¹⁴⁹ Televised Clinton statement, August 17, 1998.

¹⁵⁰ U.S. House of Representatives, Judiciary Committee. House Report 105-830. "Impeachment of William Jefferson Clinton, President of the United States." December 5, 1998.

¹⁵¹ U.S. House of Representatives. 144 Congressional Record H 11975. 105th Congress, 2nd Session. December 19, 1998.

A REMEDY FOR LEGAL EXPENSES

By mid 1994 the real price of the First Family's legal battles caught up with them. In order to deal with his mounting legal bills, Clinton created an expense fund.

The Presidential Legal Expense Trust

With no legal regulation to guide them, Clinton's advisers pitched the idea of creating a fund to pay the cost of Clinton's legal battles. The concept itself was not new; after Nixon's resignation a fund was established to pay his legal bills, but Clinton's fund was the first set up for a president while in office. The Presidential Legal Expense Trust was established in June 1994 with the following guidelines: contributions must be from U.S. citizens other than federal employees or registered lobbyists; contributions from corporations, labor unions, partnerships, and PACs, or anonymous givers were not accepted; and individuals were limited to \$1,000 per contribution in a calendar year.¹⁵³

At first, the outlook for the President's new fund was positive. Through self-imposed contribution caps, and the selection of prominent citizens for its board of trustees (like Attorney General Nicholas Katzenbach and retired university presidents), the Trust earned the credibility it needed. From a financial perspective, things were also running well. Contributions were coming in at a satisfying pace; the fund received \$608,080 in its first six months of operation. Additionally, the President's liability insurance policies helped to pay for the expenses of Jones' sexual harassment case.

During 1995, however, the figures began falling short. Contributions to the fund started dropping quite drastically; the first half of 1995 brought in just \$258,449, and it diminished to merely \$62,000 by the second half of 1996. By 1997, the fund was not only \$2.25 million short, but also losing money; its operational bills and fundraising costs exceeded donations.

Additionally, the fund triggered a controversy of its own. Judicial Watch, a public watchdog group that deals with ethics and legal issues, brought suit against the Trust, claiming it violated the Federal Advisory Committee Act which mandates public access to groups that advise the president.¹⁵⁴ In February of 1996, a District of Columbia Circuit Court of Appeals ruled that the Trust did not provide policy advice and, as such, was not in violation of the Act. The Court's decision also confirmed a prior ruling of the Office of Government Ethics, which had previously given the President a green light to create the Trust.¹⁵⁵

Additionally, the Justice Department launched an investigation into the possibility that hundreds of contributions were given in the hopes of buying access to the White House. A Senate investigation that followed was unable to answer whether or not such contributions were linked in any way to the favors received by donors.¹⁵⁶ But the investigation and its

¹⁵² Peter Baker and Helen Dewar. "The Senate Acquits President Clinton," *The Washington Post*. February 13, 1999.

¹⁵³ Presidential Legal Expense Trust. Bi-annual Report of the Trust. February 22, 1996. (Ex. 2).

¹⁵⁴ Locy, Toni. "Group Sues for Access to Clinton Legal Fund," *The Washington Post*. August 5, 1994. A18.

¹⁵⁵ *Judicial Watch, Inc. v. Clinton*. 76 F.3d 1232 (D.C. Cir. 1996).

¹⁵⁶ U.S. Senate. Report 105-167, Part 2. "Investigation of Illegal or Improper Activities in Connection with the 1996 Federal Election Campaigns." Committee on Governmental Affairs, 1998.

negative public exposure had an immediate impact on the cash flow: potential donors were increasingly reluctant to contribute.

The Trust's failure was also embedded in its own guidelines. The self-imposed \$1,000 limit was too low. Many of the President's supporters were willing to give more money. Also, because the Clintons themselves were the Trust's grantors, or founders, it was not free to solicit contributions or take advantage of all possible ways of contacting potential donors. By February 1997, the President was said to be "painfully aware" of the Trust's poor performance and of his mounting legal bills.¹⁵⁷

The Clinton Legal Expense Trust

Within a year, Clinton and his advisers decided to terminate the original trust and create a new one. On February 17, 1998, the Clinton Legal Expense Trust was established by former US Senator David H. Pryor of Arkansas. Its official purpose was "to enable Americans to help defray the burdensome legal expenses that are being incurred by the President and the First Lady."¹⁵⁸ By this time, these bills amounted to approximately \$3 million, far more than the President could afford to pay.

Headed by Terry McAuliffe, successful Democratic fundraiser and key player in the Clinton-Gore 1996 presidential campaign, the new Trust kept most of the guidelines that directed contributions to the earlier Trust, including its commitment to biannual disclosure. Two major changes, however, were made. Because Pryor was the Trust's grantor, it was now allowed to seek out donations on the Clinton's behalf through direct fundraising, as long as the request was not directly from Clinton. Also, with no regulatory agency like the FEC to cap contributions, the self-imposed limit was raised to \$10,000 per year. This new limit was by no means arbitrary since the IRS imposes a federal gift tax on any gift beyond \$10,000.¹⁵⁹

The change was remarkable. In its first six months the Trust received almost three times the money that the previous fund had earned in over three years, totaling \$2.2 million. On the one hand, the increase had to do with the inner changes in its rules and charter. On the other, the political turmoil that had many people questioning the integrity and motives of the special council's investigation also led to an increase in donations. Though it had a devastating outcome for the President, the breaking of the scandal actually helped the Trust in several ways.

First, the President's legal battles, once thought to be private, were now seen by Democrats as an orchestrated Republican witch-hunt; this mobilized supporters to come to his defense. Many Democrats and non-Democrats sympathetic to the President, or to the institution of the presidency, became convinced that the investigation was out of line because it extended into the realm of private behavior. Second, others, though indifferent to the investigation itself, worried that economic prosperity would end with Clinton's impeachment. Lastly, the scandal gave substantial visibility to the President's legal problems and expenses.

¹⁵⁷ John F. Harris. "Clinton Defense Fund Returns More Than it Raises," *The Washington Post*. February 28, 1997, A6.

¹⁵⁸ Clinton Legal Expense Trust. "The Clinton Legal Expense Trust." Clinton Legal Expense Trust 1998 brochure to potential contributors. <www.clintontrust.com/brochure.html> accessed 1/4/00.

¹⁵⁹ Since 1999, this limit has been indexed for inflation and is currently \$11,000 (Department of the Treasury. Internal Revenue Service. Publication 950, "Introduction to Estate and Gift Taxes).

The fundraising accomplishments of the Trust itself earned positive publicity which generated even more support. Coverage was also generated by Hollywood's relationship to the President and the Trust. Support from famous directors, producers and performers like Tom Hanks and Ron Howard became a news story of its own. Together with a direct-mail solicitation campaign sent to about 170,000 potential supporters drawn from the 1996 Clinton-Gore, and other Democratic fundraising list, this publicity gave the Trust all that it needed to succeed.

To summarize, from Feb 17, 1998 through December 31, 2000; 113,775 donors contributed \$8,503,169. In reality the number of donors is much smaller. First, many names repeat themselves, meaning donors gave more than once. The 204 donations of \$10,000 came from 147 individuals who actually come from 127 households; there were many cases in which a spouse was an additional contribution channel. Though the Trust portrayed the donors as ordinary individuals, pointing out that 95 percent of the contributions have come in amounts less than \$100, it is important to remember that the 204 \$10,000 contributions amounted to almost one - quarter of the total contributions!

THE SURVEY

During July 1999, 200 individuals from the 38,560 donors who had contributed to the Trust between February 17, 1998 (the day the Trust was created) and December 31, 1998 (the Trust's second public report release) were randomly selected and surveyed. While the sample size is rather small (N=200), they represent the most interesting, and probably the most important contributors to the Trust. The reason lies in the fact that these individuals made their contributions during the scandal, and prior to the President's acquittal, and yet were surveyed shortly after. Unlike those who may have joined the bandwagon and made a donation after the impeachment trial was over¹⁶⁰, our survey captures Clinton's most loyal group, and does so at a time when they still recall their motivations for giving.

The following sections will explore three important questions: Who are these donors? What are the reasons they gave to the Legal Expense Trust? And finally, what determines the level of the contributions?

Who are the Donors?

In order to explain who the donors are, we look at two types of characteristics: demographic and political. We see in Table 1 that African Americans and Hispanics are underrepresented in the survey. Only 6.6 percent of the contributors are African Americans,

¹⁶⁰ Donations continued to flow to the Fund after the survey was conducted, with many contributing after Clinton's acquittal; these donors are not represented in our survey. While this group is close to half of the entire population of contributors, these donors may have different reasons for making a donation, and they may also share other important characteristics not found in the data presented here. Thus, our sample should not be seen as representative of the entire donor population.

while their percentage in the general population at the time was 13 percent.¹⁶¹ Hispanics also contribute less than their percentage in the population: 7.1 percent and 11.7 percent respectively.¹⁶²

When it comes to religion, there is also under and overrepresentation. Protestants contribute less than their relative size in the population, about ten percent less than the 55 percent they hold in the general population. The Catholics' share, on the other hand, is somewhat higher: 40.9 percent in contrast to their 28 percent in the population. And, while Jews are over represented in the donor pool, making up 12.2 of the donors, close to six times their size in the population, Muslims are almost nonexistent; only one Muslim contributed to the Trust.¹⁶³

Contributors in general are highly educated. Thirty five percent had a Masters degree or higher, 38 percent are college graduates, 16 percent had attended college for a few years, and only 13 percent were not educated beyond high school (N=191). Additionally, the donors' occupations are mainly high training and prestige positions.¹⁶⁴ Ninety three of the respondents are retired, and an additional 16 donors were either homemakers or housewives (N=198).

Why are so many contributors retired? It might be, as Brown, et al. suggests, that older people respond better to printed material than the more technologically sophisticated younger generations, or that "older people enjoy getting and reading mail, have more time to absorb the message, and have more disposable income to give to candidates."¹⁶⁵ To some extent, this could be also the case for housewives/homemakers.

Finally, donor family income is also high. This should come as no surprise. We find a high level of correlation between education and job level training ($r=0.30$, $p=0.000$) and education and income ($r=0.35$, $p=0.000$). While the national income average at that time was \$39,657 (U.S. Census Bureau, 2000), the data here shows that for Clinton's contributors the number is much higher with 64.5 percent earning over \$49,999.

It is important to note that our respondents are probably less affluent than all Trust donors are as a whole, as we find in our comparison of the two mean contributions: \$49.45 for the survey and \$96.25 for the entire Trust donor population. Our data here coincides with Frank Sorauf's (1992) findings that political donors have higher levels of education, occupational prestige, and income than other Americans.¹⁶⁶

Besides contributing to the President's Trust, many donors have also participated in other political activities. The most common one was voting; 192 out of 194 individuals voted in the last four years. This was followed by 76 who contacted an official or a representative, and 44 that volunteered for a campaign. Twenty five respondents protested, marched or demonstrated during the same time period.

¹⁶¹ Jesse McKinnon and Karen Humes. "The Black Population in the United States." Washington D.C: U.S. Census Bureau, 2000.

¹⁶² Roberto R. Ramirez. "The Hispanic Population in the United States." Washington D.C: U.S. Census Bureau, 2000.

¹⁶³ U.S. Census Bureau. "Population." *Statistical Abstracts of the United States*. issued February 2001. At <<http://www.census.gov/prod/2001pubs/statab/sec01.pdf>> Table 75.

¹⁶⁴ The categories are an adaptation to the ones used in *Voice and Equality*, 293 (their first and second categories were merged here into one). Examples of these levels include : very low training - dishwasher, cashier, mail carrier, machine operator. Low training - electrician, constructor inspector. High training - insurance agent, teacher, engineer. Very high training - physician, attorney.

¹⁶⁵ Clifford W. Brown, Jr., Lynda Powell, and Clyde Wilcox. *Serious Money: Fundraising and Contributing in Presidential Nomination Campaigns* (Cambridge: Cambridge University Press, 1995), 55.

¹⁶⁶ Frank J. Sorauf. *Inside Campaign Finance* (New Haven: Yale University Press, 1992), 35.

We would expect that those individuals contributing to the Trust would be Democratic Party supporters. Approximately 58 percent of our sample voted for Dukakis in the 1988 presidential election, 79.2 percent voted for Clinton in 1992, and 97.4 percent supported him in 1996. The 1996 data clearly confirms that most respondents supported Clinton prior to the scandal.

Do these numbers reflect an affinity to the President or an affinity to the Democratic Party? The answer may be both. The data indicates that a majority of our sample are relatively strong Democrats. Almost 77 percent of our sample group identify themselves as strong or not very strong Democrats, with an additional nine percent leaned Democratic. Only three people in the entire sample were Republican or leaned Republican.

Why Did They Make a Contribution?

Political participation can be defined as an “activity that has the intent or effect of influencing government action, either directly by affecting the making or implementation of public policy, or indirectly by influencing the selection of people who make those policies.”¹⁶⁷ These activities may take many forms, such as voting, working as a volunteer, protesting, marching, writing letters to congressmen, and contributing money.

Over the last decades, political contributions have become the third largest form of political participation (behind voting and contacting officials), rising from 13 percent in 1967 to 23 percent in 1987. Why are people so willing to donate money to political causes? Herbert Alexander describes an array of reasons: 1) solicitation; 2) out of a sense of civic duty or attachment to a cause; 3) personal identification with a candidate, group, or party; 4) concern for government policy; 5) access to government officials; and 6) ego or self-esteem.¹⁶⁸ Usually it will be a mixture of goals that motivates a person to contribute.

¹⁶⁷ Sidney Verba, Key Lehman Schlozman, and Henry E. Brady. *Voice and Equality: Civic Voluntarism in American Politics* (Cambridge: Harvard University Press, 1995), 38.

¹⁶⁸ Herbert E. Alexander. *Financing Politics: Money, Elections and Political Reform* (Washington D.C: Congressional Quarterly Press, 1976), 49-50; see also Brown et al, 51.

Table 1. Demographic Characteristics of Contributors

<i>Variable</i>							<i>Total</i>	
Race	White 156 (85.2%)	Black 12 (6.6%)	Hispanic 13 (7.1%)		Asian 2 (1.1%)		183	
Religion	Protestant 82 (45.3%)	Catholic 74 (40.9%)	Jewish 22 (12.2%)	Muslim 1 (0.6%)	None 2 (1.1%)		181	
Education	High School 24 (12.6%)	Some College 31 (16.2%)	College Grad 72 (37.7%)	Masters or Above 64 (33.5%)				191
Occupation	Homemaker 16 (8.1%)	Very Low Training 6 (3.0%)	Low Training 25 (12.6%)	High Training 27 (13.6%)	Very High Training 31 (15.7%)	Retired 93 (47.0%)	198	
Income	\$25,000-49,999 66 (34.7%)	\$50,000-99,999 111 (58.4%)	\$100,000-249,999 12 (6.3%)		\$250,000 and over 1 (0.5%)		190	

Table 2. Political Characteristics of Contributors

<i>Variable</i>								<i>Total</i>	
Voted*	Yes 192 (99%)			No 2 (1%)					194
Contacted Official or Representative*	Yes 76 (39.2%)			No 118 (60.8%)					194
Volunteered for a Campaign*	Yes 44 (22.7%)			No 150 (77.3%)					194
Protested, Marched, or Demonstrated*	Yes 25 (12.9%)			No 169 (87.1%)					194
Voted for Democratic Candidate	1988 111 (57.8%)		1992 152 (79.2%)		1996 186 (97.4%)				192
Partisan	Strong Democrat 95 (49.2%)	Democrat 53 (27.5%)	Leaner Democrat 18 (9.3%)	Independent 24 (12.4%)	Leaner Republican 2 (1%)	Republican 1 (0.5%)	Strong Republican -	193	

* In the last four years

It is important to understand the difference between contributions and other political resources. First, requests to contribute are the most common type of political solicitation and are more likely to come from strangers, especially through the mail. Second, unlike other forms of activism, contributors do not tend to think that their activity made much difference.¹⁶⁹ Third, contributors also have a lower sense of gratification from taking part in this activity than those who volunteer, demonstrate or vote.¹⁷⁰

The use of money as a political resource carries with it important consequences for political participation. Money separates the haves from the have-nots, and gives an advantage to those who have money to spend.¹⁷¹ While other types of participation, like voting, give all the same amount of influence, contributions do not.

Also, fewer people participate by donating money. Why is this the case? Sorauf writes that while some contributors respond to inner motivations and political cognitions, like strong political convictions, “they respond more immediately to a specific stimulus,” i.e., a solicitation.¹⁷² So, why are not all people solicited? The reason lies in the practical aspects of fund raising. Predictably, the wealthier a person is likelier than a poor individual to donate money. Moreover, since the most likely person to make a contribution is one who contributed before, fund raisers rely heavily on previous donor mailing lists.¹⁷³ While there is always some attempt to attract contributions from new prospects, fund raisers rely heavily on these lists.¹⁷⁴ Using the 1996 Clinton-Gore contributors’ list, the Trust sent approximately 170,000 letters during its first six months of activity, generating about a ten percent response rate.¹⁷⁵ In our sample, 121 said they were solicited, 51 said they acted on their own initiative, and 20 responded that a friend asked them to contribute (N=192).

What explains this behavior? For contributors who were not solicited, and even those who were, there may be other reasons for making a contribution to the Trust. One reason may be that these individuals like to contribute money to political causes. Nearly 56 percent had in fact made a previous donation.

Additionally, these individuals may have a tendency for political participation in general. Their contribution to the Trust may be just one aspect of their broader political activity. To evaluate the connection between the level of activism and donations, the number of the different activities our contributors took part in during the last four years were recoded to create a variable called “activism.”¹⁷⁶ Only two contributors did not take part in any one of the activities below (vote, contact, protest, volunteer, and contribute).

¹⁶⁹ Verba et al, 517.

¹⁷⁰ All these may help to explain why contributions have risen significantly in the last two decades. Although much of the literature focuses on the high costs of campaigns as the major reason for higher volume and number of contributions, there is hardly any discussion on the higher donation sums contributors need to give these days in order to feel that their donation made a difference.

¹⁷¹ For most types of contributions, there is an upper limit to the amount a donor can give. This equalizes the rich donors with the very rich ones, but, for most people, this cap is already beyond their financial means.

¹⁷² Sorauf, 35.

¹⁷³ When dealing with computer generated mailing lists errors are bound to happen. Bernard Lewinsky, Monica's father received a letter from President Clinton's Legal Expense Fund asking him for a donation. "Lewinsky, a Los Angeles physician, marked the letter "return to sender" and added a note: "You must be morons to send me this letter". See Steve Harley. "Mr. President, Are You Totally Crazy?" Los Angeles Times, September 1, 1999.

¹⁷⁴ Brown et al, 33.

¹⁷⁵ Clinton Legal Expense Trust press release. “Over \$2.2 Million Raised by Clinton Legal Expense Trust in Six Months.” The Clinton Legal Expense Trust press release, August 21, 1998.

¹⁷⁶ The variable “activism” is measured on a scale of 0-5. It measures the number of the following activities in which an individual has participated: voting; protesting, marching, or demonstrating; contacting a government

Table 3. Prior political activism

<i>Variable</i>	0	1	2	3	4	5	<i>Total</i>
							193
Activism	2 (1%)	66 (34.2%)	55 (28.5%)	35 (18.1%)	12 (6.2%)	23 (11.9%)	

Since our sample consists of individuals who have made a contribution to Clinton’s Trust, we would expect that they are more actively involved in politics than the average citizen. The data confirms that they are a politically active group, especially when compared to the general public. Sidney Verba, et al’s findings show that, in an election year, 71 percent of the people in their survey voted, 34 percent contacted an official, eight percent worked for a campaign, six percent protested, and 24 percent made a political contribution.¹⁷⁷ Our analysis, as described above, finds that 99 percent, 39.2 percent, 22.7 percent, 12.9 percent, and 55.9 percent participated in these activities, respectively.¹⁷⁸

The survey included an open-ended question that asked donors for their reasons for contributing. The responses were grouped into the following categories, included in Table 4.¹⁷⁹ Many of the responses fell into the category that Clinton was a good man (20.7 percent). The second highest response dealt with Clinton’s performance as president, and his policy and political success (19.2 percent). The third highest reason for contribution was that Clinton was unjustly attacked (18.7 percent).

The motivations expressed here correspond with the results of many public opinion polls taken during the same summer our survey was conducted. In a late July poll taken for NBC News and the Wall Street Journal, 73 percent of those surveyed approved of the way President Clinton was handling the economy.¹⁸⁰ Around the same time, Clinton had a 64 percent overall approval rating.¹⁸¹ Corresponding with the above responses, in early August, 65 percent of those polled considered the scandal involving Lewinsky a “private, personal matter.”¹⁸² Even the hostility towards Republicans corresponds with public sentiments; a quarter of those polled thought the exposure of the Clinton-Lewinsky affair was the result of a right-wing conspiracy.¹⁸³

official or representative; volunteering for a campaign; (all four in the last four years); or contributing money to politicians (ever).

¹⁷⁷ Verba et al, 51.

¹⁷⁸ The 55.9 percent denotes the portion of the sample that made a political contribution prior to their donation to the Clinton Legal Expense Fund. It is important to note that Verba’s survey asked respondents if they had participated in these activities in the past year, while ours asks about the past four years. Nevertheless, Verba’s survey took place in an election year, when all forms of political participation are higher, so we do not expect a drastic difference between our two measurements.

¹⁷⁹ Because some respondents provided more than one answer, we took the first one to be the most important and coded it as that person’s motivation.

¹⁸⁰ NBC News/Wall Street Journal Poll. (July 24-26, 1999). Roper Center at University of Connecticut, Public Opinion Online.

¹⁸¹ Fox News/Opinion Dynamics Poll. (July 28-29, 1999). Roper Center at University of Connecticut, Public Opinion Online.

¹⁸² CBS News Poll. (August 1-3, 1999). Roper Center at University of Connecticut, Public Opinion Online.

¹⁸³ Zogby Real American Poll. (October 11-14, 1998). Roper Center at University of Connecticut, Public Opinion Online.

Table 4. Self - reported reasons for contribution

<i>Reason</i>	<i>Frequency</i>
Clinton is a good man	41 (20.7%)
Clinton does a good job	38 (19.2%)
Clinton was unjustly attacked	37 (18.7%)
I want to help support Clinton	31 (15.7%)
Personal life should be private	20 (10.1%)
I am against the Republicans	14 (7.1%)
I want to be involved	10 (5.1%)
Other	7 (3.5%)
Total	198 (100%)

What Explains the Contribution Level?

Thus far we have presented data on the contributors that explains both who they are and why they gave money to Clinton's Trust. Within our sample, however, and within the entire donor population, there is substantial variation in the levels of contributions. Using multivariate regression analysis, six potentially influential variables are tested to explore the determinants of contribution size. First, we present the theoretical arguments and expectations for these six variables. We then present the regression results and analyze the explanatory power of these variables.

To begin, we expect that those individuals who were solicited for a contribution will give more money than those who were not. At first, this claim may seem counterintuitive; one might expect that those who will contribute the most money are those who will make a donation without being asked to do so. However, the individuals who were contacted by the Clinton Legal Expense Trust were compiled from a list of donors who had made a political contribution in the past. Thus, we would expect that these individuals who had contributed before, and demonstrated a willingness to make financial donations, would give higher amounts of money.

Secondly, we would expect self-identified Democrats to donate more than Independents or Republicans. In our analysis, we measure partisanship on a scale of one to seven; a lower score indicates strong Democrat. Since we expect Democrats to give more money, the coefficient should be negative.

Our second variable measures the voting history of each donor. This variable can take on a value of zero, one, or two, and represents the number of times an individual voted for Clinton in the 1992 and 1996 presidential elections. One can assume that the higher this number is, the stronger the respondent's support for Clinton.

Education and income are two variables that are often strongly related to each other. Consequently, we have very similar expectations for their influence in our analysis. As a respondent's income increases, we expect that their donation will be larger as well. Since high levels of education typically correlate with higher income, education and level of donation should also be positively related.

Table 5. Expectations of Variable Influence

<i>Independent Variables</i>	<i>Expectation</i>
Solicit	+
Partisanship	-
Voting History	+
Education	+
Income	+
Activism	+/-

One might also expect that occupation would be closely related to the level of contribution. In our sample, there is a statistically significant correlation between occupation and income ($r=0.43$, $p=0.000$). To include both in the regression model would create problems of multicollinearity, since occupation is really a proxy for income. Thus, we chose not to incorporate occupation into our final analysis.

Some may argue that the inclusion of both education and income would present similar problems. While this may be true, we have theoretical reasons for keeping education in the model. Past studies have demonstrated that high levels of education are also associated with a liberal ideology.¹⁸⁴ Because this trait may influence contribution levels, we felt it was necessary to keep education in the model despite its correlation with income.

Finally, what are our expectations for activism? Should we expect that individuals who have high levels of political participation will also donate more money? At first glance, one would expect a positive relationship. High levels of political participation, including prior contributions, would indicate a higher level of money when a contribution is made. However, previous research indicates that this may not be the case. According to Verba et al, “time and money function differently as inputs for political activity...the affluent are more likely than the poor to become active. Once active, however, the poor are as generous with their time as those who are better off financially...No such leveling occurs when it comes to money.”¹⁸⁵ This leads us to believe that those who are more active in giving their time (for voting, protesting, volunteering) may not have extra money to give away. Thus, we have no clear expectations for the relationship between donation and activism levels.

Table 6 provides the results of a regression analysis that seeks to explain the level of donations for the individuals in the sample.

Two variables in the model demonstrate statistical significance: income ($p = 0.000$) and voting history ($p = 0.025$). As an individual moves up one income bracket, their contribution increases by about \$40. The measurement of this particular variable is less than ideal, and will be addressed later in the paper. But the conclusion makes sense: those who have more money are likely to give more money. The coefficient for voting history is very surprising: it is negative. The more times an individual has voted for Clinton, the lower their contribution is, by about \$25. None of the other independent variables are statistically significant.

¹⁸⁴ Mary R. Jackman and Michael J. Muha. “Education and Intergroup Attitudes: Moral Enlightenment, Superficial Democratic Commitment, or Ideological Refinement?” *American Sociological Review*. 49:6 (December 1984) 751-769.

¹⁸⁵ Verba et al, 192.

Table 6. OLS Regression Results on Level of Donation to Legal Expense Trust¹⁸⁶

<i>Variable</i>	<i>Regression Coefficient (Standard Error)</i>
Solicit	8.51 (8.06)
Partisanship	-6.81 (4.43)
Voting History	-24.75** (11.20)
Education	-1.51 (3.13)
Income	30.54*** (6.91)
Occupation	-1.76 (2.54)
Activism	-2.83 (2.90)
Constant	14.62 (32.67)
Adjusted R ²	0.168

N=193 *p<0.05, ***p<0.00

There are two points worth mentioning regarding this regression. Unfortunately, the measurement for income is a rough one. The survey asked individuals to circle which range their income fell into: under \$25,000; \$25,000 to \$49,999; \$50,000 to \$99,999; \$100,000 to \$249,999; or \$250,000 and over. As a result, our measurement captures ranges of income, but nothing more. Had we had the exact income for each individual, so that we had a continuous measurement, our conclusions regarding that variable's influence on contribution would have been much more precise. The fact that it still remains the most significant variable, however, is still telling.

Of all the results described above, the most surprising is the negative impact that voting history has on contributions. As the number of times an individual voted for Clinton in a presidential election increased, their contribution is expected to decrease, significantly and somewhat sharply.

The reasons for this are unclear. Our first explanation deals with the characteristics of those individuals who typically have a strong history of voting for the Democratic Party. Since the New Deal, the Democratic Party has typically been the party of the working - class and minorities. As we noted earlier in the paper, our data indicates that levels of education, job training (occupation), and income are all strongly related to each other. If these are also related to vote history, as this argument about the nature of the Democratic Party suggests, this may explain our odd results. Thus, those individuals who are likely to be loyal

¹⁸⁶ The regression presented here use imputed data to deal with the problem of missing observations. We conducted two sets of analysis, one with the imputed data and one without, and there were no significant differences in the results. We chose to use the imputed data so as to maximize the number of observations in our study.

Democratic voters may also be those who have lower income levels. While this is certainly a compelling argument, we found no support for these possibilities in our own data analysis.¹⁸⁷

A second explanation is the candidacy of Ross Perot. In both the 1992 and 1996 presidential campaigns, Perot ran as a third-party candidate. Perhaps his participation in the elections somehow skewed the voting patterns of the electorate. Regardless of this possible explanation, however, it is still very puzzling that an individual with a history of voting for a Republican or third-party candidate would actually contribute more than a proven Clinton supporter.

DISCUSSION

What are the consequences of these donations? Much of the literature on campaign contributions raises the question whether there is a quid pro quo relationship between financial donations and legislative or political favors. What exactly does a contribution buy: time, access, or favors?¹⁸⁸ The same can be asked regarding donations to legal expense funds. If donors make a substantial contribution to an official's fund, do they receive anything in return?

Much of the journalistic literature on contributions is heavy on anecdotes and light on systematic evidence.¹⁸⁹ Yet, though these studies may not exactly prove a quid pro quo relationship between politicians and donors, the stories still resonate with the public. Thus, we argue that the actual existence of a quid pro quo relationship matters less for democracy than the public's perception of such a relationship.

Over the years, many Americans "have come to view legislative politics as a money game, in which campaign contributions are the dominant influence on policymaking."¹⁹⁰ And when additional information on contributions makes it to the news, like the \$20,000 contributions Hollywood heavyweights Steven Spielberg, David Geffen and Jeffrey Katzenberg gave to Clinton's Trust, it only increases the public's skepticism. The existence of these stories alone, regardless of their accuracy, is enough to create negative attitudes among the public.

Recent polls indicate that many Americans do, in fact, believe that financial contributions result in political favors for donors. Ninety-three percent of the respondents in a recent poll said that "politicians do special favors for people and groups who give them campaign

¹⁸⁷ In order to test these possible relationships, we ran a number of statistical tests. These consisted mainly of looking for correlation among many variables and running regressions to predict vote history and partisanship. None of the results confirmed this alternative explanation. These surprising findings may be a function of the small sample size of our survey. We also ran regressions that broke the vote history variable into dummy variables for each of the elections. Again, the result were unexpectedly negative, but statistically insignificant.

¹⁸⁸ see David Austen-Smith. "Campaigns Contributions and Access," *The American Political Science Review* 89:3 (September 1995), 566-581; Richard L. Hall and Frank W. Wayman. "Buying Time: Moneyed Interest and the Mobilization of Bias in Congressional Committees," *The American Political Science Review* 84:3 (September 1990), 797-820; James Snyder. "Campaign Contributions as Investment: The U.S. House of Representatives, 1980-86," *Journal of Political Economy* 98 (1990), 1195-1227; James Herndon. "Access, Record, and Competition as Influences on Interest Group Contributions to Congressional Campaigns," *Journal of Politics* 44 (1982), 996-1019.

¹⁸⁹ see, for example, Philip M. Stern. *The Best Congress Money Can Buy* (Washington, D.C.: Regnery Gateway, 1992).

contributions.”¹⁹¹ Of this 93 percent, 80 percent believe that it happens often. When the same poll asked people if respondents thought this was a problem, 88 percent answered in the affirmative. When asked if President Clinton in particular had “promised government favors in return for campaign contributions,” 69 percent agreed.

These poll results bode poorly for democracy and the profound importance it places on public trust in the system of governance. While the true power of contributions has yet to be systematically confirmed, campaign donations are one reason behind the cynicism and distrust American citizens have towards public officials. We can expect that similar attitudes are also true for donations to legal defense funds; in fact, citizens may be more skeptical about donations to an official under investigation.

What is the best way to alleviate the problem? The general consensus on regulating campaign contributions is to limit expenditures, cap contributions, and publicly disclose information about donations and donors.¹⁹² In our case, limiting expenditures is impractical. No limits can be set on legal fees, and every citizen has a right to the best legal advice and lawyers available. As for the other two options, the House and Senate have each found a remedy along these lines. Each chamber has established rules for the maximum contribution to legal defense funds per individual per year, as well as reporting requirements.¹⁹³ The question is whether these self-imposed congressional guidelines will hold.

One option is to cap contributions. Placing a lower cap on contributions will weaken the appearance of a quid pro quo relationship. With the increased size of the donor pool, and the decreased size of donations, the influence of any single contribution is greatly diminished. Another possible method of regulation is public disclosure. Keeping the process open enables Congress, the media, and the public to see who the donors are and what, if anything, they are getting in return for their gift.

Together, these last two measures seem promising methods of regulation, but they must be written into law. If this new type of political contribution is left unregulated, we may find ourselves faced with even higher self-imposed limits, if any, and less public disclosure. Although it is unlikely that most elected officials will have to face the financial burdens of defending themselves, the Clinton presidency has made politicians aware of the possibility that they may find themselves in a court room.¹⁹⁴ Thus, it is crucial to pass the regulatory laws needed now, before these legal funds become even more commonplace.

¹⁹⁰ Anthony Corrado, et al, eds. *Campaign Finance Reform: A Sourcebook* (Washington, D.C.: Brookings Institution Press, 1997), 107.

¹⁹¹ ABC News/Washington Post Poll. (March 22-25, 2001). Roper Center at University of Connecticut, Public Opinion Online.

¹⁹² Alexander, 4.

¹⁹³ Bailey. <www.opensecrets.org/alerts/v6/alertv6_21.asp>

¹⁹⁴ Already some commentators have suggested that President George W. Bush should establish a legal defense fund to protect himself from any potential investigations. Some political supporters have already gone as far as buying a web address should the need for contributions arise (see Noah, Timothy. “The Case for a Bush Legal Defense Fund. *Slate Magazine’s Chatterbox*. January, 15 2001. <<http://www.slate.msn.com/id/1006874.htm>> May 23, 2003.)!

CONCLUSIONS

While Clinton's strong performance on the economy helped him maintain his high job approval ratings, it was the money flow to the Trust that helped him maintain his job. The Trust served the President well; the security of being able to afford the best legal defense enabled him to continue doing his job, instead of worrying about his growing legal expenses.¹⁹⁵

The survey reported here enabled us to better understand who the Trust's contributors were, as well as their motives for participation. We were also able to explain the variation within the sample population regarding levels of contribution. We have elaborated on the problems of unregulated contributions to elected officials, and the subsequent effects on the American political system, especially the increase of public cynicism. The example of campaign finance regulation provides a useful model for the regulatory steps that should be taken to reign in this new type of financial donation.

In order to curb the negative consequences of these donations, Congress should establish clear guidelines for both donors and all elected officials, including the president. In recent decades, Congress has made progress in regulating financial donations to politicians' election campaigns. Amending the current campaign finance law to include donations that cover legal expenses would stem the growth of public cynicism, at least about the role of money in politics.

Additionally, scholars of the presidency should explore these legal donations further. Research on the topic can take two approaches. First, it should focus on possible policy alternatives that can provide solutions to this problem. For example, can donations to legal funds be eliminated altogether through the creation of a governmental mechanism, such as a loan to be repaid following public service that will prevent politicians from needing expense trusts in the first place? A second research trajectory should explore if these donations have any influence on politicians' decisions; it should also measure public attitudes towards these contributions. A greater understanding of the nature of these donations, their influence in the political system, and their effects on the electorate may incline Congress to act.

Allowing trusts to operate without regulation is an unhealthy situation for democracy. It raises doubts about presidential loyalty and accountability to the people. When money and politicians are involved, the public wants the dollars to be in the open. Allowing these contributions to take place without regulation generates the feeling, whether based on facts or mere impressions that something unethical is going on out of the public eye. These negative feelings lower citizens' willingness to participate and increase cynicism. The office of the presidency, following Watergate, Iran - Contra, and the Clinton scandals, has already suffered substantially from a lack of public confidence. Any other action that further undermines the public's trust in the institution of the presidency is something the American people, even its wealthiest, cannot afford.

¹⁹⁵ The distractions caused by Clinton's legal problems may have hindered his ability to concentrate on his job as President, but one can assume that any financial worries were eased by the Trust's existence.

APPENDIX: THE QUESTIONNAIRE

Two hundred contributors were surveyed in July 1999. They were chosen randomly from a list of all 38,560 donors who made a contribution to the Trust from February 17, 1998 (the day the Trust was created) to December 31, 1998 (the Trust's second period limit day).

After a donor was picked, a "white pages" search was done to find that person's phone number. If that person's phone number was not listed, the next name on the list was searched. Also, when there was a doubt that the person found was not the person who gave the money (usually when two persons or more bearing the same name were found in the same city or town), the guideline was to continue to the next randomly selected donor. In order to assure the donors were at home, the phone calls were made during the evenings and Saturdays. All respondents were given complete confidentiality for their cooperation. The overall response rate was about 30 percent. Transcripts of the conversation exist on the questionnaire sheets.

THE QUESTIONNAIRE

Name:

Tel.:

Address:

Donation:

Hello. We are doing a research on contributions to The Clinton's Legal Defense Trust, and we came to know from a public listing that you made a contribution to it. The purpose to this research is strictly for academic use and anything you tell us is strictly confidential. Your name will not be mentioned in any way. Would you be willing to answer a few questions? It shouldn't take more than 7 minutes.

1. In the last four years, have you done any of the following? Please say yes to all relevant activities:
 - Did you vote?
 - Did you protest, march or demonstrate?
 - Did you contact an official or a representative?
 - Did you work as a volunteer for a campaign?
2. Have you ever before contributed money to politics or politicians? If so, why?
3. Why did you contributed to the Clinton's Legal Defense Trust?
4. Were you solicited by a letter or someone, asking you to contribute, or was it your initiative to do it?
5. Generally speaking, do you think of yourself as a:
 - strong Democrat,
 - not very strong Democrat,
 - Independent – closer to Democrat,
 - Independent,
 - Independent – closer to Republican,
 - not very strong Republican, or

-
- strong Republican?
6. Whom did you vote for in the 1988 presidential elections? Bush/Dukakis/neither
 7. Whom did you vote for in the 1992 presidential elections? Bush/Clinton/Perot
 8. Whom did you vote for in the 1996 presidential elections? Clinton/Dole/Perot
 9. How many years of education did you complete?
 - Some high school
 - High school
 - Some college
 - College graduate
 - Some graduate school
 - Master's, M.D., Ph.D., LL.B., and so forth.
 10. If you don't mind answering, what is your race and religion?
 11. Could you define in your own words your occupation (if retired also previous occupation)?
 12. What is your total family income before taxes?
 - Under 25,000
 - 25,000 to 49,999
 - 50,000 to 99,999
 - 1 00,000 to 249,999
 - 250,000 and over