

Regulating Campaign Finance in the United States

American University Election Management Training Institute

Funding and Monitoring Political Campaigns

June 24, 2008



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Commissioner

United States Federal Election Commission

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- Transparency
 - Regulation of Political Finance in the U.S.
 - Enforcement
 - Trends in Campaign Finance/The Internet
 - Role of Media/Civil Society
 - Trust



Transparency

Striking the Right Balance

- Free expression and association vs. preventing corruption
- Public's right to know vs. politicians' and contributors' privacy rights
- Transparency vs. personal safety
- All-inclusive vs. easy to understand and enforce
- Approach appropriate to culture, history, legal framework

Campaign Finance

- Affects not only who gets elected but what they do once in office
- Risk of undue influence
 - Legislation for benefit of special interests, rather than all citizens
 - Distortion of executive decision-making
- Public trust/Government legitimacy
- Our philosophy:
Sunlight is the best disinfectant

Transparency in Government

- Campaign finances (disclosed during campaign and after election)
- Personal finances of officeholders
- Open Government
 - Explains how and why laws are passed, government priorities set, disputes adjudicated, crimes punished, contracts awarded, benefits of citizenship shared, and responsibilities allocated



Regulation of Political Finance in the U.S.

Campaign Finance in the U.S.

- Largely privately funded
- Real-time disclosure

Federal Election Campaign Act

- Mandates registration and reporting by political committees (includes parties and candidates), including disclosure of contributions and expenditures of \$200 or more
- Limits amount of contributions from any one source
- Prohibits certain sources from making donations
 - Corporations
 - Labor unions
 - Foreign nationals
 - Government contractors
- Bans contributions in the name of another
- Regulates funding of some political advertising
- Prohibits candidates from using campaign funds for personal expenses

United States Federal Election Commission

Who we are

- Independent regulatory agency
- Interpret, administer, enforce and defend the Federal Election Campaign Act (FECA)
- Bipartisan
- About 350 employees, including:
 - 110 legal staff
 - 95 auditors and report analysts
 - 50 IT professionals
 - 20 public information and press officers

FEC : What we do

- Regulate campaign finance at the federal level
- More than 8,000 entities file between 4 and 12 disclosure reports each per year
- During 2007, processed nearly 70,000 campaign finance reports and statements
- Issue Advisory Opinions and regulations
- Investigate violations of campaign finance law
- Conduct desk and field audits
- Administer the Public Funding program for Presidential elections
- Educate the public and the regulated community
- FEC does not administer elections



Enforcement

Overview of FEC Enforcement

- Anyone may file a complaint
- Respondents have the right to present facts and arguments
- Commission has authority to compel testimony and documents
- FY 2007:
 - 497 cases resolved
 - \$4.37 million in civil penalties negotiated and assessed

Case Examples

- Federal Home Loan Mortgage Corp (Freddie Mac)
 - Illegally contributed to political committees using corporate funds and resources
 - \$3.8 million civil penalty
- MZM Inc. and Mitchell Wade
 - Corporation and chief executive officer used corporate funds to reimburse employees and spouses for federal campaign contributions in effort to influence government contracts
 - \$ 1 million civil penalty

Administrative Fines Program

- Designed to keep reporting violations from clogging enforcement system
- “Traffic Ticket” approach
 - Automatic fines for late reports
 - Opportunity for review, although fine will only be overturned under extraordinary circumstances

Alternative Dispute Resolution

- No factual or legal dispute
- No investigation
- Lower penalties
- Focus on compliance

Criminal Penalties

- “Knowing and willful” violations of the FECA may be criminally prosecuted by the Department of Justice
- Penalties may include:
 - Imprisonment for 2 years
 - Fines up to 1000% of the amount in violation

Enforcement Tools

- Leadership/political will
 - Strategic alliances with opinion leaders
 - Political class as stakeholders
- Law that is understood and respected
- Impartial, professional investigatory staff
- Means of compelling testimony and documents
- Means of changing behavior
 - Fair, proportionate penalties as deterrent
 - Education
 - Monitoring
- Timeliness



Trends in Campaign Finance

The Internet

Public Financing in U.S.

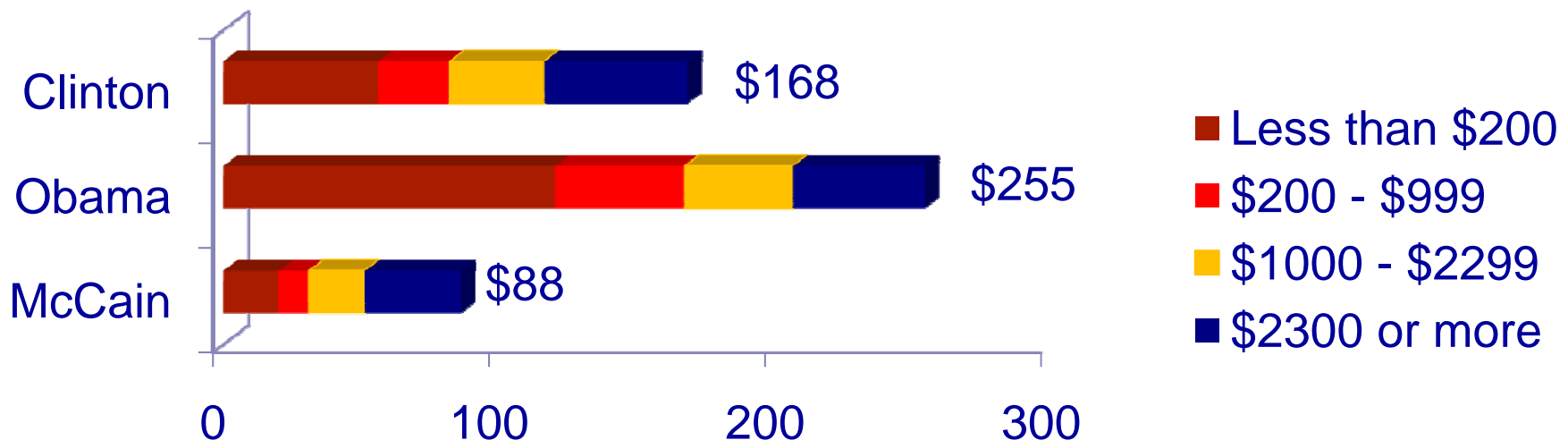
- At Federal level, only available to Presidential candidates
- For Primaries, matching funds program is used
 - First \$250 of individual contribution
 - Encourages small donations
 - Requires agreement to accept expenditure limit (\$56 million in 2008)
- For General Election, \$81.7 million grant

2008 U.S. Presidential Election:

Total Money Raised (In Millions of U.S. Dollars, as of April 31, 2008)

■ All Candidates	\$910
■ All Democrats	\$569
■ All Republicans	\$341

Contributions by individuals

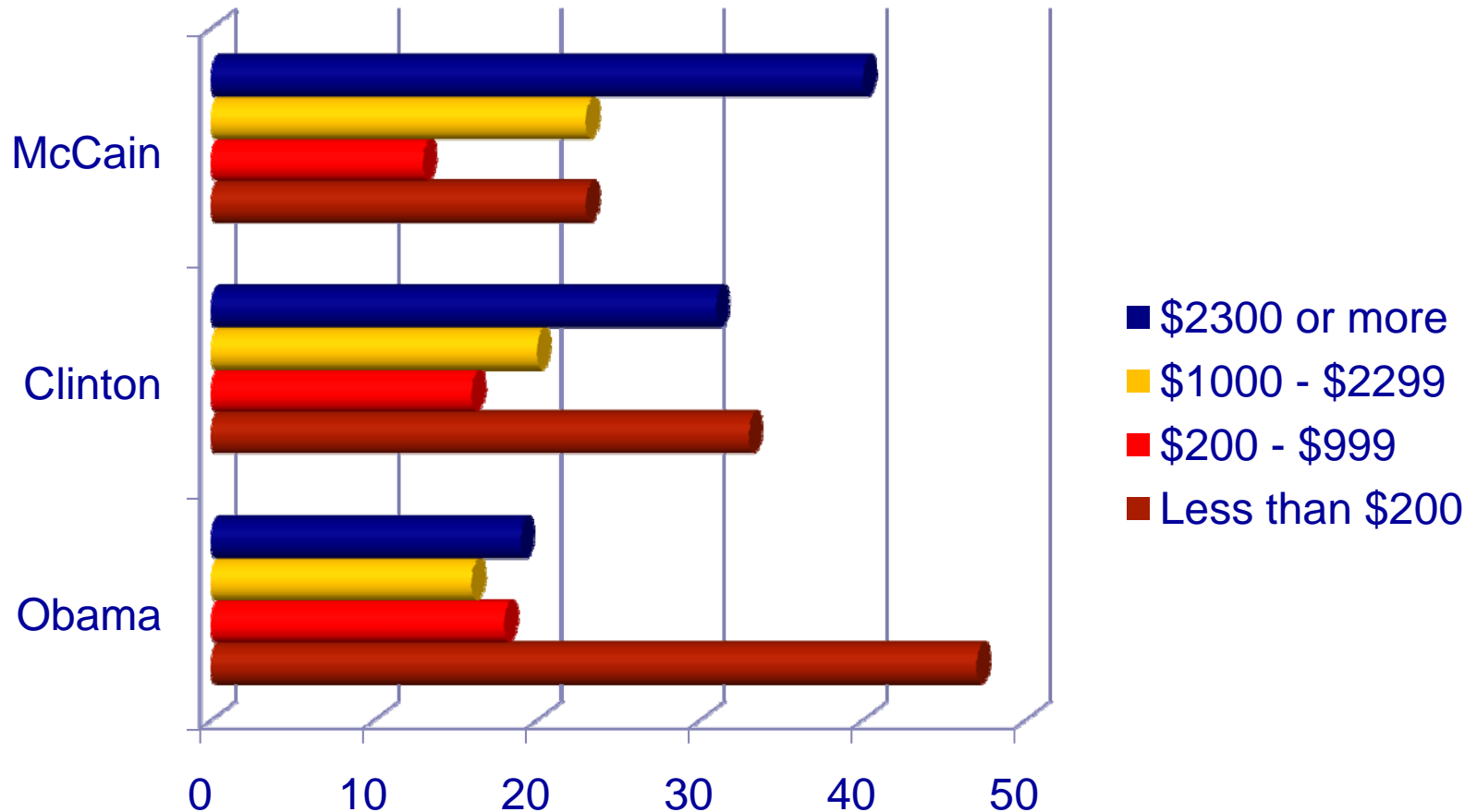


2008 U.S. Presidential Election: Small Dollar Contributions In Context

Candidate	Net Individual Contributions (in U.S. Dollars)	\$200 or Less Contributions (in U.S. Dollars)	\$200 or Less as % of Individual Contributions	\$1000 and up as % of Individual Contributions
Obama	255,716,699	120,861,944	47%	34%
Clinton	168,913,448	56,376,903	33%	51%
McCain	88,096,115	20,454,345	23%	63%
All Candidates	784,314,855	277,106,730	35%	49%

Source: Campaign Finance Institute Analysis of FEC Reports through Feb. 29, 2008

Donor profile for 2008



(As percentage of total collected through April 31, 2008)

FEC use of internet: www.fec.gov

The screenshot shows the Federal Election Commission (FEC) website as it appeared in the early 2000s, viewed through Microsoft Internet Explorer. The browser's address bar shows the URL <http://www.fec.gov/>. The website features a prominent header with the FEC logo and the text "FEDERAL ELECTION COMMISSION". Below the header is a navigation menu with links for "ABOUT THE FEC", "PRESS OFFICE", "QUICK ANSWERS", "SITE MAP", and a search box labeled "SEARCH" with the placeholder text "enter search here".

The main content area is dominated by a large banner titled "Administering and Enforcing Federal Campaign Finance Laws". Below this banner, there is a section titled "Campaign Finance Maps" which states: "Campaign finance information is now available via easy to use maps of the USA for both [Presidential](#) and [House and Senate](#) Elections through the most recent [reporting period](#)." This section contains two maps: "Presidential Election" and "House and Senate Elections".

On the left side of the page, there is a vertical sidebar with several menu items: "Campaign Finance Reports and Data", "Commission Meetings", "Enforcement Matters", "Help with Reporting and Compliance", "Law & Regulations", "Commission Calendar", "The Best Places to Work IN THE FEDERAL GOVERNMENT 2007", and "FEC Jobs".

At the bottom of the page, there is a footer with a navigation bar containing links for "What's New", "Library", "FOIA", "USA.gov", "Privacy", "Links", "eFiling", "Inspector General", and "Subscribe". Below this bar, the contact information for the Federal Election Commission is provided: "Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1000 For the hearing impaired, TTY (202) 219-3336 Send comments and suggestions about this site to the [web manager](#)."

The Windows taskbar at the bottom of the screen shows the Start button, several open applications including "Power Point Prese..." and "Federal Election ...", and the system tray with the time displayed as 5:17 PM.

Internet and candidates

- Candidates are increasingly relying on the Internet as a tool for fundraising and communication with voters
 - Candidate websites make speeches, merchandise and policy papers available
 - Assists in fundraising from small donors and younger voters
 - Candidates reach out to other sites such as YouTube, Second Life and MySpace to disseminate message

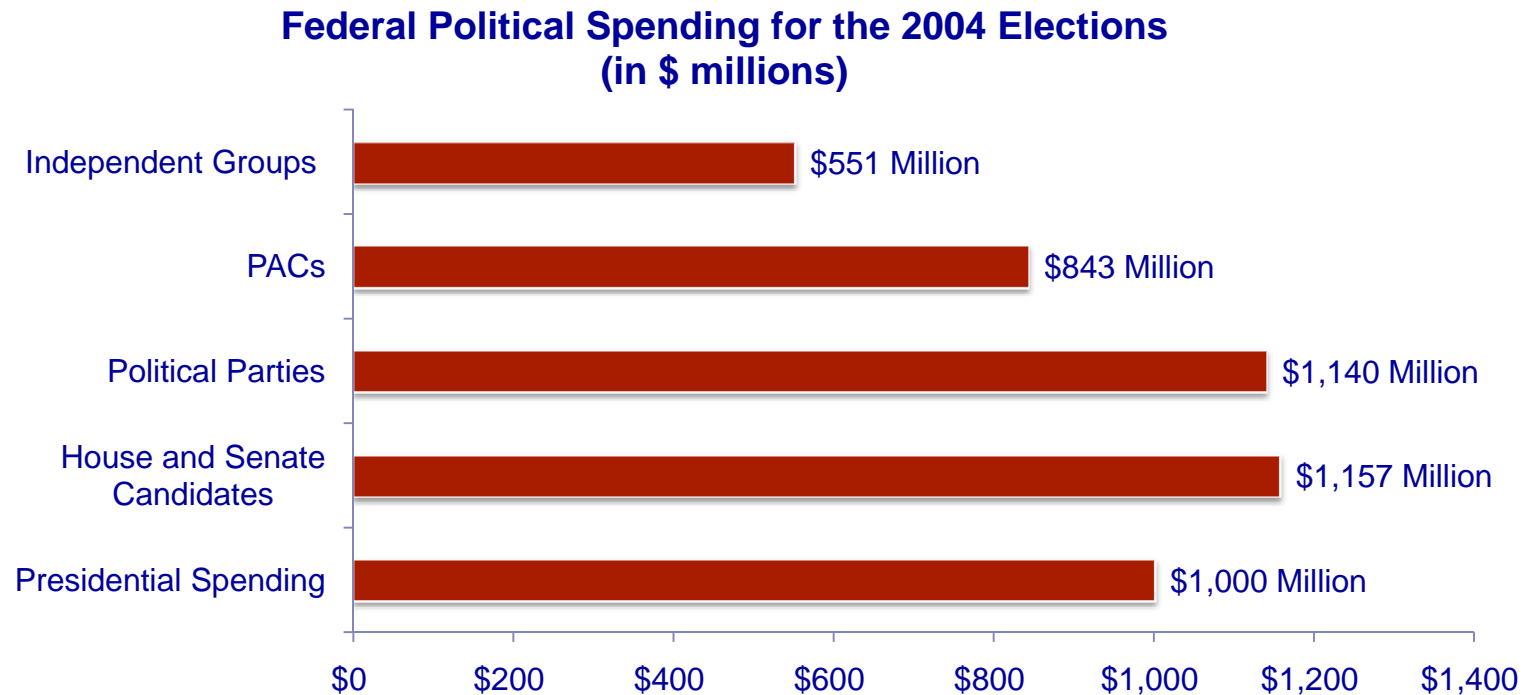
Public Use of the Internet

“The internet is living up to its potential as a major source for news about the presidential campaign. Nearly a quarter of Americans (24%) say they regularly learn something about the campaign from the internet, almost double the percentage from a comparable point in the 2004 campaign (13%).

Moreover, the internet has now become a leading source of campaign news for young people and the role of social networking sites such as MySpace and Facebook is a notable part of the story. Fully 42% of those ages 18 to 29 say they regularly learn about the campaign from the internet, the highest percentage for any news source. In January 2004, just 20% of young people said they routinely got campaign news from the internet.”

- Pew Internet and American Life Project

Federal Political Spending for the 2004 Election



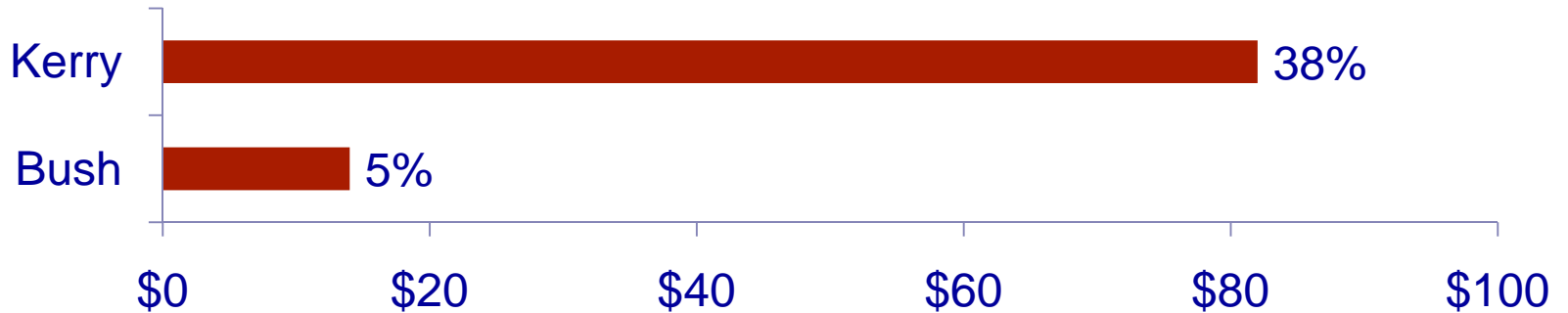
Presidential spending includes candidate spending and nominating convention spending

- **Over \$600 Million spent on Presidential ads**
 - \$4.2 million spent on presidential ads on the internet (March through October 2004)
 - Compare to \$3.4 million spent by one candidate in January and February, 2008

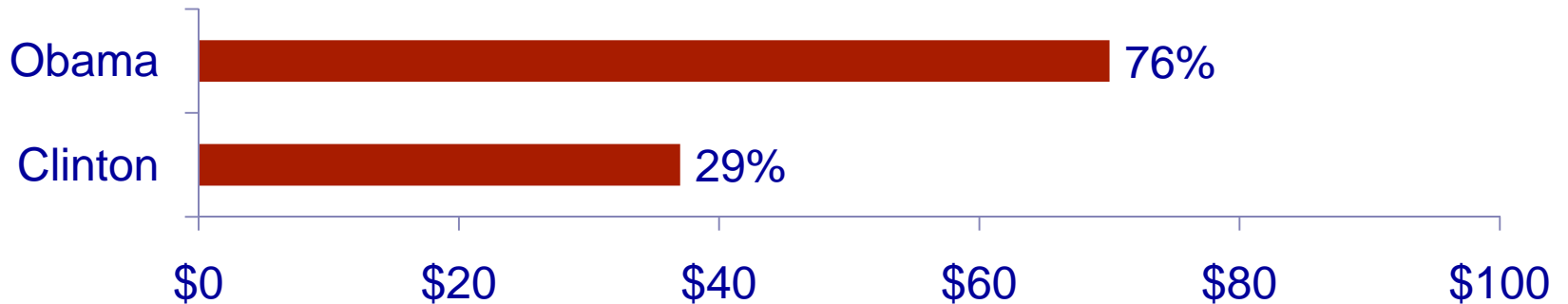
Funds raised via the Internet

(Amounts in Millions – percentages indicate portion of overall fundraising that were from internet sources)

Entire 2004 Presidential Cycle



January and February of 2008



Internet Rulemaking

- Commission rules encourage online political activity, including activities by individuals and media
- Regulations limit only paid public political advertising on other persons' websites.



Role of Media/Civil Society

Role of Media/Civil Society

- Publicity
- Analysis
 - Connections to other public information
 - www.opensecrets.org
 - www.politicalmoneyline.com
 - www.cfinst.org
- Agency watchdog/ally
- Participant in process
 - CSOs file complaints
 - Media makes endorsements



Trust

Trust

- Does transparency enhance trust in electoral institutions and processes?
 - Deterrent
 - Impetus for change
 - Consider the alternative
- Public right to know

Thank you!



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