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September 10, 2014

VIA FEDEX

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

To Whom It May Concern:

We represent Level the Playing Field, a nonpartisan, nonprofit corporation that is not affiliated with any candidate or candidate committee. On its behalf, we hereby submit the enclosed Petition for Rulemaking requesting the Federal Election Commission to revise and amend 11 C.F.R. § 110.13(c), the regulation governing the criteria for candidate selection that corporations and broadcasters must use in order to sponsor candidate debates. With this letter, please find one copy of the Petition and an accompanying volume of exhibits, as well as a DVD containing electronic copies of these documents.

Among other evidence, the Petition relies on expert reports from Dr. Clifford Young, head of U.S. public affairs at the polling firm Ipsos; Douglas Schoen, veteran pollster and campaign strategist; and Michael Arno, founder of a leading ballot access consulting firm. These reports, along with other supporting evidence, are submitted as exhibits to the Petition. The data and authorities that Dr. Young, Mr. Schoen, and Mr. Arno cite and rely upon in their reports are not submitted herewith, but are available for the Commission's review and can be provided upon request. Additionally, certain exhibits to the Petition have been excerpted to present only the pertinent material. Complete copies of any exhibit can also be provided upon request.

Please contact me if the Commission has any questions or needs additional information.

We hope that the Commission will move expeditiously to grant the Petition because it has significant and far-reaching implications for the 2016 presidential election campaign, which will soon be underway.

Sincerely,

Alexandra A.E. Shapiro

Encls.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
)
Petition for Rulemaking re:)
Sponsorship of Candidate Debates)
)

PETITION FOR RULEMAKING

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INTRODUCTION

It has been 22 years since the American public heard from someone other than the Democratic and Republican candidates during the presidential debates, even though a majority of Americans are eager for a candidate who presents an alternative to the two major parties. Sixty-two percent of Americans do not think the federal government has the consent of the governed,¹ and 86% feel the political system is broken and does not serve the interests of the American people.² Eighty-one percent believe that it is important to have independent candidates run for office, and 65% say they wish they had the option to vote for an independent candidate in a U.S. presidential election.³

The Commission on Presidential Debates (“CPD”) is preventing the American people from hearing the independent candidate they desire. The CPD denies voters the opportunity to hear an alternative to the Democratic and Republican nominees by using polling to determine which candidates to invite to the debate. The CPD will only invite a candidate to participate in the presidential debates if he or she is at 15% or higher in mid-September opinion polls on the premise that a candidate polling less than 15% is not a viable contender for the presidency.

This use of polling as the deciding factor in debate admission is inconsistent with the Federal Election Commission’s rules governing debate sponsorship, as well as the purposes underlying those rules. The FEC authorizes organizations like the CPD to host debates on the theory that the debates will serve a voter educational purpose. It requires debate sponsors to use objective, unbiased criteria that are not designed to exclude third-party or independent

¹ *68% Think Election Rules Rigged for Incumbents*, Rasmussen (July 13, 2014), http://www.rasmussenreports.com/public_content/politics/general_politics/july_2014/68_think_election_rules_rigged_for_incumbents, submitted herewith as Exhibit 1.

² Douglas E. Schoen, *Independents and the Presidential Debate System* at 9 (Aug. 29, 2014), submitted herewith as Exhibit 2.

³ *Id.* at 21, 53.

candidates. The use of polling as the decisive factor in debate admission undermines these purposes. Polling criteria are inherently biased against third-party and independent candidates in two key ways.

First, nonmajor-party candidates do not have the same access as a Democrat or Republican to an abundance of free media to boost their name recognition. Without a high profile primary process or a guaranteed spot in the debates, a third-party or unaffiliated candidate can expect little press coverage. That means the candidate has to rely on paid media to garner name recognition and get his or her message to the voters. Any credible campaign consultant will advise the candidate that the cost of achieving the name recognition necessary to reach 15% would cost at least \$113 million in paid media alone, and over \$250 million in total campaign expenses. These are unprecedented sums that no third-party or independent candidate has ever come close to raising.

Second, even if it were possible for anyone other than a self-funded billionaire to amass these vast resources, it could be for nothing. The error-prone and arbitrary nature of polling three-way races could still shut a qualified and otherwise viable candidate out of the debates. Polling in three-way races is particularly inaccurate. Data shows that, two months before the election, polls in three-way races have an average error of 8%. With an error rate that large, polls will frequently show that a candidate has less support than necessary to meet a polling threshold, even though the candidate in fact has the requisite support. For example, if a debate sponsor requires a candidate to have 15% support to participate in the debates, there is a 40.2% percent chance that a candidate who actually has 17% support would still be excluded from the debates due to inaccurate polling. And even apart from this inaccuracy, the candidate could still

miss out on the debates if the vagaries of public polling leave his or her support a tick below the arbitrary polling cutoff.

Given these biases, a requirement that candidates must meet a polling threshold to participate in debates (like the CPD's) effectively institutionalizes the Democratic and Republican candidates as the only options with which the voters are presented. A third-party or independent candidate who is excluded from the debates loses the opportunity to take the stage against the major party nominees and demonstrate that he or she is a better alternative; the media does not cover the candidate; and the candidate does not get the public exposure necessary to compete. The "determination" that a candidate is not viable because he or she lacks a certain amount of support becomes a self-fulfilling prophecy.

That is not how debates in our democracy should work. Debates should be forums for candidates to appeal to voters, helping voters to decide how to cast their support. The use of biased polling measures as a decisive factor in debate admission skews the process to deny voters legitimate alternatives, and undermines the educational purposes debates are supposed to serve. In this Petition for Rulemaking, Petitioner Level the Playing Field respectfully requests that the FEC amend its debate regulations to end the partisan manipulation of the presidential debate process and restore integrity to these integral campaign events. The FEC should conduct a rulemaking to revise and amend 11 C.F.R. § 110.13(c), the regulation governing the criteria for candidate selection that corporations and broadcasters must use in order to sponsor candidate debates. The amendment should (A) preclude sponsors of general election presidential and vice-presidential debates from requiring that a candidate meet a polling threshold in order to be admitted to the debates; and (B) require that any sponsor of general election presidential and

vice-presidential debates have a set of objective, unbiased criteria for debate admission that do not require candidates to satisfy a polling threshold to participate in debates.

STATUTORY AND REGULATORY BACKGROUND

The primary purpose of the Federal Election Campaign Act (“FECA”) is to “limit *quid pro quo* corruption and its appearance.”⁴ To achieve this purpose, FECA prohibits corporations from making many types of contributions or expenditures “in connection with” any federal election.⁵ It also requires disclosure of most federal political contributions and expenditures.⁶

Absent a specific exemption, FECA’s prohibitions on corporate campaign spending would preclude corporate funding of candidate debates. FECA’s definitions of contribution and expenditure are broad,⁷ and corporate funding of a public forum in which a candidate can appear to influence voters would typically be subject to FECA’s strictures.⁸ The FEC has in fact recognized that corporate funding of candidate debates creates “the real or apparent potential for a *quid pro quo*” corrupt payment and jeopardizes the “integrity and fairness of the [debate] process.”⁹ If, for example, a corporation decided to spend hundreds of thousands of dollars on a debate that included its two, favored candidates and excluded the candidate the corporation opposed, the corporation would be making a valuable contribution to specific candidates in order to influence the election – a clear violation of FECA.

⁴ *McCutcheon v. Federal Election Comm’n*, 134 S. Ct. 1434, 1444 (2014).

⁵ 2 U.S.C. § 441b(a).

⁶ *See, e.g., id.* § 434.

⁷ *See id.* § 431(8)(A), 9(A).

⁸ *See* 11 C.F.R. § 100.52(d)(1) (noting that “[u]nless specifically exempted” under the FEC’s regulations, “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution”); 11 C.F.R. § 100.111(e)(1) (same for expenditures); *see also, e.g.*, Federal Election Commission, Advisory Opinion 1988-22 at 6 (July 5, 1988) (“A payment of costs to sponsor and finance public appearances by candidates for Federal office that are ‘campaign-related’ is considered made ‘for the purpose of influencing Federal elections’ and to constitute a ‘contribution’ to or ‘expenditure’ on behalf of such candidates, unless such payment is specifically exempted by the Act or regulations.”).

⁹ Corporate and Labor Organization Activity; Express Advocacy and Coordination With Candidates, 60 Fed. Reg. 64,260, 64,262 (Dec. 14, 1995).

Since 1980, however, the FEC has created an exception to FECA’s bans on corporate contributions and expenditures that permits corporations to fund debates, but only under certain specified conditions.¹⁰ The rationale for this exception is that debates can serve a nonpartisan, voter education purpose, rather than be a contribution to favored candidates.¹¹ FECA authorizes corporations to spend funds on certain “nonpartisan registration and get-out-the-vote campaigns” and other “nonpartisan activity designed to encourage individuals to vote or to register to vote.”¹² The FEC extrapolated from these provisions a “legislative policy” of authorizing corporate financing of “activity directed to the general public to encourage voter participation, if the activity is conducted primarily by a nonpartisan organization.”¹³ As the FEC explained when it first permitted debate sponsorship, “[u]nlike single candidate appearances, nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate.”¹⁴ Thus, the FEC concluded that “[t]he educational purpose” of a debate sponsored by a nonpartisan organization is “similar to the purpose underlying nonpartisan voter registration and get-out-the-vote campaigns” that FECA already authorized.¹⁵ In light of this purpose, the FEC determined that corporate funding of nonpartisan debates should not be prohibited.¹⁶

¹⁰ See Funding and Sponsorship of Federal Candidate Debates, 44 Fed. Reg. 76,734, 76,734 (Dec. 27, 1979).

¹¹ See *id.*

¹² 2 U.S.C. § 441b(b)(2)(B); *id.* § 431(9)(B)(ii).

¹³ Br. of Fed. Election Comm’n, *Becker v. Fed. Election Comm’n*, No. 00-2124, 2000 WL 35567185 (1st Cir. Oct. 2, 2000).

¹⁴ Funding and Sponsorship of Federal Candidate Debates, 44 Fed. Reg. at 76,734.

¹⁵ *Id.*

¹⁶ See *id.* The First Circuit has upheld the FEC’s decision to exempt debate sponsorship from the ban on corporate campaign contributions and expenditures as a permissible construction of FECA. See *Becker v. Fed. Election Comm’n*, 230 F.3d 381, 396 (1st Cir. 2000).

The FEC, however, has adopted rules to ensure that debates are nonpartisan and educational, and not a means for corporate donors to give favored candidates an improper advantage.

First, debate staging organizations must be nonpartisan. That means a debate sponsor must be either 501(c)(3) or (c)(4) nonprofits that “do not endorse, support, or oppose political candidates or political parties” or media outlets that “are not owned or controlled by a political party, political committee or candidate.”¹⁷ And sponsors “shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.”¹⁸ The resulting debate must be nonpartisan too, and cannot favor one candidate over other.¹⁹ In all, “[a] debate is nonpartisan if it is for the purpose of educating and informing the voters, provides fair and impartial treatment of candidates, and does not promote or advance one candidate over another.”²⁰

Second, debate staging organizations must use objective candidate selection criteria. Specifically, they must use “pre-established objective criteria to determine which candidates may participate in the debate” and may not rely solely on nomination by particular parties.²¹ To be objective, a criterion “must be free of content bias, and not geared to the selection of certain pre-chosen participants.”²² Under this definition, objectivity means more than subject to verifiable measurement. It incorporates a “reasonableness” requirement.²³ Thus, as one federal court has

¹⁷ 11 C.F.R. § 110.13(a).

¹⁸ *Id.* § 110.13(c).

¹⁹ *See id.* § 110.13(b)(2) (prohibiting debate sponsors from “structur[ing] the debates to promote or advance one candidate over another”).

²⁰ Funding and Sponsorship of Federal Candidate Debates, 44 Fed. Reg. at 76,735.

²¹ 11 C.F.R. § 110.13(c).

²² First General Counsel’s Report at 7, MUR 5395 (Dow Jones) (Jan. 13, 2005) (internal quotation marks omitted).

²³ *Buchanan v. Fed. Election Comm’n*, 112 F. Supp. 2d 58, 74 (D.D.C. 2000).

explained, a criterion that “only the Democratic and Republican nominees could reasonably achieve” does not satisfy the FEC’s rules.²⁴

If and only if a debate staging organization satisfies these criteria may it use corporate money to pay for candidate debates.²⁵

REASONS TO GRANT THE PETITION

Given FECA and the FEC’s purposes – ensuring nonpartisan, educational debates and reasonable, objective criteria for debate admission – debate selection criteria that measure candidate viability deserve careful scrutiny. Unlike criteria relating to eligibility for office or access to the ballot, viability is a tenuous and subjective concept. As a result, determinations about which candidates are viable can easily be used as a pretext for corrupt political discrimination.

This concern is not novel. Before the FEC adopted its current debate regulations, its General Counsel recommended that debate sponsors be prohibited from using “[s]ubjective evaluations of whether an individual is a significant, major or important candidate” and “[p]olls or other assessments of a candidate’s chances of winning the nomination or election” as debate participant selection criteria.²⁶ Those recommendations reflected the very real concern that viability determinations could be a smokescreen for the kind of partisan rigging that the debate regulations prohibit.

Although the FEC did not explicitly adopt its General Counsel’s recommended prohibition on the use of polling twenty years ago, it is time to revisit that issue. Since the FEC adopted the present debate rules, the CPD has sponsored presidential and vice presidential

²⁴ *Id.*

²⁵ See 11 C.F.R. § 114.4(f).

²⁶ Memorandum from Lawrence M. Noble *et al.*, to Commissioners of the Federal Election Commission, dated Feb. 8, 1994, at 74, Federal Election Commission Agenda Document 94-11.

general election debates in five election cycles. Not once in that span has the CPD invited a third-party or independent candidate to the debates. Beginning in 2000, the CPD has achieved that exclusion by requiring that a candidate have 15% support in an average of five national polls taken in early to mid-September to gain entry to the debates.

The CPD's reliance on polling to determine invitation to the debates is incompatible with the purposes underlying the debates rules and FECA. As explained in detail below, the CPD's rule excludes third-party and independent candidates by design by setting a threshold that they cannot reasonably expect to meet. For this reason, the CPD's rule violates the existing rules on debate sponsorship, as detailed in a complaint that Petitioner has filed with the FEC.²⁷ But the problem is not limited to the current 15% threshold. Any reliance on polling to determine debate access will systematically disfavor third-party and independent candidates. The result is a system that entrenches the two parties rather than enhancing the public debate. And by excluding third-party and independent candidates, reliance on polling to select debate participants will also undermine the educational goals the debate rules are meant to further.

For all of these reasons, Petitioner requests that the FEC amend its rule on debate sponsorship. The amended rule should (A) preclude sponsors of general election presidential and vice-presidential debates from requiring that a candidate meet a polling threshold in order to be admitted to the debates; and (B) require that any sponsor of general election presidential and vice-presidential debates have a set of objective, unbiased criteria for debate admission that do not require candidates to satisfy a polling threshold to participate in debates.

²⁷ See Complaint of Level the Playing Field and Peter Ackerman against the Commission on Presidential Debates and its directors, filed with the Federal Election Commission simultaneous to the filing of this petition.

I. POLLING-BASED CANDIDATE SELECTION CRITERIA EXCLUDE THIRD-PARTY AND INDEPENDENT CANDIDATES

A. Even Seemingly “Attainable” Polling Thresholds Can Be Out Of Reach For Third-Party And Independent Presidential Candidates

The CPD’s 15% rule may appear to be a reasonable threshold for third-party and independent candidates to achieve. In reality, it is an unreasonable criterion fixed to guarantee a preordained result in which only the Democratic and Republican nominees for president qualify for the debates.

The first step in gaining vote share is gaining name recognition. Before a voter can express an intention to vote for a candidate, the voter needs to know enough about the candidate to want to vote for him or her.²⁸ To achieve 15% support nationally, the candidate needs to become sufficiently well known by at least 15% of the electorate. That is a theoretical minimum, of course. Practically speaking, the candidate needs to become known by well more than 15% of the electorate because not every voter that knows the candidate will want to vote for him or her – the candidate will not appeal to everyone. A candidate seeking to satisfy the CPD’s rule thus needs to become sufficiently well known nationally such that 15% of the electorate will support him or her. How well known does an independent candidate need to become to satisfy the 15% rule? Data show that, on average, a candidate would have to achieve, at a minimum, 60% national name recognition to have a chance at achieving 15% voter support.²⁹ It is likely, moreover, that the necessary name recognition is much higher, approaching 80% or above.³⁰

²⁸ Expert Report of Dr. Clifford Young, dated Sept. 5, 2014, (hereinafter “Young Report”) at ¶ 11, submitted herewith as Exhibit 3.

²⁹ *Id.* at ¶¶ 10, 32; *see id.* at ¶¶ 24-28.

³⁰ *Id.* at ¶¶ 10, 29-30, 32. It is important to note that name recognition is even more important for unaffiliated candidates than it is for Democrats and Republicans. That is because Democrat and Republican candidates can earn vote share from voters who have knowledge of, and preference for, one of the major parties. A voter may express a preference for the Democrat without knowledge of the specific candidate simply because he or she knows that the candidate is a Democrat. *Id.* at ¶ 21.

Even 60% name recognition is a high bar, but it is one that Democratic and Republican nominees will necessarily clear after their primary process and that is outside the practical reach of third-party and independent candidates in the current campaign environment.

Achieving broad name recognition and 15% vote share is much easier for candidates who compete in the major party primaries than it is for those who do not.

First, Democratic and Republican candidates receive a default level of vote share by virtue of their partisan affiliation alone.³¹ Accordingly, such candidates could approach 15% support without mounting a campaign at all.

Second, the primary process provides a ready-made mechanism for Democratic and Republican hopefuls to generate name recognition, and, in turn, voter support, all at a cost that is manageable for Democratic and Republican candidates without a national profile. The early primary states are small. Candidates without a national profile can raise the money necessary to become competitive in those states. That, in turn, leads to media coverage, inclusion in the primary debates, and other *free* avenues to enhanced name recognition. Data from the 2012 Republican primary bear this out. Rick Santorum began the primary process with only 47% name recognition among Republican voters in May 2011.³² By February 13, 2012, his name recognition had increased to 85% among all Americans.³³ Santorum, however, spent no more than \$13.1 million on his campaign up to that point.³⁴ Similarly, Herman Cain saw his name recognition increase from 21% among Republican voters in March 2011 to 78% among

³¹ *See id.*

³² Frank Newport, *With Huckabee Out, No Clear GOP Front-Runner*, Gallup (May 17, 2011), <http://www.gallup.com/poll/147584/huckabee-no-clear-gop-front-runner.aspx>, submitted herewith as Exhibit 4.

³³ *See CNN/ORC Poll*, CNN (Feb. 14, 2012), <http://i2.cdn.turner.com/cnn/2012/images/02/14/re12c.pdf> (reporting that only 15% of all Americans had never heard of Rick Santorum), submitted herewith as Exhibit 5.

³⁴ Presidential Pre-Nomination Campaign Disbursements February 29, 2012, Federal Election Commission, http://www.fec.gov/press/bkgnd/pres_cf/pres_cf_odd_doc/presdisbursm32012.pdf (last visited Sept. 5, 2014), submitted herewith as Exhibit 6.

Republican voters by the end of October 2011³⁵ at a cost to his campaign of less than \$16 million.³⁶

Thirteen to sixteen million dollars is a meaningful amount of money, but by no means an unattainable sum for a candidate running for national office. Indeed, it is equal to or less than what a serious Senate candidate in a populous state would need to raise.³⁷ It may cost more to win the primary, of course. But the cost of getting sufficiently known to have a chance of polling at 15% is manageable for primary participants.

By contrast, candidates unaffiliated with the Democratic and Republican parties have no analogous way to build name recognition, and as a practical matter it is virtually impossible for such candidates to satisfy the 15% threshold. These candidates do not have the benefit of a party brand identity to inflate their vote share. And unlike Democratic and Republican hopefuls who benefit from press coverage of the primary process, unaffiliated candidates lack an institutionalized process for obtaining free media that can generate name recognition. Indeed, the media pay little attention to these candidates at all³⁸; as leading political analyst Chuck Todd put it, these candidates “typically don’t get the media attention – *and thus name ID* – that

³⁵ Stephanie Condon, *Herman Cain becomes a familiar name, poll shows*, CBS News (Oct. 28, 2011 8:32 p.m.), <http://www.cbsnews.com/news/herman-cain-becomes-a-familiar-name-poll-shows/>, submitted herewith as Exhibit 7.

³⁶ Presidential Pre-Nomination Campaign Disbursements December 31, 2011, Federal Election Commission, http://www.fec.gov/press/bkgnd/pres_cf/pres_cf_odd_doc/presdisbursye2011.pdf (last visited Sept. 5, 2014), submitted herewith as Exhibit 8.

³⁷ For example, the Republican and Democratic Senate candidates in Ohio each raised more than \$16 million in 2012. See 2012 House and Senate Campaign Finance for Ohio, retrieved on September 4, 2014 from FEC’s website using the 2012 House and Senate Campaign Finance Map, <http://www.fec.gov/disclosurehs/hsnational.do>, submitted herewith as Exhibit 9. The winners of the 2012 Senate races raised on \$10.5 million on average. See David Knowles, *U.S. Senate seat now costs \$10.5 million to win, on average, while U.S. House seat costs, \$1.7 million, new analysis of FEC data shows*, N.Y. Daily News (Mar. 11, 2013, 5:32 p.m.), <http://www.nydailynews.com/news/politics/cost-u-s-senate-seat-10-5-million-article-1.1285491>, submitted herewith as Exhibit 10.

³⁸ Expert Report of Douglas Schoen, dated Sept. 5, 2014, (hereinafter “Schoen Report”) at 5, submitted herewith as Exhibit 11.

Democrats and Republicans get.”³⁹ As a result, an unaffiliated candidate would have to rely on paid media to become known and to communicate his or her message. The cost to a third-party or independent candidate of achieving the name recognition necessary to have a chance and accessing the debates is exorbitant.

A typical third-party or independent candidate would not have 60% name recognition prior to campaigning for office. Senators, governors, and major CEOs have national name recognition well below that level before they run for president.⁴⁰ Experienced pollster and campaign strategist Doug Schoen estimates that the cost of just the advertising necessary to achieve 60% name recognition for an unaffiliated candidate would be in the ballpark of \$113 million, at an absolute minimum.⁴¹ The chief component of that cost is paid media. To achieve 60% name recognition, a near-unknown candidate would have to plan to embark on an 18-week, broad-based advertising blitz that included ad buys on national broadcast television, cable television, and digital media.⁴² The media purchase necessary to take a near-unknown candidate to this level of name recognition is \$106 million.⁴³ The candidate would have to spend an

³⁹ Chuck Todd, Mary Murray & Carrie Dan, *Independents’ Day? Game Rigged Against Third-Party Candidates*, NBC News (July 3, 2014 9:12 a.m.), <http://www.nbcnews.com/politics/first-read/independents-day-game-rigged-against-third-party-candidates-n147331>, submitted herewith as Exhibit 12.

⁴⁰ For example, Jon Huntsman, a former Republican governor and sitting Ambassador to China, had only 21% name recognition *among Republicans* before he declared his candidacy for the Republican nomination for president. See Frank Newport, *Pawlenty Begins Race With 41% GOP Name Recognition*, Gallup (Mar. 23, 2011) <http://www.gallup.com/poll/146768/pawlenty-begins-race-gop-name-recognition.aspx>, submitted herewith as Exhibit 13. In a recent Gallup poll, many possible contenders for the 2016 Democratic and Republican nominations – persons who have already benefitted from media speculation about their potential runs – are familiar to less than half of the country: Senator Marco Rubio had 46% familiarity, Massachusetts Senator Elizabeth Warren and Louisiana Governor Bobby Jindal were at 38%, and Maryland Governor Martin O’Malley was at 16%. See Jeffrey Jones, *Clinton Is Best Known, Best Liked Potential 2016 Candidate*, Gallup (July 17, 2014), <http://www.gallup.com/poll/173402/clinton-best-known-best-liked-potential-2016-candidate.aspx>, submitted herewith as Exhibit 14. Even seemingly “household” names like Chris Christie (65%), Jeb Bush (65%), and Paul Ryan (56%) were unfamiliar to more than one-third of the country. See *id.*

⁴¹ Schoen Report (Exhibit 11) at 11.

⁴² *Id.* at 6-10.

⁴³ *Id.* at 10.

additional \$6 million to produce the content to fill that media purchase.⁴⁴ And to achieve 80% – the more likely amount necessary – the candidate would have to spend \$150 million on paid media.⁴⁵

No third-party or independent candidate has ever raised \$113 million, much less \$150 million.⁴⁶ To put these figures in perspective, \$113 million is seven to nine times more than what candidates like Cain and Santorum spent, in total, before seeing their name recognition rise to significant levels. Indeed, \$113 million is more than what Mitt Romney’s campaign spent to *win* the Republican nomination in 2012.⁴⁷

The foregoing, however, is only the cost directly associated with paid media. A campaign faces myriad other costs, to pay for staff, consultants, polling, legal advice, travel, events, direct mail, etc.⁴⁸ A candidate seeking to be competitive with the major party candidates would likely budget to spend more than \$133 million on these other campaign costs (roughly 75% of Mitt Romney’s campaign nonmedia related expenses in 2012).⁴⁹ A third-party or independent candidate, moreover, has to spend money to coordinate the massive signature gathering effort that is necessary to achieve ballot access, which could cost upwards of \$13 million or more.⁵⁰ Adding up these costs for paid media, campaigning generally, and ballot access, and a third-party or independent candidate is looking at a budget of more than \$253

⁴⁴ *Id.* at 11.

⁴⁵ *Id.*

⁴⁶ Billionaires may be able to afford this sum. Billionaire status, however, should not be a prerequisite for a candidate to gain access to the debates.

⁴⁷ Mitt Romney secured a majority of Republican delegates on May 29, 2012. Gregory Wallace, *Romney hits ‘magic number’ for GOP nomination*, CNN (May 30, 2012 5:34 a.m.), <http://www.cnn.com/2012/05/29/politics/romney-delegates/>, submitted herewith as Exhibit 15. Through May 31, 2012, his campaign had spent \$106.5 million. *See* Presidential Pre-Nomination Campaign Disbursements Through May 31, 2012, Federal Election Commission, http://www.fec.gov/press/bkgnd/pres_cf/pres_cf_odd_doc/presdisbursm62012.pdf (last visited Sept. 5, 2014), submitted herewith as Exhibit 16.

⁴⁸ *See* Schoen Report (Exhibit 11) at 12-16.

⁴⁹ *Id.* at 17; *see id.* at 14-16.

⁵⁰ *Id.* at 17 n.8.

million to mount a competitive bid and achieve poll results of 15% or more in September.⁵¹

Factor in the approximate 5% growth in costs that occurs from one presidential cycle to the next, and that number rises to \$266 million in 2016.⁵²

It is simply not feasible for a third-party or independent candidate to raise this kind of money. Individuals can only donate \$2600 to a candidate per election (primary and general).⁵³ In 2012, the plurality of individual donations to the major party candidates was considerably less, under \$200.⁵⁴ If one assumes that the average individual donation is \$200, a third-party or independent candidate would need to obtain 560,000 donations in order to raise the funds necessary to pay just for the advertising necessary to achieve 60% name recognition. If one assumes that only one out of two individuals will be willing to contribute – an aggressive assumption – then a candidate will need to solicit over one million people to raise the necessary funds. And that is only the fundraising needed for paid media – it does not begin to cover the other costs of mounting a campaign. Moreover, the candidate would have to achieve massive fundraising success *before* obtaining significant name recognition, which makes fundraising that much harder – why would someone give money to a candidate they had never heard of?

Additionally, most political donors are repeat donors, and they are typically invested in the success of one of the major parties. A third-party or independent candidate needs to either convert a donor with a partisan preference, or appeal to people who do not typically make political contributions. He or she has to do so without any guarantee of access to the presidential

⁵¹ *Id.* at 18.

⁵² *Id.* at 17-18.

⁵³ See Contribution Limits 2013-14, Federal Election Commission, <http://www.fec.gov/pages/brochures/contriblimits.shtml> (last visited Aug. 9, 2014).

⁵⁴ Schoen Report (Exhibit 11) at 24.

debates, participation in which is a prerequisite to winning the election. And he or she has to do that more than half a million times. There is no evidence that that is a practical possibility.

In sum, without unparalleled sums of campaign cash that no unaffiliated candidate has ever raised, it is not possible for a third-party or independent candidate to achieve the name recognition necessary to poll at 15%. Thus, it is clear that the CPD's rule, when assessed against the realities of the presidential campaign system, creates a hurdle that third-party and independent candidates cannot reasonably expect to clear.

The CPD's primary defense of the 15% threshold has relied on historical examples. The CPD has told the FEC that the 15% rule is objective because John Anderson in 1980, George Wallace in 1968, and Ross Perot in 1992 purportedly achieved polling numbers in excess of 15% at various points in their campaigns.⁵⁵ The CPD, however, has never justified how campaigns conducted 46, 34, and 22 years ago, respectively, provide a barometer for what a candidate can "reasonably achieve" in a modern campaign environment. The drastic changes in media, campaign finance, and campaigns themselves demonstrate that these examples are anachronistic.

In any event, the CPD's historical "precedents" are flawed. Neither George Wallace nor John Anderson was unaffiliated with the Democratic or Republican parties. Wallace competed in the Democratic primary for president in 1964,⁵⁶ and Anderson competed in the Republican primary for president in 1980.⁵⁷ Both thus received the enhanced name recognition that results from primary participation that truly unaffiliated candidates do not receive. Their candidacies do not undercut the case that the CPD's rule is not one that unaffiliated candidates can reasonably

⁵⁵ *Buchanan v. Fed. Election Comm'n*, 112 F. Supp. 2d 58, 74 (D.D.C. 2000).

⁵⁶ See Richard Pearson, *Former Ala. Gov. George C. Wallace Dies*, Wash. Post, Sept. 14, 1998, available at <http://www.washingtonpost.com/wp-srv/politics/daily/sept98/wallace.htm>, submitted herewith as Exhibit 17.

⁵⁷ See Walter Shapiro, *John Anderson: The Nice Guy Candidate*, The Atlantic, Feb. 1, 1980, available at <http://www.theatlantic.com/magazine/archive/1980/02/john-anderson-the-nice-guy-syndrome/306028/>, submitted herewith as Exhibit 18.

satisfy.⁵⁸ As for Ross Perot in 1992, he would not have satisfied the CPD's present rule; on the eve of the debates, Perot was polling at or below 10%.⁵⁹

Examples of third-party or independent candidates predating George Wallace's 1968 candidacy have been relied on to defend the 15% rule too: When the League of Women Voters came up with a 15% threshold in 1980 to determine whether to invite John Anderson to participate in the debates, the defense of that rule relied on third-party candidacies from 1912 (Theodore Roosevelt), 1924 (Robert LaFollette), and 1948 (Henry Wallace and Strom Thurmond).⁶⁰ CPD board member Newton Minow has written that critics' charge that the League's rule was arbitrary was not "quite true" because of these examples.⁶¹ But these examples are completely anachronistic; such campaigns predate not only the Internet age, but the television age too. They cannot provide guidance on 21st century campaigns.

* * *

In sum, the CPD's rule requires a non-Republican or Democratic candidate to demonstrate significant level of support at a point in time when the media and public have focused intently on only the Republican or Democratic candidates. The only way to compensate for that deficit in attention is paid media, but the CPD's rule requires an amount of paid media that no third-party or independent candidate could realistically afford. The upshot is that the CPD's 15% rule guarantees a preordained result: Democratic and Republican candidates will be

⁵⁸ Moreover, it is not clear that Wallace would have satisfied the CPD's rule. The CPD relies on an average of five national polls taken in early to mid-September. Comparable polling data does not appear to exist for Wallace.

⁵⁹ Polls conducted over October 2 to 4 by the CBS News/New York Times, the ABC News/Washington Post, and CNN/USA Today/Gallup poll – three of the five polls the CPD has previously purported to rely on in applying the 15% rule – had Perot at 7, 9, and 10%, respectively. *The 1992 Campaign: Polls; Despite Perot's Re-entry, Clinton Retains Big Lead*, N.Y. Times, Oct. 7, 1992, available at <http://www.nytimes.com/1992/10/07/us/the-1992-campaign-polls-despite-perot-s-re-entry-clinton-retains-big-lead.html>, submitted herewith as Exhibit 29. A Harris poll over the same time period had Perot at 9%. *Id.*

⁶⁰ See Newton Minow & Craig L. LaMay, *Inside the Presidential Debates: Their Improbable Past and Promising Future* 56 (2008), submitted herewith as Exhibit 19 (2008).

⁶¹ *Id.*

included in the debate, and third-party and independent candidates will be shut out. That is clearly not what the FEC intended when promulgating the debate sponsorship regulations.

B. Polls Are Poor Measures Of Third-Party And Independent Candidate Viability That Systemically Disfavor Them

One might argue in response to the foregoing that there is no problem with a polling-based requirement per se, only with a polling requirement set too high, like at 15%. That would be mistaken. As a threshold matter, although the foregoing analysis is keyed to achieving 15% in vote share, the cost of achieving even 10% would still be daunting. More fundamentally, any polling-based prerequisite to admission is ill-suited to measuring the viability of a third-party or independent candidate.

First, polling is a flawed way to measure the viability of a third-party or independent candidate. It fails to account for the differential in name recognition between the major party candidates, who have benefitted from the attention resulting from the primaries, and a third-party or independent candidate who has not had a comparable opportunity to make his or her case to the public. As a result, a simple poll does not capture a candidate's potential.⁶² An unaffiliated candidate might meet or exceed the 15% threshold if he or she had sufficient name recognition. Polling ignores that possibility.

Second, a polling prerequisite to debate admission leaves third-party and independent candidates at the mercy of arbitrary decisions of pollsters and debate sponsors on who to poll, when to poll, what polls to consider, and when to make the debate selection determination. There is no requirement that pollsters test third-party and independent candidates. Thus,

⁶² See Nate Silver, *A Polling Based Forecast of the Republican Primary Field*, FiveThirtyEight Politics (May 11, 2011 10:05 a.m.), <http://fivethirtyeight.com/features/a-polling-based-forecast-of-the-republican-primary-field/> (explaining that one must account for differentials in name recognition in order to evaluate a "candidate's upside"), submitted herewith as Exhibit 20.

regardless of the level of support a debate sponsor determines is necessary, a minor or third-party candidate could be excluded from the debates simply because the pollsters the sponsor relies on choose not to test his or her support. A debate sponsor's selection of which polls to rely on is also subject to manipulation. If a sponsor does not commit to using a particular poll or polls ahead of time, it can cherry pick from among the myriad polls that exist in order to engineer a specific outcome. For example, if a sponsor, like the CPD, relies on an average of 5 polls, it could select from the numerous polls available a set of five that shows the candidate below the polling threshold, whereas another set of 5 polls would yield an average above the threshold. Finally, there is no requirement that pollsters take a poll at any particular point in time. That is problematic when a debate sponsor uses a strict polling cutoff to determine debate inclusion. The difference between meeting a polling threshold could be whether the debate sponsor relied on a poll completed a day before the candidate had a positive turn in the news cycle, or a day after. Indeed, a debate sponsor can manipulate the results: it can hasten its "determination" if a candidate hovering around the polling threshold happens to be below it on one given day, or postpone its "determination" in the hopes that a candidate's support will decrease.

Third, polls in three-way races are subject to increased inaccuracy. A poll's accuracy relies on the pollster selecting the right sample, which, in turn, requires the pollster to make assumptions about the anticipated turnout on Election Day.⁶³ If a pollster's prediction about who will vote is incorrect, the accuracy of its pre-election polls will suffer.⁶⁴ Third-party and independent candidates complicate the selection of an appropriate sample. As polling and campaign expert Doug Schoen explains, this is "because of the new voters that serious third party and independent candidates tend to bring out in an election, just as Ross Perot did in 1992.

⁶³ Young Report (Exhibit 3) at ¶¶ 43, 43a-43c.

⁶⁴ *See id.* at ¶¶ 43d-43e.

These voters, some of whom are politically inactive or even unregistered until mobilized by a compelling candidate, are easily overlooked when creating samples for pre-election polls.”⁶⁵

Thus, even if a pollster chooses to test the support of a third-party or independent candidate, there is a significant chance that the test will be skewed because the pollster chose an incorrect sample.

Evidence from three-way races bears this out. As Schoen explains,

[R]aces with a serious third party or independent contender are prone to a distinct volatility in terms of voter support that limits the predictive power of pre-election data. The extent of this volatility is, of course, dependent on the nature of the electorate and its perception of that third party candidate. A recent article by Harry Enten of *FiveThirtyEight* outlined a short historical analysis over the last 12 years for gubernatorial races where a third candidate was polling at or above 5%. Analyzing polling data from the months prior to the election and comparing them to the final results, he found a median absolute error difference of 10.1% in the mid-election polls for those polling in second place. That number grows to 15.3% for those polling third. Further, it was wholly unclear whether the polling over- or underestimated the potential of the third party candidate, with some polls missing a runaway by the major-party contender and others unable to foresee a third-party victory. . . .

A hypothetical third candidate can be polling at 5% against his two opponents, excluding him from the debate due to the 15% participation standard. However, because of the pronounced volatility in a three-way race – 15.3% on average – that candidate could still finish with 20% of the vote.⁶⁶

This increased error and volatility means that polling-based debate inclusion criteria will often exclude candidates with the potential to take a large share of votes on Election Day, or even win.

Statistical analysis proves this to be true. The increased inaccuracy of polling in three-way races will lead to a significant number of false results: because of the inaccuracy of polling, polling thresholds will often exclude candidates who actually satisfy them. New research shows

⁶⁵ Schoen Report (Exhibit 11) at 28.

⁶⁶ *Id.* at 26-27.

that in three-way gubernatorial races,⁶⁷ the average absolute difference between a poll taken two months before the election and the final result is 8.04%.⁶⁸ At that error rate, a hypothetical candidate with 17% support would nonetheless fail to satisfy a 15% polling threshold 40.2% of the time.⁶⁹ In contrast, at the same 8.04% error rate, a hypothetical candidate with 42% support would only fail to satisfy the same threshold .04% of the time.⁷⁰ In other words, 4 out of 10 times, the threshold would exclude the 17% candidate from the debates, but only 4 out of 1000 times will it exclude the 42% candidate from the debates. The high risk of a false negative resulting from the application of polling threshold thus hurts only the third place candidate, which, in almost all cases, will be the third-party or independent candidate. As a result, because of the inaccuracy of three-way polling, using a polling threshold as a prerequisite for debate access will systematically reduce a third-party or independent candidate's chance of being invited to debate.

II. POLLING-BASED CANDIDATE SELECTION CRITERIA ARE INCONSISTENT WITH THE VOTER EDUCATION PURPOSE OF THE DEBATE RULES

Reliance on a mandatory polling threshold to determine access to general election presidential debates does not just fix the system against third-party and independent candidates. It also runs counter to the voter educational purpose the debate regulations are supposed to further.

If the purpose of debates is to educate voters, as the FEC has explained, reliance on polling to determine who the voters should hear puts the cart before the horse. Debates enable

⁶⁷ Because there is more three-way polling data for gubernatorial races, the author of the expert report drew on that larger sample to form a more robust conclusion. Young Report (Exhibit 3) at ¶ 34.

⁶⁸ *Id.* at ¶ 56.

⁶⁹ *Id.* at ¶ 66.

⁷⁰ *Id.*

candidates to gain support, especially third-party and independent candidates; polling thresholds deny candidates that opportunity because they have not yet gained support, which is a Catch-22. A candidate's lack of significant support in a given poll may reflect only that enough of the public has not yet become familiar with that candidate; if he or she were better known, he or she would have more support.⁷¹ The lack of public exposure to third-party and independent candidates that is inherent in our election system makes the risk of a poll failing to capture a candidate's potential for popular appeal high. Polling does not account for these differences in name recognition that create this risk. In light of this risk, to exclude a candidate from a debate because of an insufficiently high poll number can be the equivalent of determining that the public should not be educated about this candidate because the public has not *yet* been educated about the candidate. That is not consistent with the educational purpose corporate-funded debates are supposed to serve.

Furthermore, polling thresholds do not measure the public's views about who it wants to hear from in a debate. Ross Perot in 1996 and Ralph Nader and Patrick Buchanan in 2000 did not satisfy the CPD's 15% rule. Yet a majority of Americans wanted to hear from those candidates in the presidential debates.⁷² The CPD's rule denied voters that chance.

Emphasis on viability as measured by polls also ignores the role third-party and independent candidates play in issue education, agenda setting, and expanding turnout.⁷³ Third-

⁷¹ See *supra* n.62.

⁷² More than 60% of Americans wanted Ross Perot to participate in the 1996 debates. *Debate Commission Excludes Perot*, CNN, (Sept 17, 1996), <http://cgi.cnn.com/ALLPOLITICS/1996/news/9609/17/debate.announce/>, submitted herewith as Exhibit 21. In 2000, 56% of Americans wanted Pat Buchanan and Ralph Nader to participate in the general election debates. Thomas E. Patterson, *Election 2000: How Viewers 'See' a Presidential Debate 5 (2000)*, available at http://shorensteincenter.org/wp-content/uploads/2012/03/vv_debate_paper.pdf, submitted herewith as Exhibit 22.

⁷³ The Commission has linked the debates with voter participation, noting that the purpose of the debates is "similar to the purpose underlying nonpartisan [corporate-funded] voter registration and get-out-the-vote campaigns" that

party and independent candidates can further those democratic ends, even if they do not have a high prospect of electoral success.

An election is about more than who wins and who loses. “[An] election campaign is a means of disseminating ideas as well as attaining political office.”⁷⁴ Elections set the public agenda by prioritizing among the many pressing issues of the day. They enable the public to weigh in on proposed solutions to society’s problems and new innovations to move society forward. Third-party and independent candidates, even those who do not win, can play a vital role in that process.⁷⁵ They can address issues that divide the two major parties, or that the two major parties would prefer to ignore, and can also suggest new initiatives. The Republican Party began as a third party that strongly supported abolition at a time when the two major parties, the Democrats and Whigs, were divided on the issue.⁷⁶ Numerous Socialist Party candidates suffered electoral defeat in the early 1900s, but their advocacy of women’s suffrage and a progressive income tax helped bring about the Sixteenth and Nineteenth Amendments.⁷⁷ More recently, in 1992, “there was little or no sign that George Bush and Bill Clinton were prepared to discuss [the] primal issues” of deficit reduction and generational equity, but Ross Perot’s candidacy made deficit reduction a central issue in the campaign and the Clinton

FECA explicitly authorizes. Explanation and Justification, Funding and Sponsorship of Federal Candidate Debates, 44 Fed. Reg. at 76,736.

⁷⁴ *Illinois State Bd. of Elections v. Socialist Workers’ Party*, 440 U.S. 173, 186 (1979).

⁷⁵ See *Anderson v. Celebrezze*, 460 U.S. 780, 794 (1983) (“Historically political figures outside the two major parties have been fertile sources of new ideas and new programs; many of their challenges to the status quo have in time made their way into the political mainstream.”); *Sweezy v. New Hampshire*, 354 U.S. 234, 250-51 (1957) (“History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted. Mere orthodoxy or dissent from the prevailing mores is not to be condemned. The absence of such voices would be a symptom of grave illness in our society.”).

⁷⁶ See Steven Rosenstone *et al.*, *Third Parties in America* 56 (1996), submitted herewith as Exhibit 23.

⁷⁷ See J. David Gillespie, *Politics at the Periphery* 27 (1993), submitted herewith as Exhibit 24.

administration.⁷⁸ Supporting third-party and independent candidacies is also a means of expressing discontent with the major parties. The participation of third-party and independent candidates in debates can thereby encourage participation in the electoral process by those whose disenchantment would otherwise cause them to sit on the sidelines.⁷⁹ Polling thresholds drastically curtail the voices and viewpoints heard in the debates, effectively preventing the democracy-enhancing functions that the debates could otherwise have.

III. NONPARTISAN, NONDISCRIMINATORY ALTERNATIVES EXIST TO DETERMINING CANDIDATE VIABILITY

Petitioner does not oppose using debate selection criteria that take into account viability of a contender in the general presidential election. The sheer number of declared candidates for president requires some limiting principles to govern debate access. Petitioner does not even oppose a debate sponsor allowing candidates to participate if they meet a polling threshold, so long as the sponsor provides an alternative avenue for gaining entry to debates that does not rely on polling. Petitioner does not believe that the FEC needs to specify what that other avenue should be or to adopt a specific set of criteria to govern access to the general election presidential debates. But it is worth noting that polling is not necessary to measure the viability of candidates for our nation's highest office. Workable alternatives exist that can measure viability in a truly neutral and objective way without reliance on polling.

Petitioners have devised one such alternative. The new rule would work as follows: On April 30 of an election year, any candidate, party, or nominating process with ballot access in states that collectively have at least 270 Electoral College votes would notify the CPD of that

⁷⁸ Tom Morgenthau, *Citizen Perot*, Newsweek, Nov. 9, 1992, submitted herewith as Exhibit 25; see Sandy Grady, *Without Ross Perot, There Would Be No Deficit Deal*, Orlando Sentinel, Aug. 5, 1993, available at http://articles.orlandosentinel.com/1993-08-05/news/9308050846_1_ross-perot-clinton-media-trend, submitted herewith as Exhibit 26.

⁷⁹ See Rosenstone *et al.* (Exhibit 23), *supra* n.76, at 224; Gillespie (Exhibit 24), *supra* n.77, at 19.

access. If there is more than one, then whoever has gathered the most signatures as part of the ballot access process will participate in the debates with the Democratic and Republican nominees.

This new rule builds on the existing legitimating function of the ballot access process. Ballot access laws reflect a state's decision of the demonstrated level of support necessary to warrant the serious step of including a candidate among the choices citizens are given on Election Day. The minimum number of signatures necessary to achieve ballot access in states comprising 270 electoral votes represents the collective and objective political judgment of who can qualify to run for President. Achieving that number alone is a significant mark of a candidate's seriousness. Indeed, since 1988, the greatest number of third-party or independent candidates to meet this minimum in any given election was five (in 2000), and was often three or less.⁸⁰

Of course, given the historic prize of entry into the debates, the competition to gain the most signatures will be vigorous and propel competitors well beyond the minimum. As a result, a legitimate third candidate will emerge. The winner should plan to stop 6 to 8 million people in the streets with the hope of 4 million signing.⁸¹ The cost and scale of that endeavor – requiring at least \$13 million or more and a coordinated, nationwide network of staffers and volunteers – would not be insurmountable, but is substantial enough to ensure that only someone with significant fundraising and operational capacity could win.⁸² And by virtue of having gotten the

⁸⁰ *The 15 Percent Barrier*, Open Debates, <http://www.opendebates.org/theissue/15percent.html> (last visited Sept. 5, 2014), submitted herewith as Exhibit 27.

⁸¹ Expert Report of Michael Arno, dated Sept. 5, 2014, at ¶ 23, submitted herewith as Exhibit 28.

⁸² *Id.* at ¶¶ 16-20.

signatures of a broad cross section of Americans, the winner will have demonstrated popular appeal.⁸³

Petitioner believes that fundraising ability, operational capacity, and countable, numerical demonstrations of popular support (like fundraising totals or attendance at rallies) are reasonable considerations for debate selection. The signature drive competition provides an objective, fair, and measurable way to implement those criteria.

⁸³ *Id.* at ¶¶ 21-25.

CONCLUSION

Although it is only 2014, the presidential election campaign for 2016 will soon commence. Qualified individuals will soon begin weighing whether to run as a third-party or independent candidate, if they have not already begun doing so. Assessing whether there is a realistic chance to participate in the presidential general election debates will be a significant part of their calculus. Under the present system, there is no realistic chance that qualified third-party or independent candidates will gain entry into the debates. And this will remain the case so long as debate sponsors require candidates to meet a polling threshold in order to be permitted to debate; under the status quo, the debates can remain a rigged game that deprive voters of the viable alternative choice so many want to hear. For all of the reasons set forth herein, the FEC should amend its debate sponsorship regulation, 11 C.F.R. § 110.13, to (A) preclude sponsors of general election presidential and vice-presidential debates from requiring that a candidate meet a polling threshold in order to be admitted to the debates; and (B) require that any sponsor of general election presidential and vice-presidential debates have a set of objective, unbiased criteria for debate admission that do not require candidates to satisfy a polling threshold to participate in debates.

Respectfully submitted,



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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
)
Petition for Rulemaking re:)
Sponsorship of Candidate Debates)
)

EXHIBITS TO PETITION FOR RULEMAKING

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Exhibit 1

68% Think Election Rules Rigged for Incumbents

in [Politics](#)

Sunday, July 13, 2014

More voters than ever now say U.S. elections are rigged to favor incumbents and are unfair to voters.

A new Rasmussen Reports national telephone survey finds that 48% of Likely U.S. Voters now say American elections are not fair to voters, [up from 46% in April](#) and [the highest finding in surveys since 2004](#). Thirty-nine percent (39%) think elections are fair, but 14% are not sure. (To see survey question wording, [click here](#).)

That could be in part because 68% think members of Congress nearly always get reelected, not because they do a good job, but because elections are rigged to benefit incumbents. That, too, is up from April and a new all-time high. Just nine percent (9%) think Congress members are reelected because they do a good job representing their constituents. Twenty-three percent (23%) are not sure.

The Declaration of Independence says that governments derive their authority from the consent of the governed, but just 19% of voters think the federal government today actually has that consent. Sixty-two percent (62%) do not think the federal government has the consent of the governed, while 19% are undecided. This is consistent with surveying for the past four years.

Only seven percent (7%) of voters think the average representative in Congress listens to the voters he or she represents the most, the most pessimistic finding yet, while 83% think representatives listen to party leaders in Congress the most.

Fifty-two percent (52%) believe a random group of people selected from the phone book could do a better job of running the country than the current Congress. This marks the first time that number has surpassed the 50% mark. One-in-three voters (30%) disagree, but 18% are undecided.

(Want a [free daily e-mail update](#)? If it's in the news, it's in our polls). Rasmussen Reports updates are also available on [Twitter](#) or [Facebook](#).

The survey of 1,000 Likely Voters was conducted on July 9-10, 2014 by Rasmussen Reports. The margin of sampling error is +/- 3 percentage points with a 95% level of confidence. Field work for all Rasmussen Reports surveys is conducted by [Pulse Opinion Research, LLC](#). See [methodology](#).

Men are slightly more likely than women to believe that U.S. elections are fair to voters. But they're also more likely to believe Congress members are reelected because the rules are rigged to benefit them and that a randomly selected group would do a better job.

Forty-seven percent (47%) of Republicans and 44% of Democrats believe U.S. elections are fair, a view shared by only 26% of voters not affiliated with either major party.

Republicans are slightly more likely than Democrats and unaffiliateds to believe Congress members are reelected because they do a good job, though a majority still think it's because election rules are rigged.

Democrats, on the other hand, are nearly three times as likely as Republicans and unaffiliated voters to think the federal government has the consent of the governed.

Not surprisingly, most voters who believe elections are rigged to benefit congressional incumbents think elections are unfair.

[Just eight percent \(8%\) of all voters rate Congress's overall performance as good or excellent](#), and only 25% think their local representative deserves to be reelected.

[Fifty-four percent \(54%\) of voters expect the GOP to take control of the Senate this November](#), but no matter which party wins control of Congress, more than half of voters believe it will lead to a noticeable change in the lives of most Americans.

[Additional information](#) from this survey and a [full demographic breakdown](#) are available to [Platinum Members](#) only.

Please sign up for the Rasmussen Reports [daily e-mail update](#) (it's free) or follow us on [Twitter](#) or [Facebook](#). Let us keep you up to date with the latest public opinion news.

in Politics

The survey of 1,000 Likely Voters was conducted on July 9-10, 2014 by Rasmussen Reports. The margin of sampling error is +/- 3 percentage points with a 95% level of confidence. Field work for all Rasmussen Reports surveys is conducted by [Pulse Opinion Research, LLC](#). See [methodology](#).

Exhibit 2

Independents and the Presidential Debate System

Douglas E. Schoen, LLC

August 29, 2014

Overview

- Douglas E. Schoen, LLC conducted a survey with a random sample of 1,000 likely voters across the country from July 14 – 28, 2014.
- The purpose of this survey was to test voter opinion on reforming presidential debates to include independent candidates.
- The margin of sampling error for this poll is +/-3%.

Overview

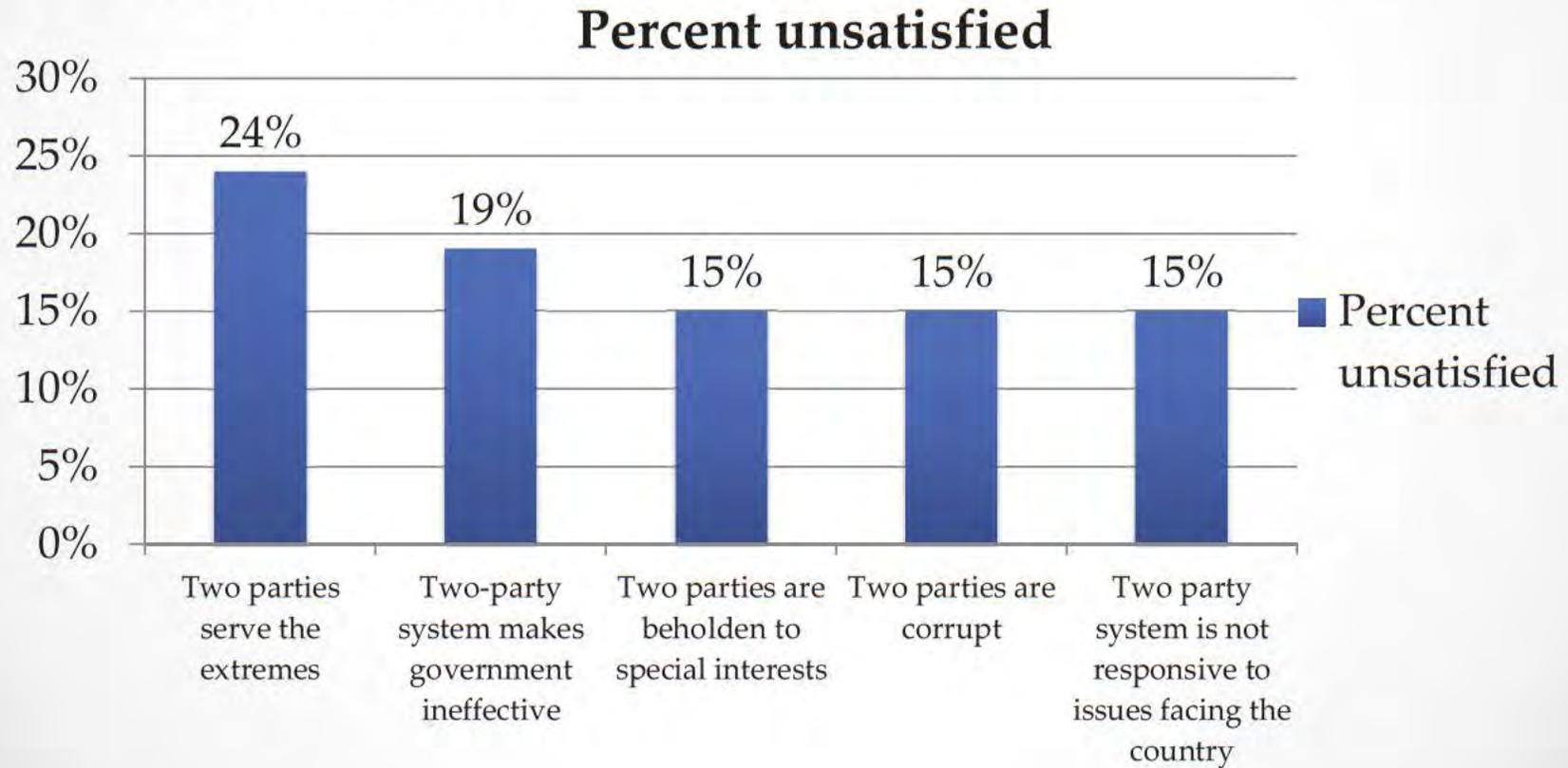
- There is overwhelming support for making changes to the Presidential debate system.
 - **Sixty-six percent of voters think the debates could do a better job informing the public**
 - **A majority of voters want Independent candidates to be included in Presidential debates**
 - **Nearly three quarters of voters agree that the debate system actually “sabotages the electoral process,” as Walter Cronkite put it**

Overview

- Our survey found that there is deep dissatisfaction with the two-party system in America.
 - **Two-thirds of voters feel the political process has gotten worse in the last few years**
 - **Over 80 percent (83%) say that we need substantial political reforms in America**
 - **A majority of voters (53%) report to be unsatisfied with the two-party system**

Overview: Voter Dissatisfaction with the Two-Party System

- A plurality of voters (24%) say they are dissatisfied with the two party system because they feel the two parties only serve the extremes.



Overview

- Voters give negative ratings to both Republicans and Democrats.
 - The Democratic Party's negative ratings have steadily increased over the past two years, going from 40% in Sept. 2012 to 45% in June 2013 to 48% today.
 - The Republican Party's negative ratings have followed a similar pattern, going from 50% in Sept. 2012 to 55% in June 2013 to a record high 64% today.

Overview

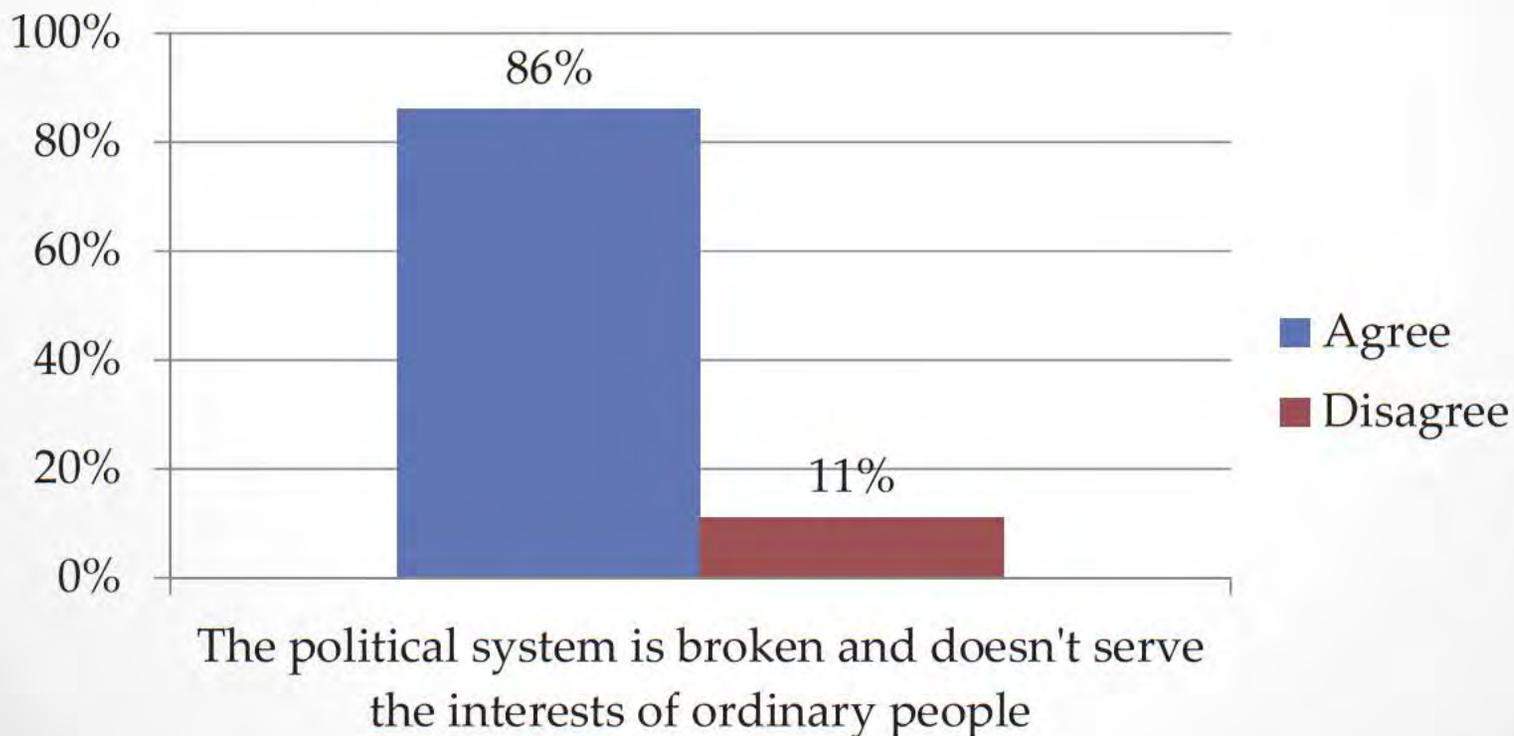
- Disapproval of Congress is at record highs:
 - 83% of Americans disapprove of the job Congress is doing, up from 69% in March 2014.
 - Close to 60% disapprove of the job Congressional Democrats are doing, up from 57% at this time last year.
 - And 68% of Americans disapprove of the job Congressional Republicans are doing, up from 62% in 2012.

Overview

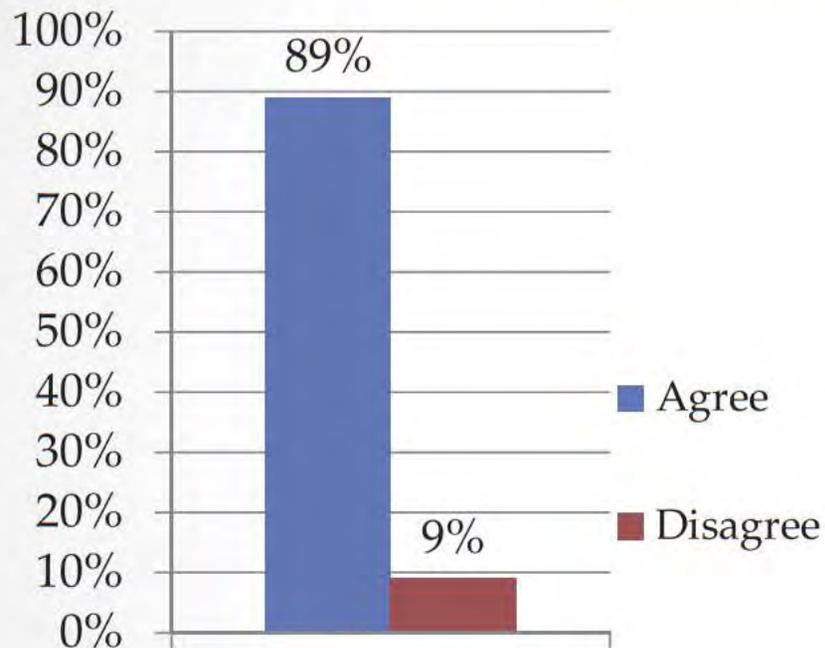
- Dissatisfaction is rooted in out-of-touch political parties that are perceived to only fight and not compromise.
 - Americans feel that the two-party system is broken because it serves the extremes of their parties and not the middle. Ninety-one percent of Americans are frustrated that elected officials fight as opposed to addressing our major problems. And 89% wish that politicians would work together and compromise.

Overview: Our Political System is Broken

- Taken together, an overwhelming majority (86%) see our political system as broken and no longer serving the interests of ordinary people.



Overview: Voters are Frustrated with Elected Officials



Politicians should work together and compromise so we can move forward

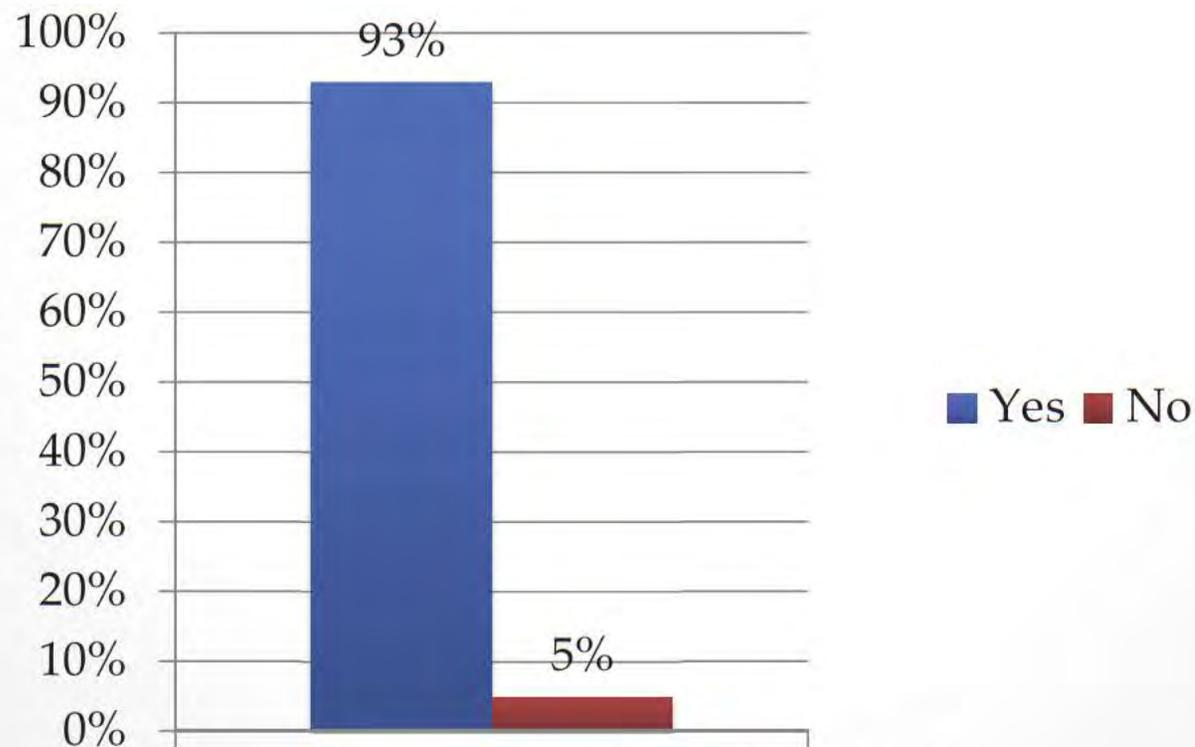
- And 89% wish that politicians would work together and compromise so that we can move forward.

Overview

- Almost all of those surveyed (93%) are familiar with presidential debates.
- However, there is an overwhelming feeling that the debates don't do enough to inform the general public and could be improved.
- 66% of respondents said that the debates could do a better job in informing the electorate while only 27% said they have done as good a job as possible.

Overview: Presidential Debates

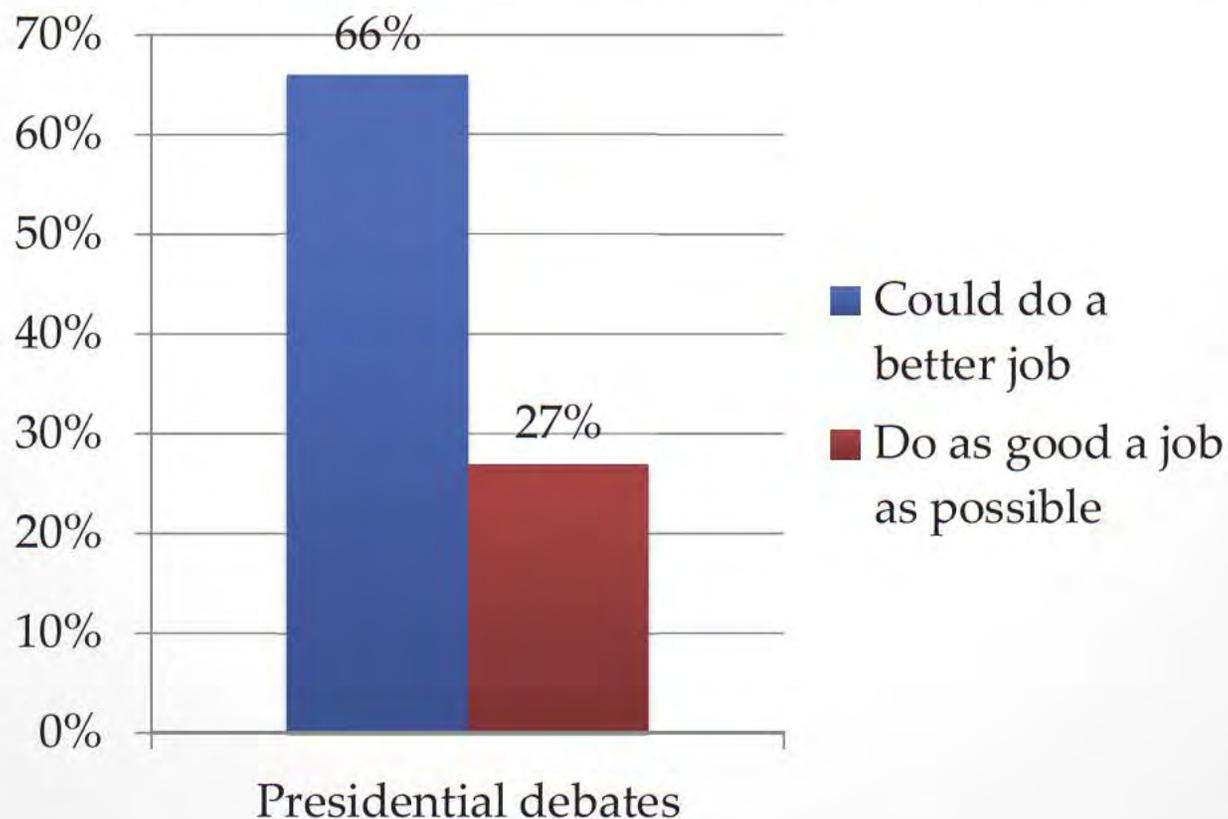
- Virtually all respondents (93%) are familiar with Presidential debates.



• Are you familiar with Presidential debates?

Overview: Presidential Debates

- And while almost all of those surveyed are familiar with presidential debates, close to two-thirds (66%) feel the debates could do a better job informing the public.

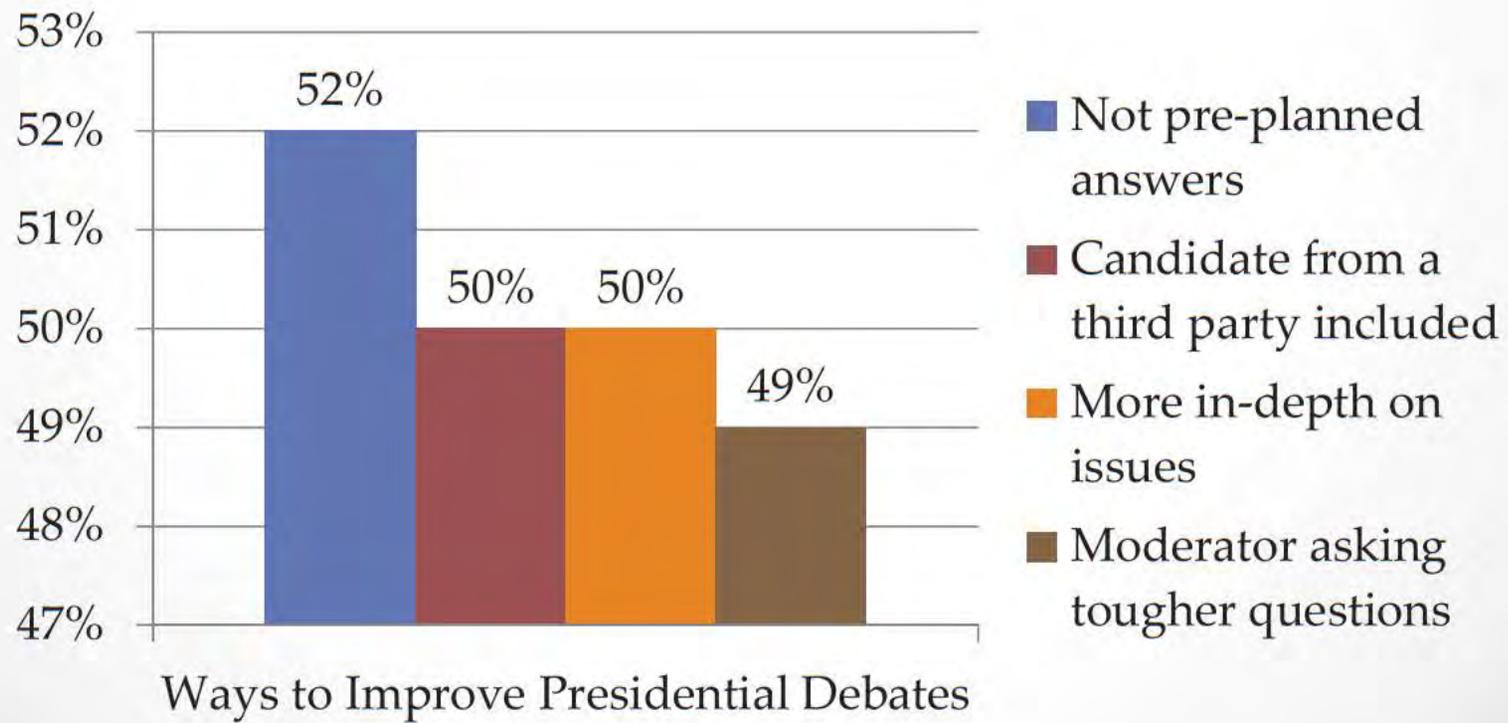


Overview: Improving Presidential Debates

- We asked voters what innovations they thought would improve the debates. The top five innovations were:
 1. If the candidates' responses didn't feel pre-planned (52%)
 2. **If a candidate from outside the two parties was included in the debates (50%)**
 3. If the candidates went into more depth on the issues (50%)
 4. If the moderator asked more hard-hitting questions (49%)
 5. If a wider range of issues were discussed (48%)

Overview: Improving Presidential Debates

- A majority of voters (52%) say they would like it if the candidates' answers weren't pre-planned. And 50% of voters said they'd like to see a candidate from outside the two main parties and if the candidates went more in-depth on the issues.

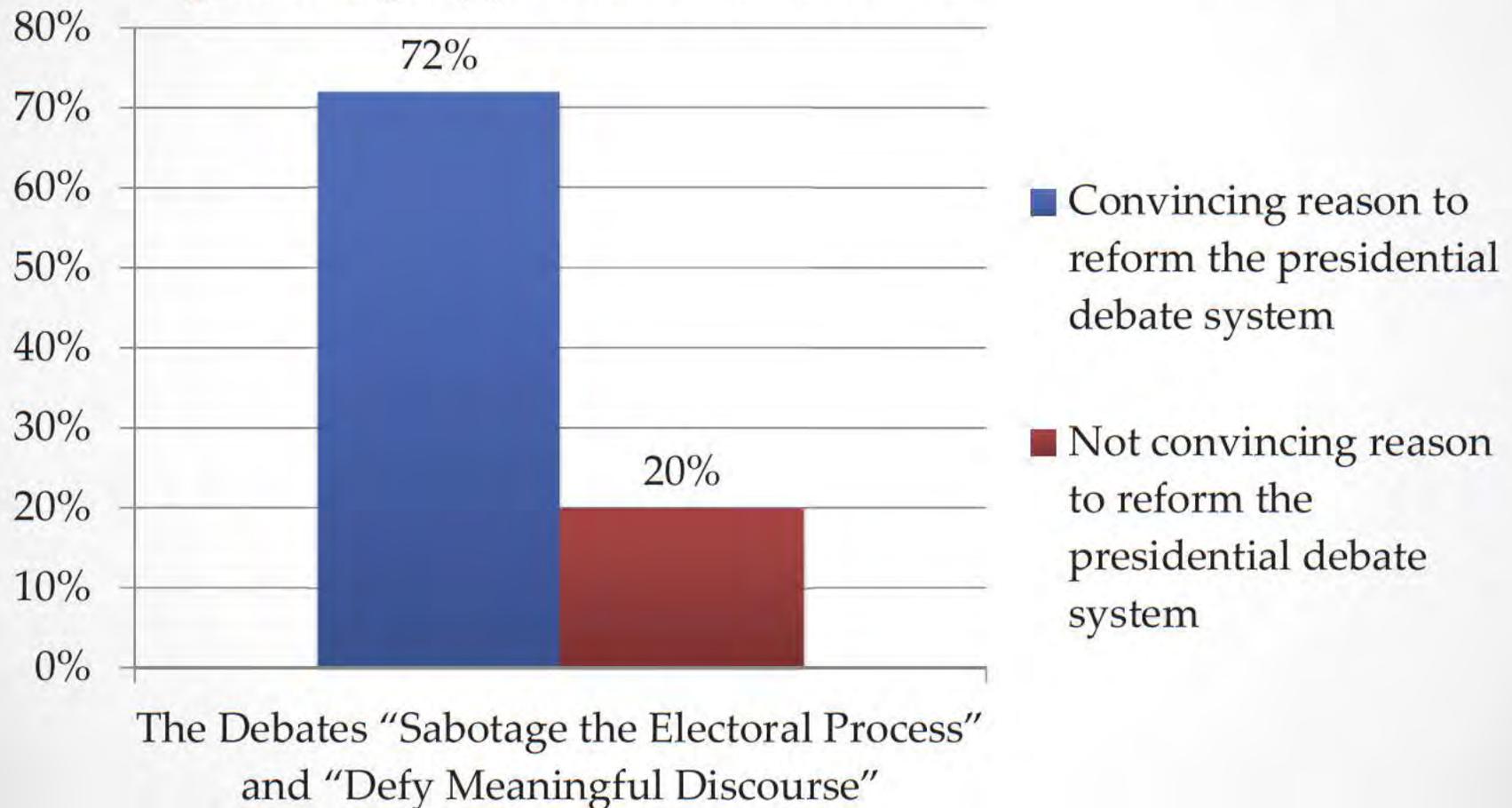


Overview:

- We tested two arguments for reforming the presidential debate system to include candidates from outside the two parties. Both were convincing to a majority of voters.
- **Seventy-two percent** found Walter Cronkite's argument that the **debates actually “sabotage the electoral process”** and “defy meaningful discourse” a convincing reason to reform the presidential debate system.
- **Fifty-five percent** found the fact that the current Co-Chair of the Commission on Presidential Debates has said that the **goal of the debates is to build up the main two parties** to be a convincing reason to reform the presidential debate system.

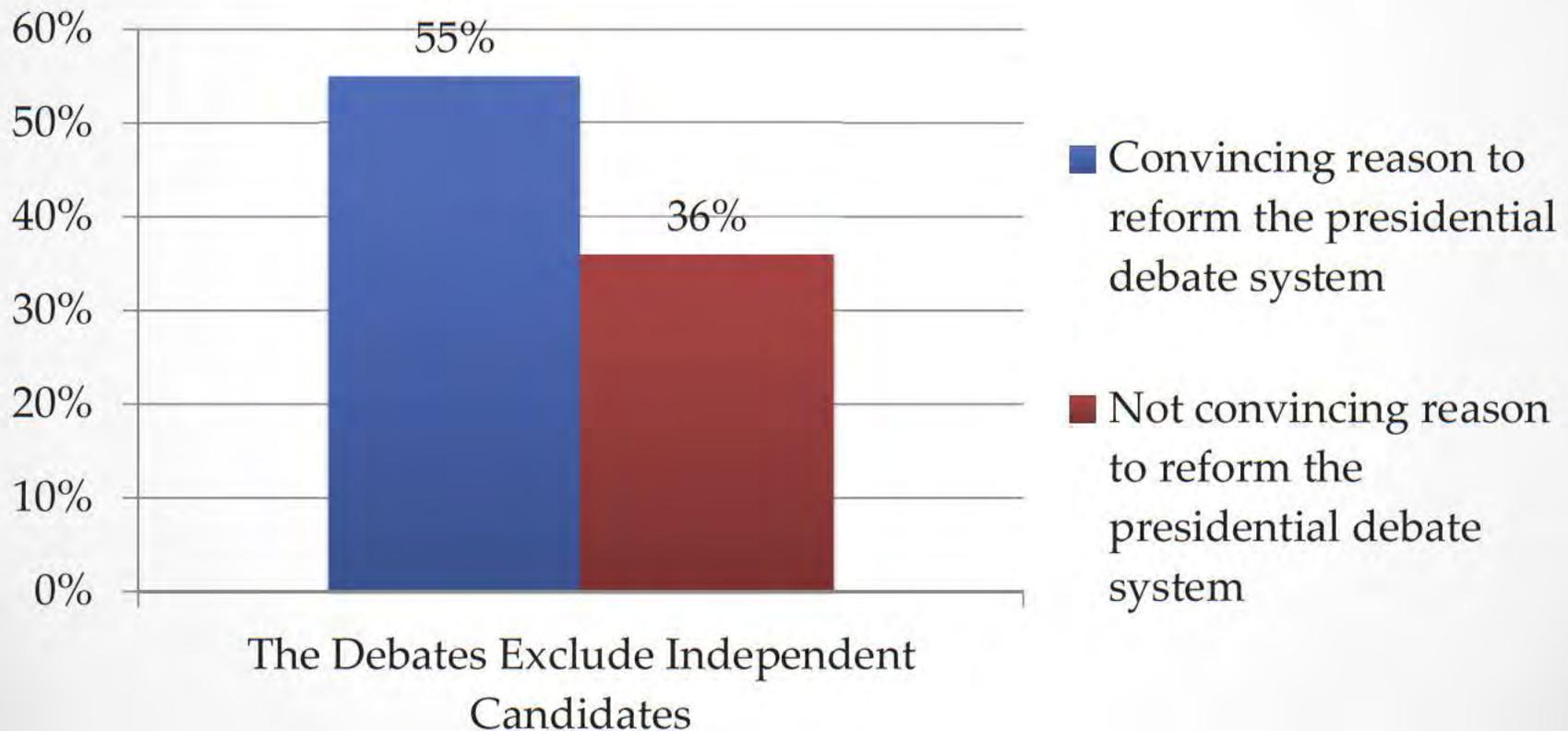
Overview: Reforming Presidential Debates

- Cronkite's argument for reforming the Presidential debate system gets strong support from 72% of voters.



Overview: Reforming Presidential Debates

- And the fact that current Co-Chair of the Commission on Presidential debates has said that the goal in running the Presidential debates is to exclude independent candidates was a convincing argument to reform the Presidential debate system for 55% of voters.



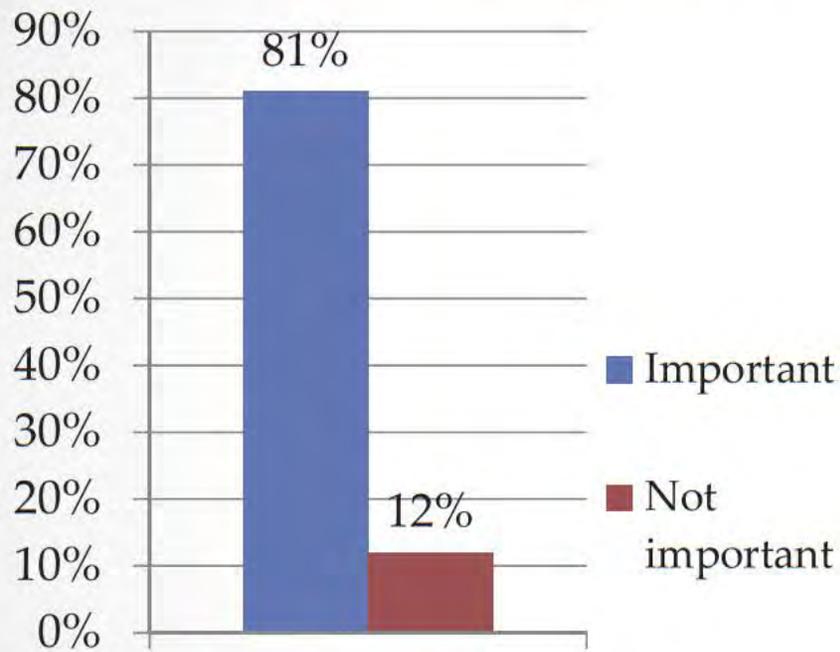
Overview

- To a large degree, voters hold the media responsible for poor coverage of the candidates and issues.
- A solid majority (60%) do not have confidence that the media will provide good coverage of all relevant candidates and issues during the next presidential election.

Overview: Support for Independent candidates

- There is a great deal of support for independent candidates to participate more in the political process.
 - **Eighty-one percent say it's important to have independent candidates run for office.**
 - **Sixty-five percent often feel that the Democrat candidate is too far left and the Republican candidate is too far to the right and would like the option to vote for an independent candidate.**
 - **And over three quarters (76%) say it is important to elect independents to break the partisan gridlock in Washington.**

Overview: Voters Want Independent Candidates to Run for Office



Is it important to have independent candidates run for office?

- It is important to a strong majority (81%) of the American people to have independent candidates run for office.

Overview: Independent Candidates

- Moreover, 62% say that they are likely to vote for an independent candidate in the 2016 presidential election.
- But at the same time, 64% of voters worry that if they vote for an independent candidate they will be wasting their vote and end up with the candidate or party they least prefer.

Overview: Arguments for Independents

- There are a number of persuasive arguments as to why voters feel we need to elect Independent candidates:
 - ✓ 91% of Americans believe we need to elect someone who can produce real change and who isn't a career politician.
 - ✓ 86% feel that the parties control who gets elected to office, not the voters.
 - ✓ 86% believe that the main two parties are too beholden to special and corporate interests to create any meaningful change.
 - ✓ 67% think that the Democrats and Republicans have both failed to solve the country's problems

Overview: Independents

- A plurality of voters (42%) feel that having an Independent president would **improve the situation in Washington.**
- And nearly two thirds (63%) think that an independent president could be **more effective** or **just as effective** as a president from the two major parties.

Overview:

Key Conclusions

- The messages that will work best in favor of independent candidates are:
 1. That they will produce real change
 2. That they aren't career politicians
 3. That they aren't beholden to special or corporate interests
 4. That the voters are in charge of the electoral process, not the Democrats or Republicans
 5. That Democrats and Republicans haven't solved American's problems

Overview: Key Conclusions

- There is strong interest in reforming the presidential debate process in America so that it better informs the public.
- A majority of Americans support integrating Independent candidates into presidential debates and feel it would improve the debates for a majority of voters, making it a worthwhile endeavor.

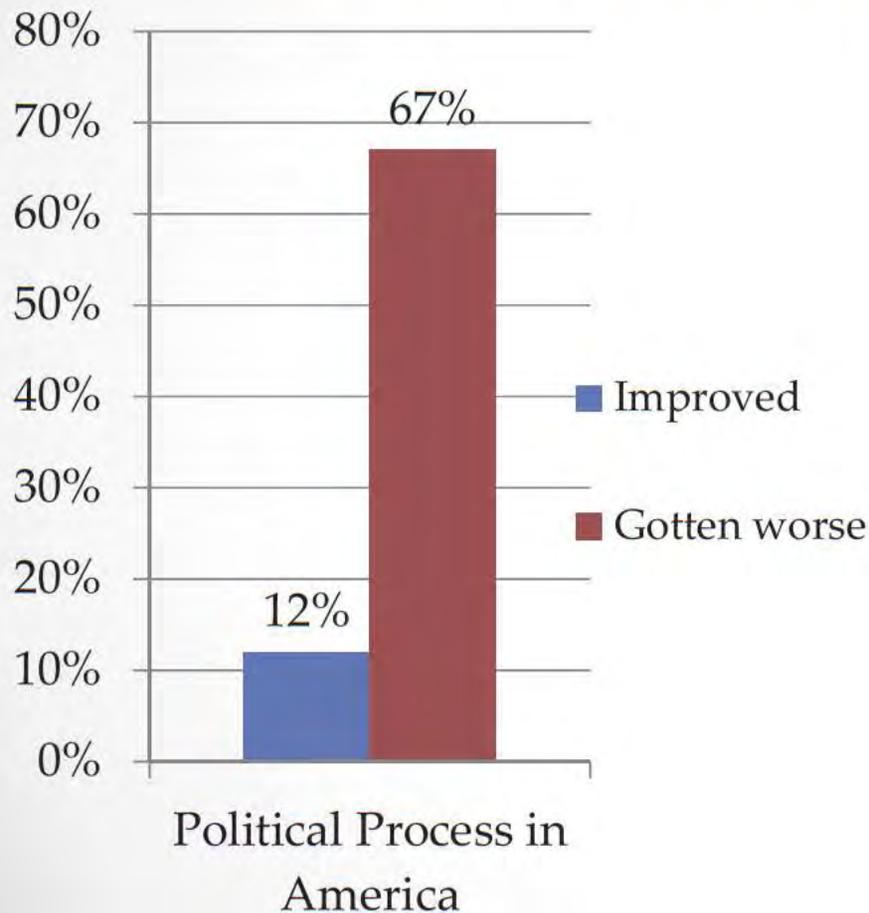
Overview

- The following slides present the main findings from the survey.

Summary of Main Findings

...

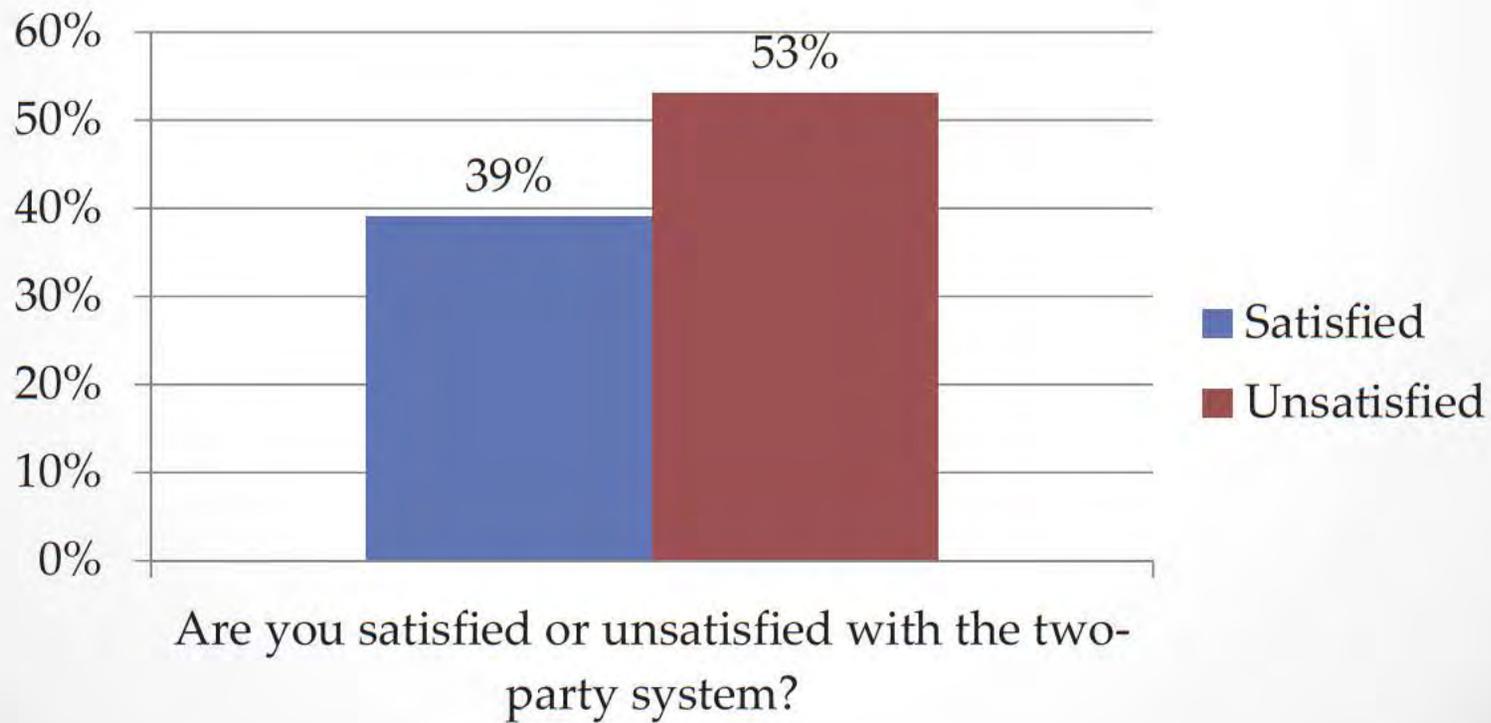
Voters Unsatisfied with the Political System



- Voters feel strongly that the political process in America has gotten worse in the last few years.

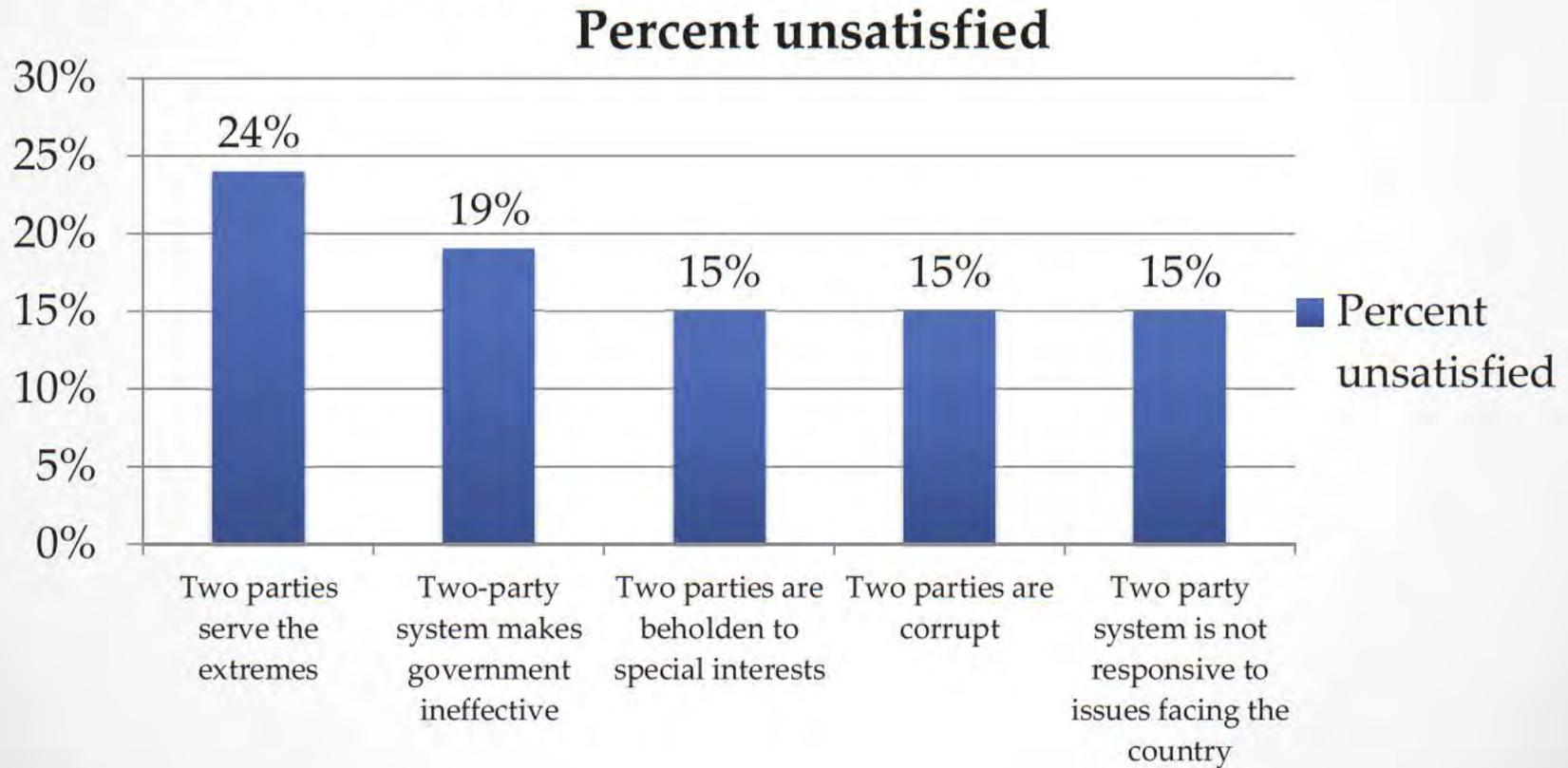
Voters Unsatisfied with the Political System

- A majority (53%) of voters report to be unsatisfied with the political system.



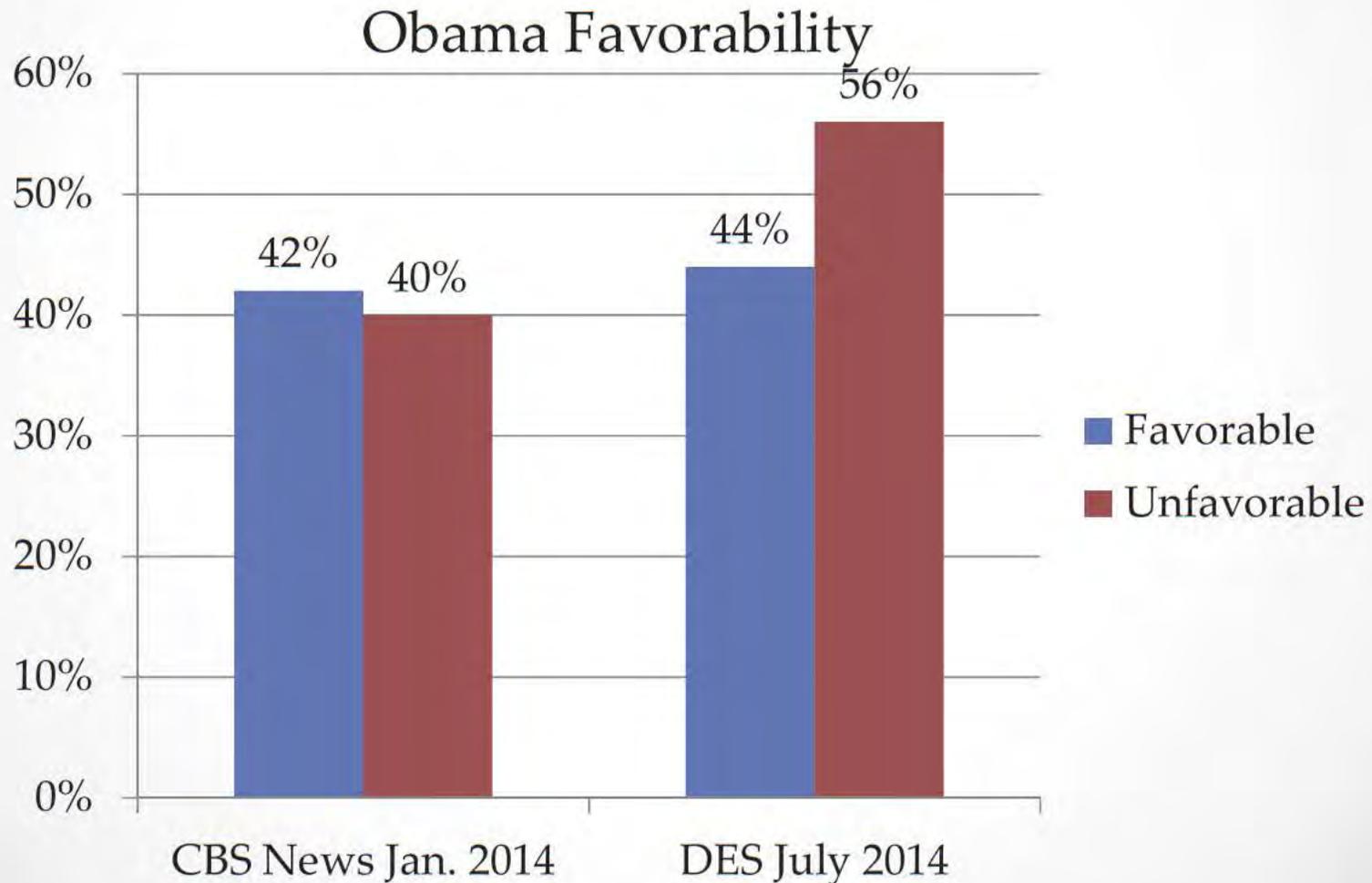
Main Reasons Americans are Unsatisfied with the Two-Party System

- A plurality of voters (24%) say they are unsatisfied with the two party system because they feel the two parties only serve the extremes.



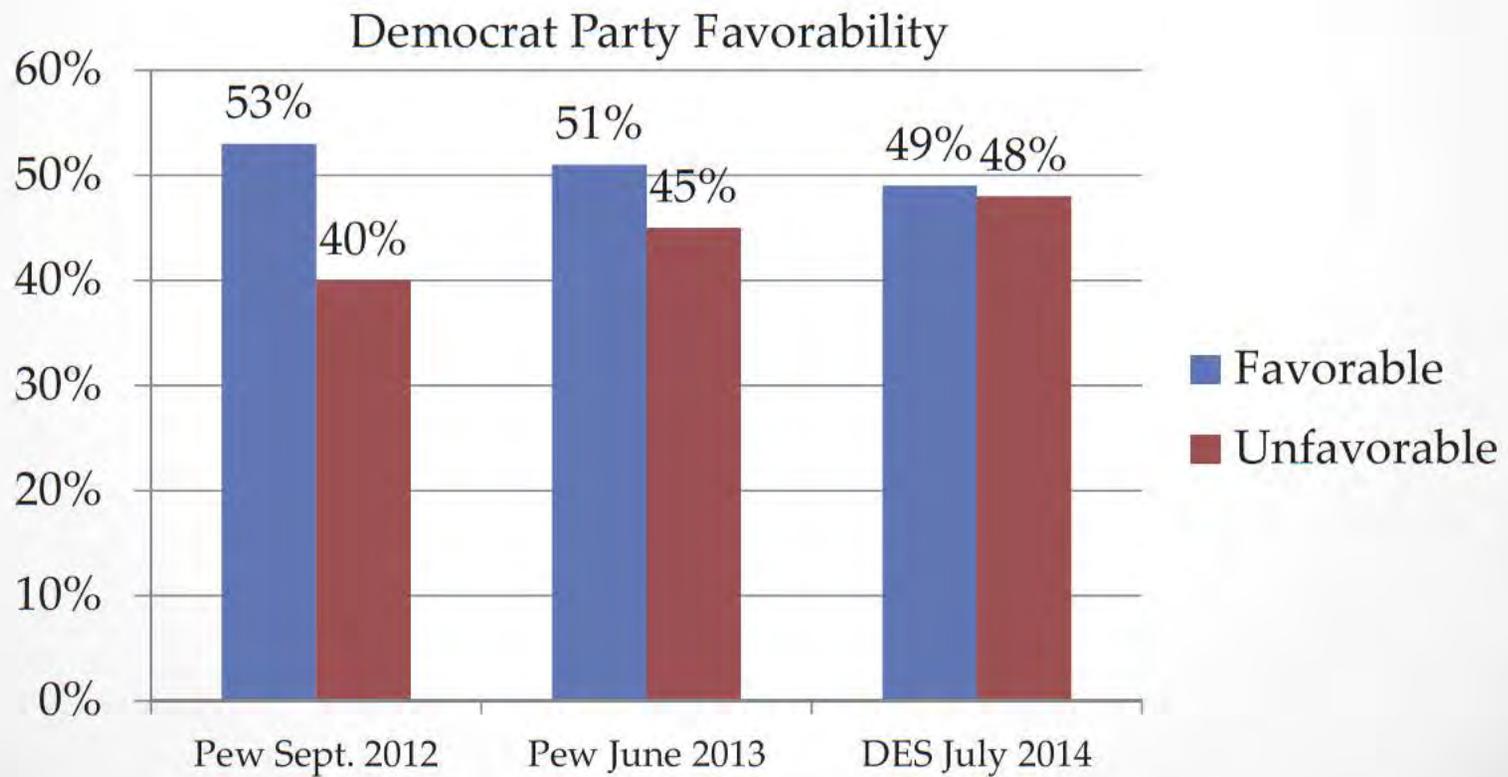
President Obama's Negative Ratings are Increasing

- Between January and July of 2014, President Obama's Unfavorable rating increased from 40% to 56%.



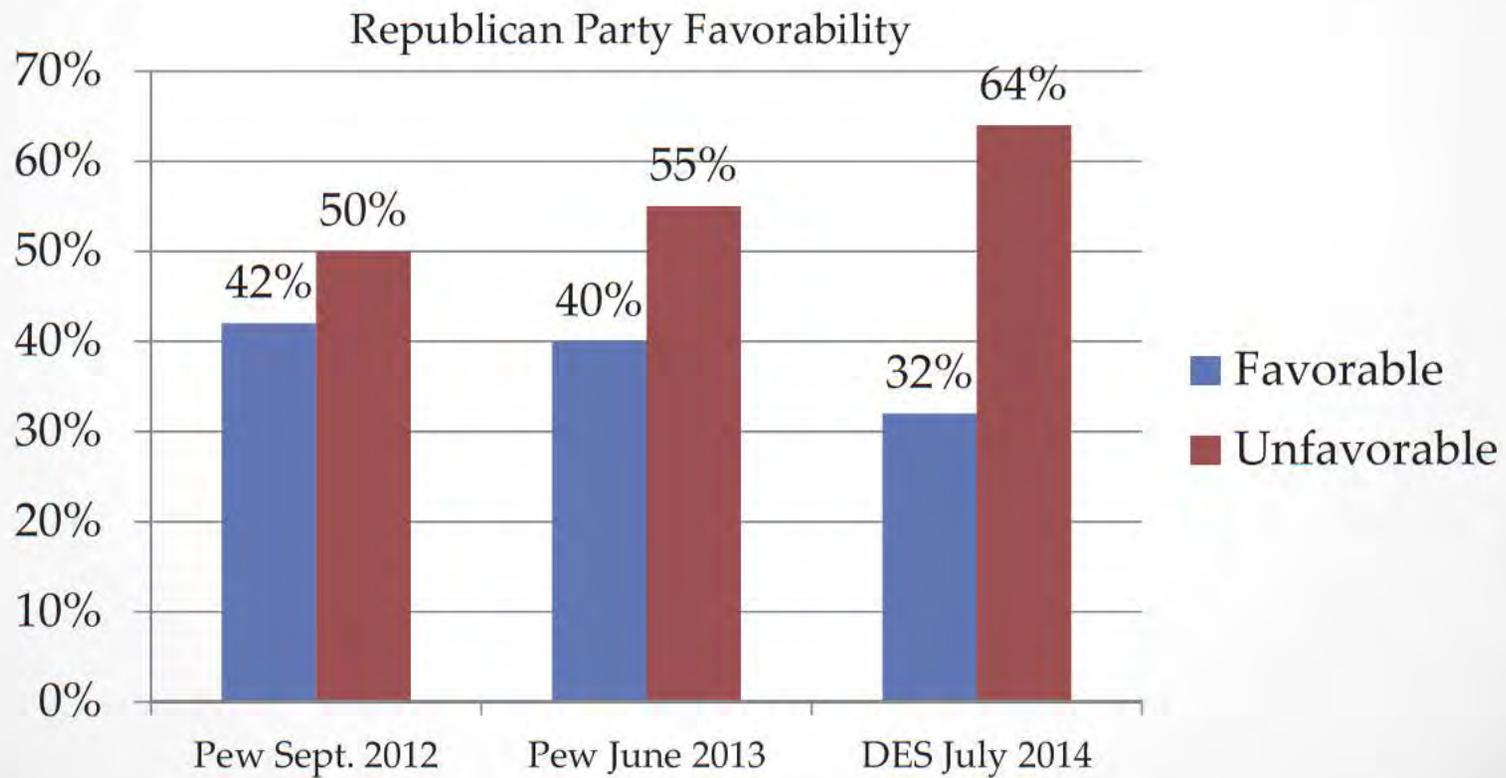
Democrat Party's Negative Ratings are Increasing

- The percentage of voters who rate the Democrat Party unfavorably has grown from 40% in 2012 to 48% today. What used to be a clear favorable rating for the Democrats has disappeared.



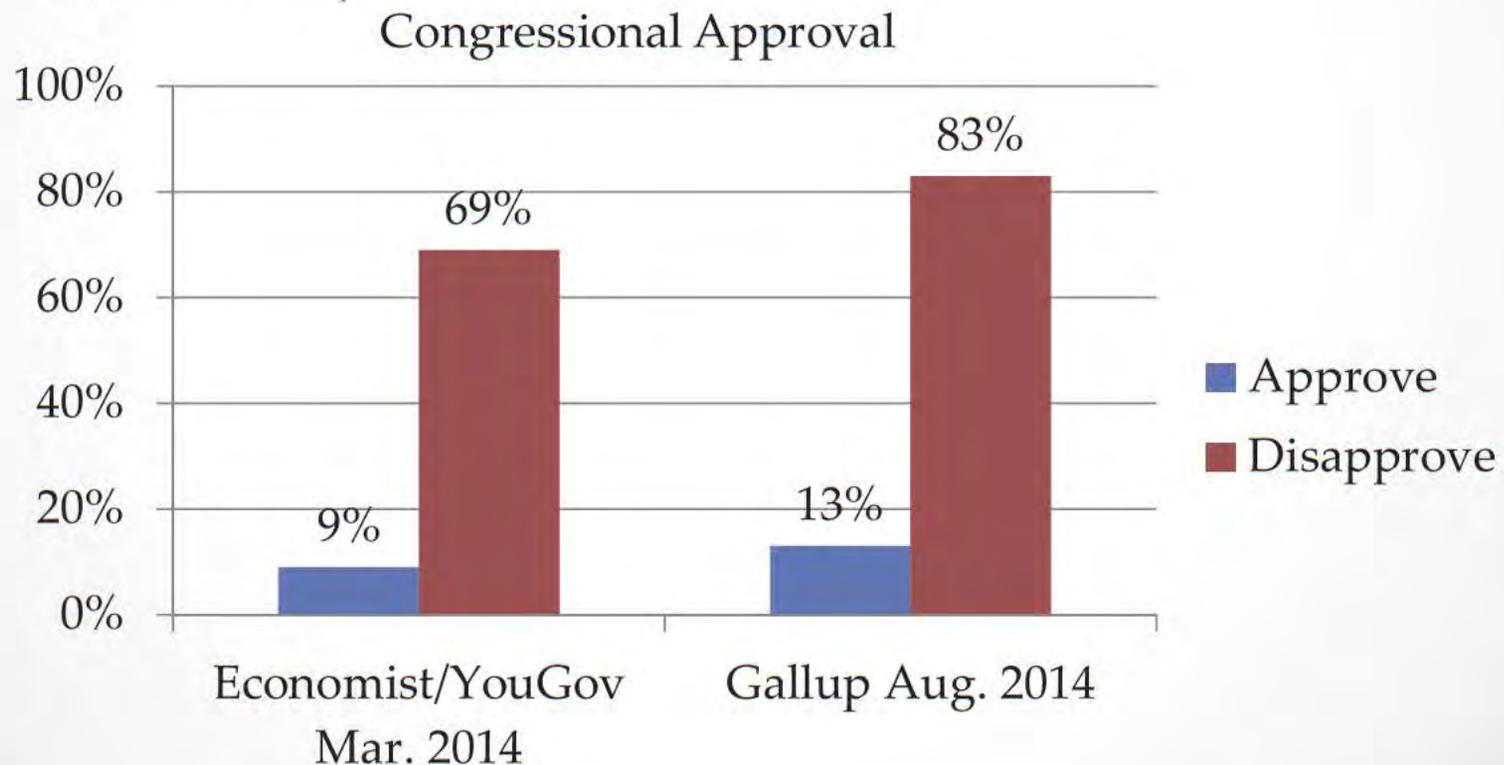
Republican Party's Negative Ratings is at a Record High

- The Republican Party's negative ratings have increased even more than the Democrats', currently at record high 64%.



Disapproval of Congress at All Time High

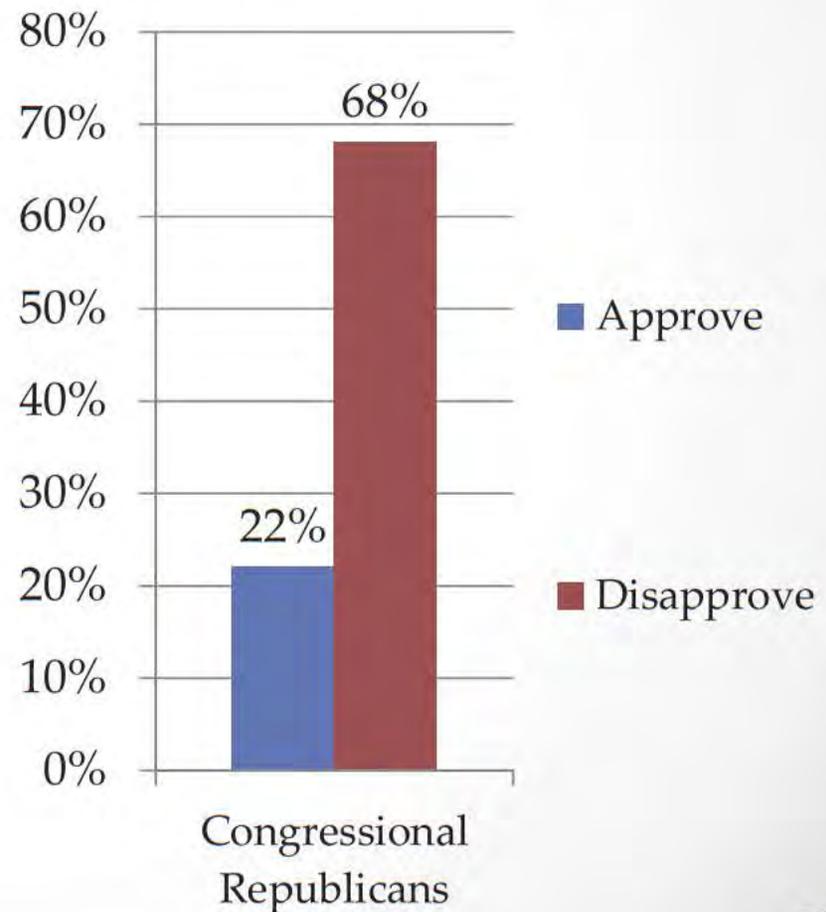
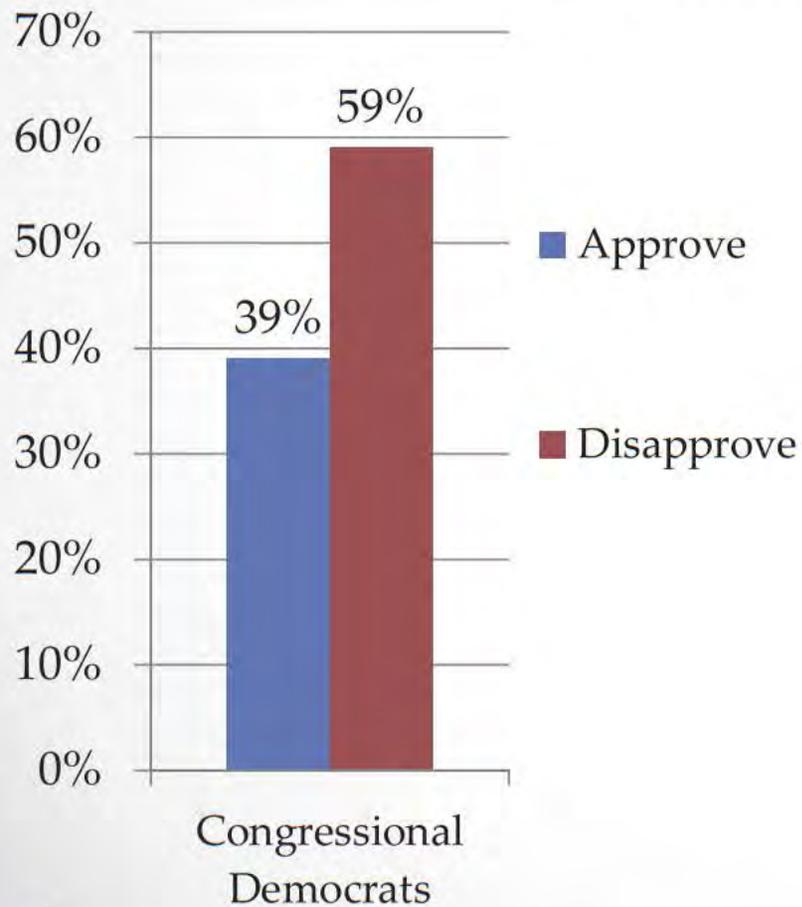
- Today, more than 80% of American disapprove of the job Congress is doing. This is a 14 point increase from earlier this year.



Job Approval Republicans and Democrats

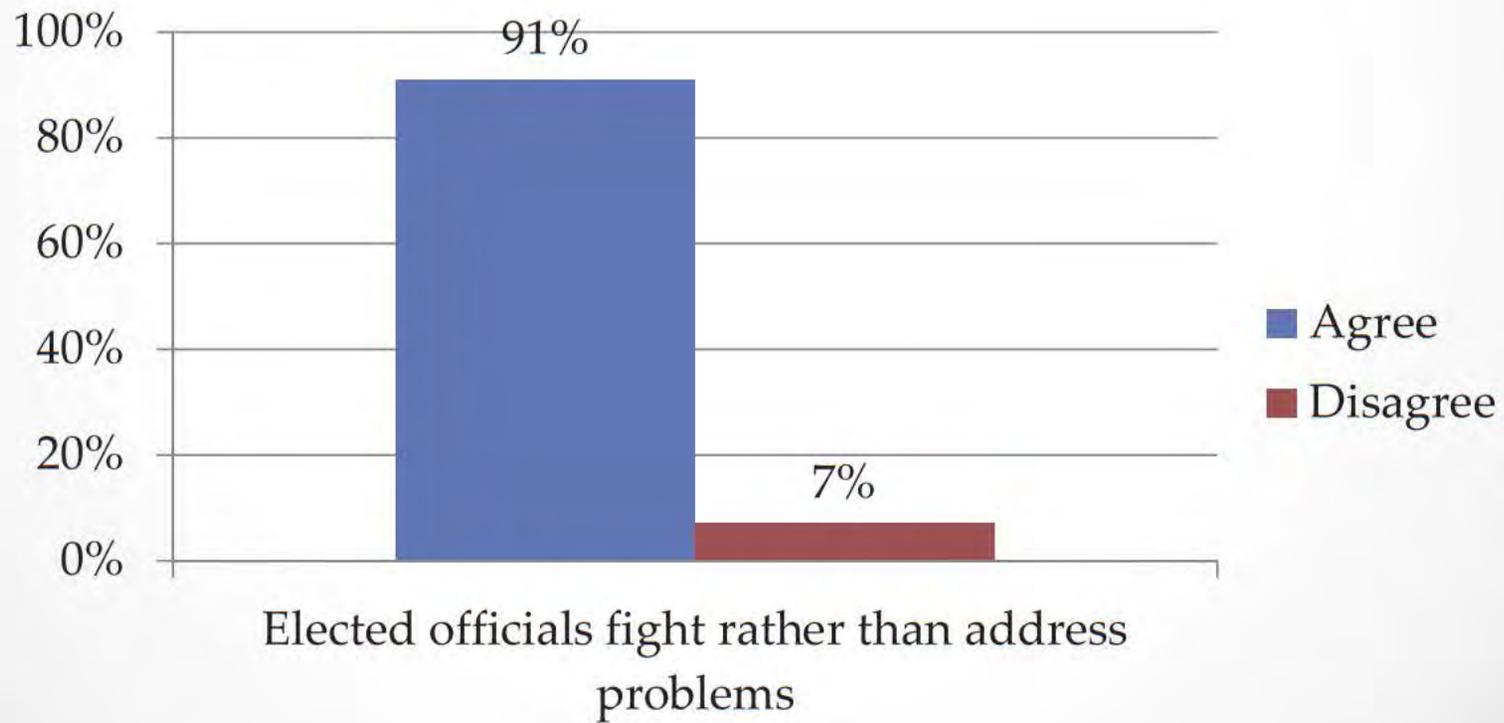
- A majority of Americans disapprove of the job both Congressional Democrats and Republicans are doing.

Congressional Job Approval

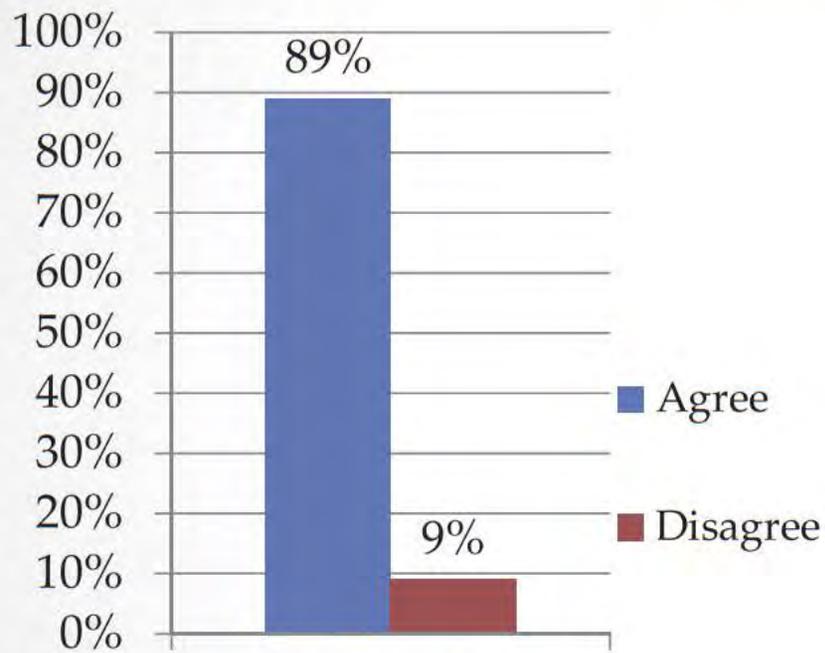


Frustration with Elected Officials

- Ninety-one percent of Americans are frustrated that elected officials only seem to fight instead of addressing major problems.



Frustration with Elected Officials

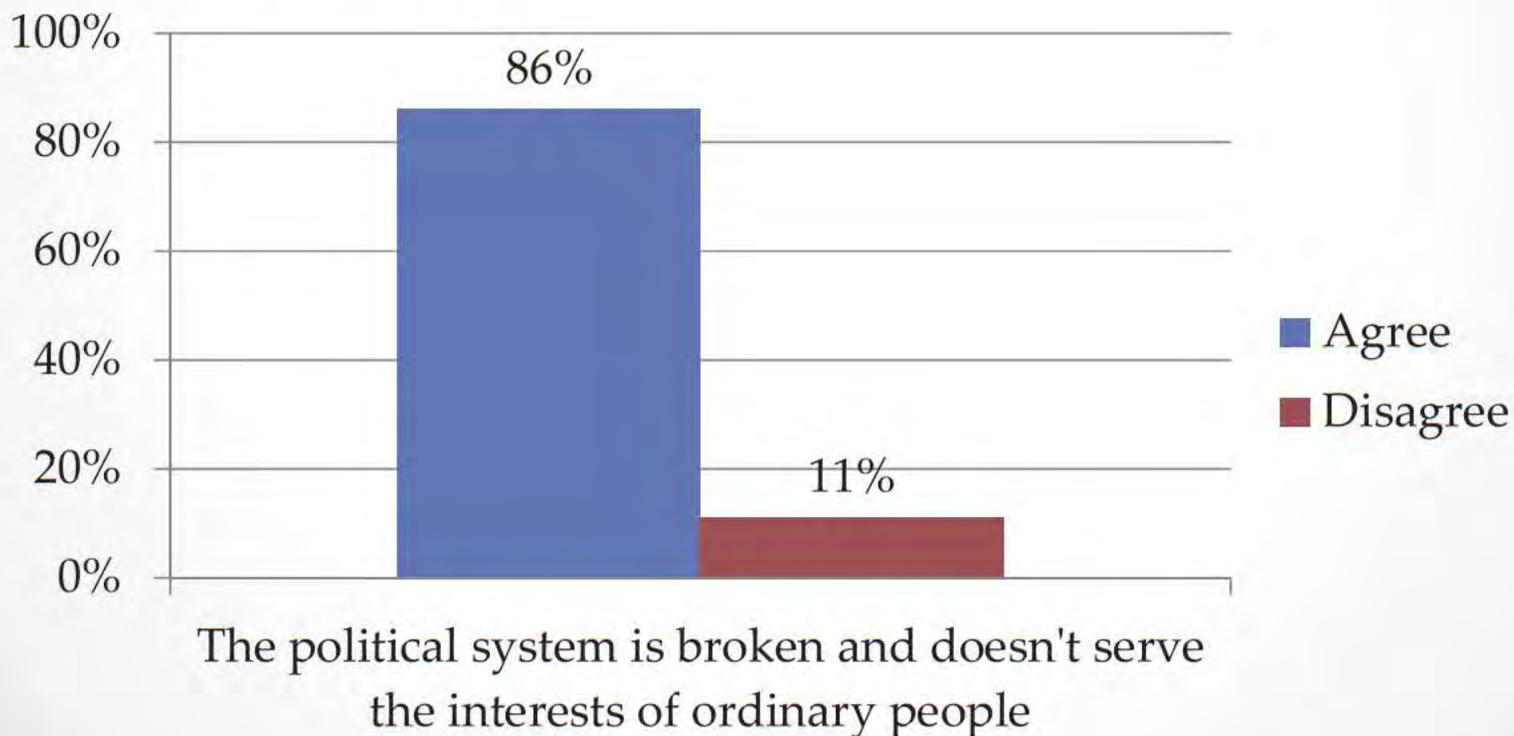


Politicians should work together and compromise so we can move forward

- And 89% wish that politicians would work together and compromise so that we can move forward.

The Broken Political System

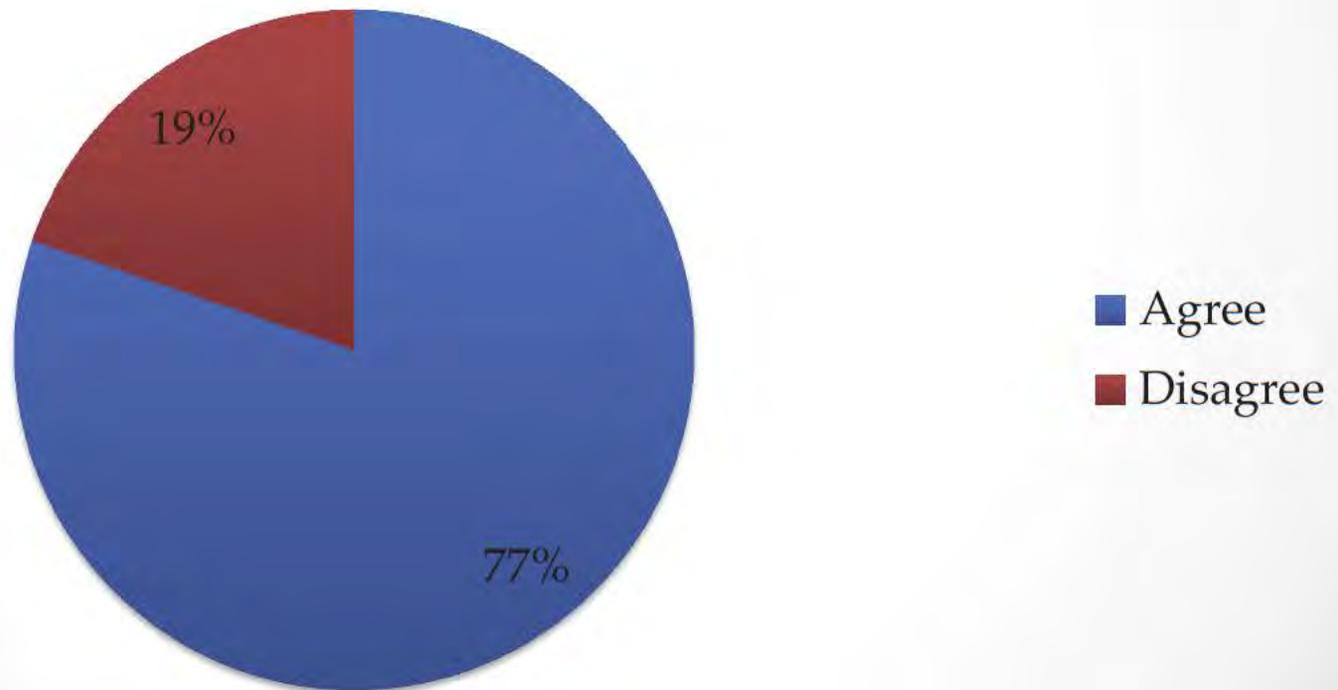
- Taken together, an overwhelming majority (86%) see our political system as broken and no longer serving the interests of ordinary people.



The Broken Political System

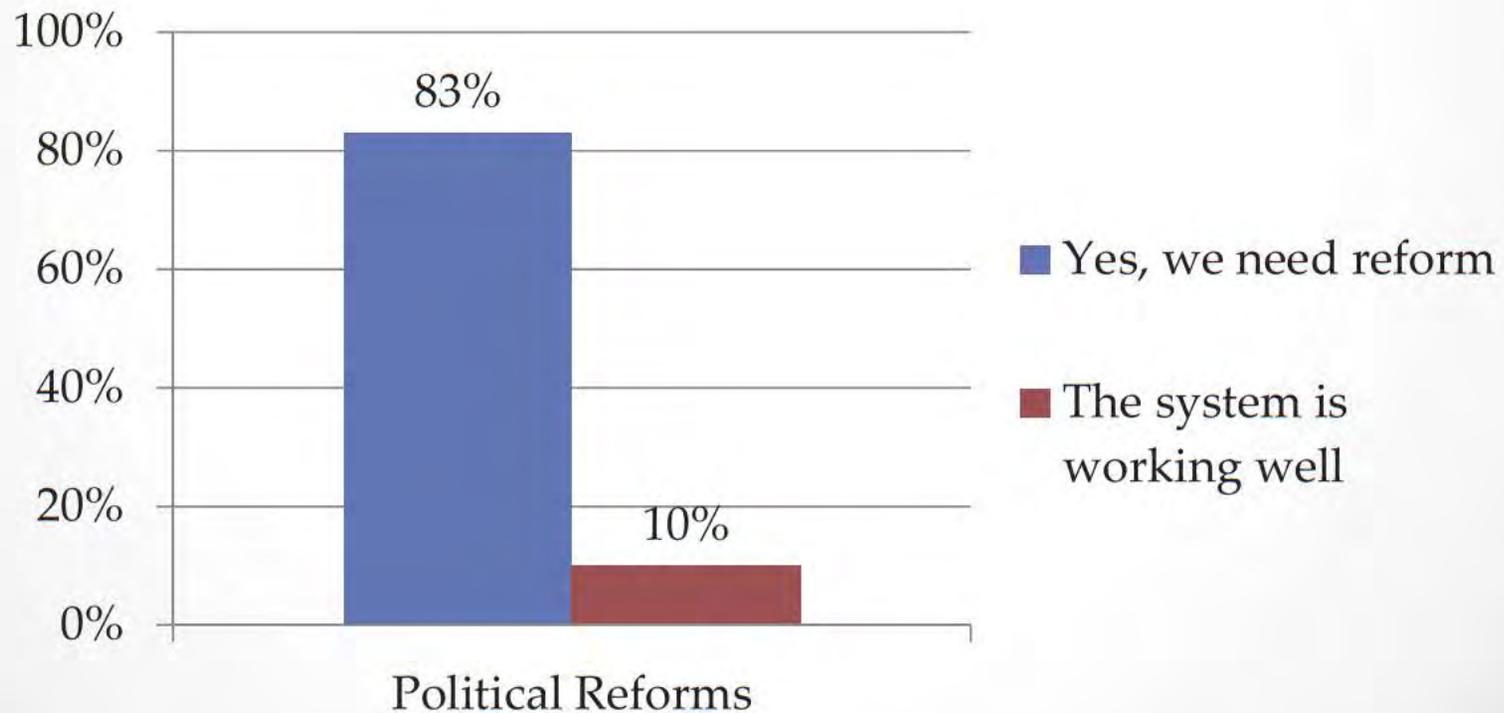
- Over three-quarters of voters (77%) are angry at elected officials and want them out of office.

I am angry and want to throw them all out



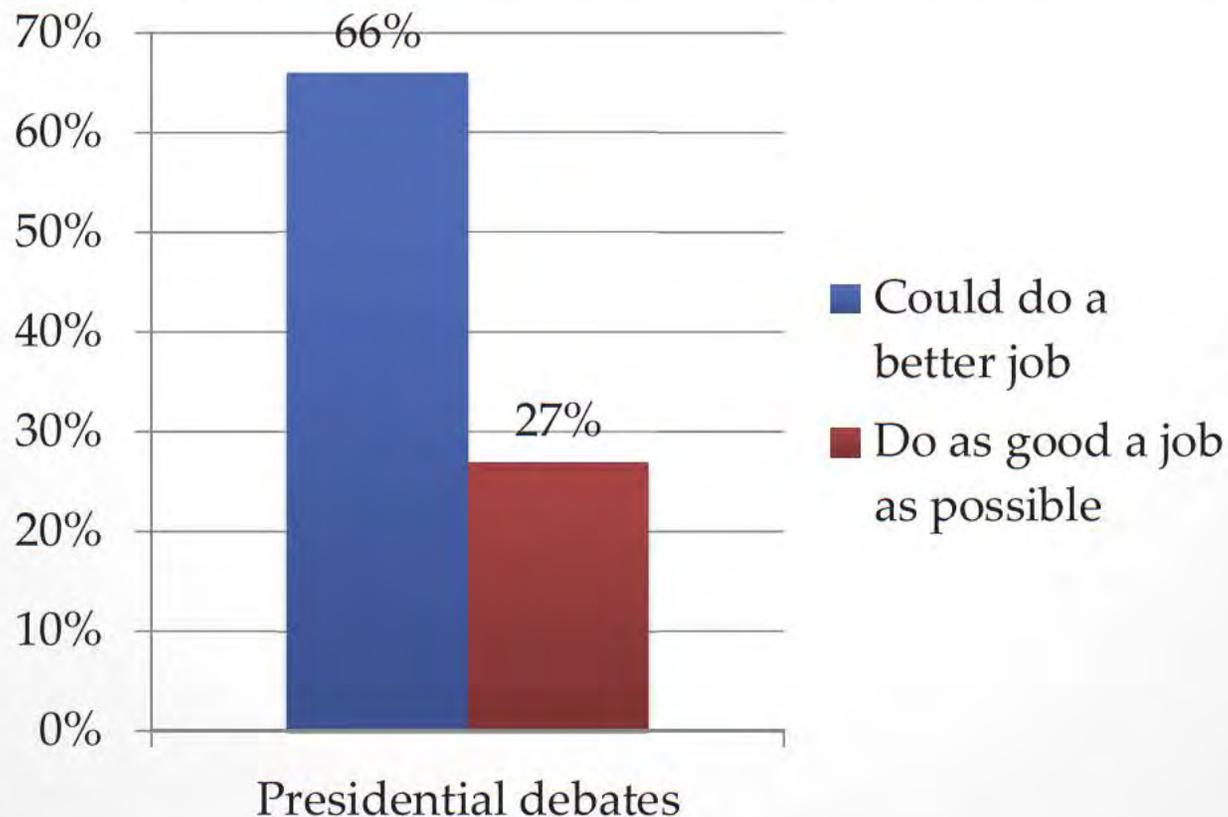
The Broken Political System

- Moreover, 83% believe that we need substantial political reforms as opposed to only 10% who think the system is working well.



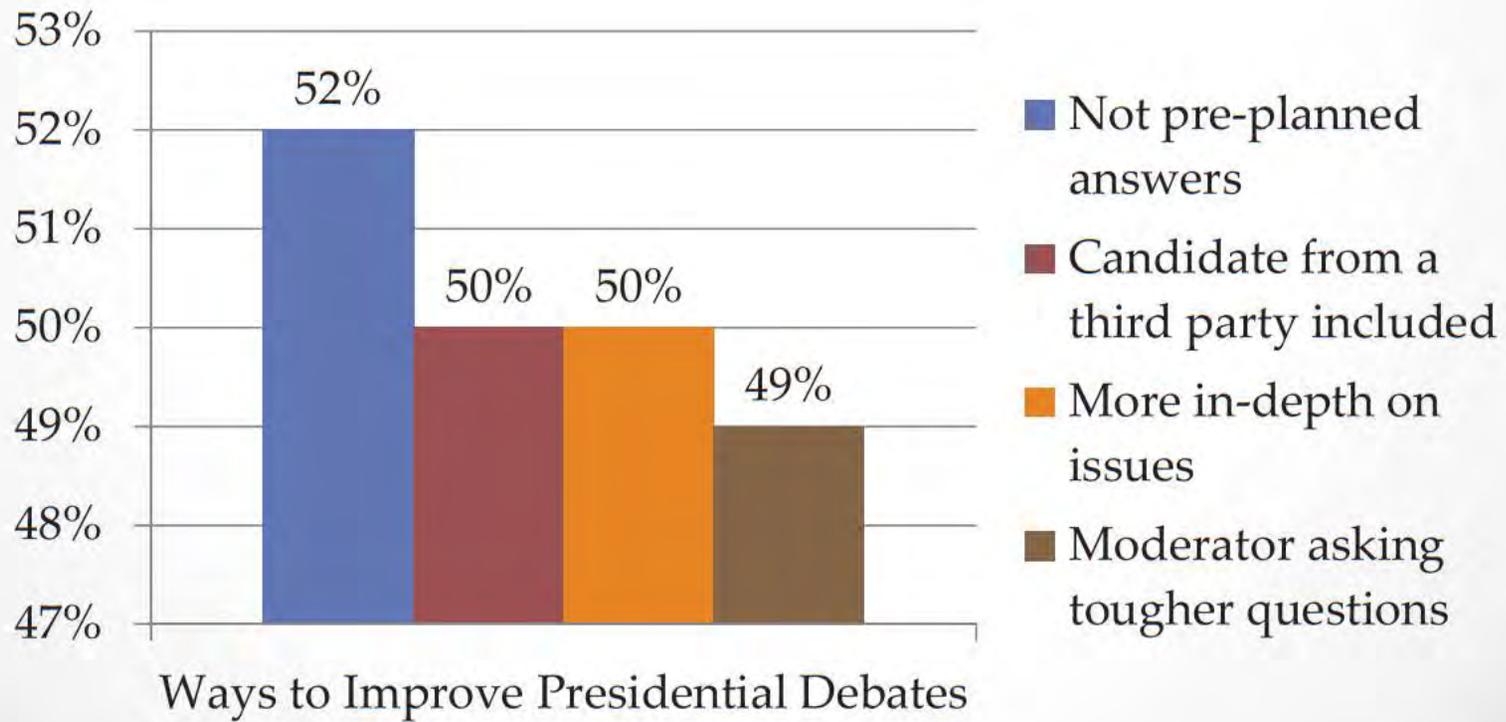
Presidential Debates

- While almost all of those surveyed are familiar with presidential debates, close to two-thirds (66%) feel the debates could do a better job informing the public.



Improving Presidential Debates

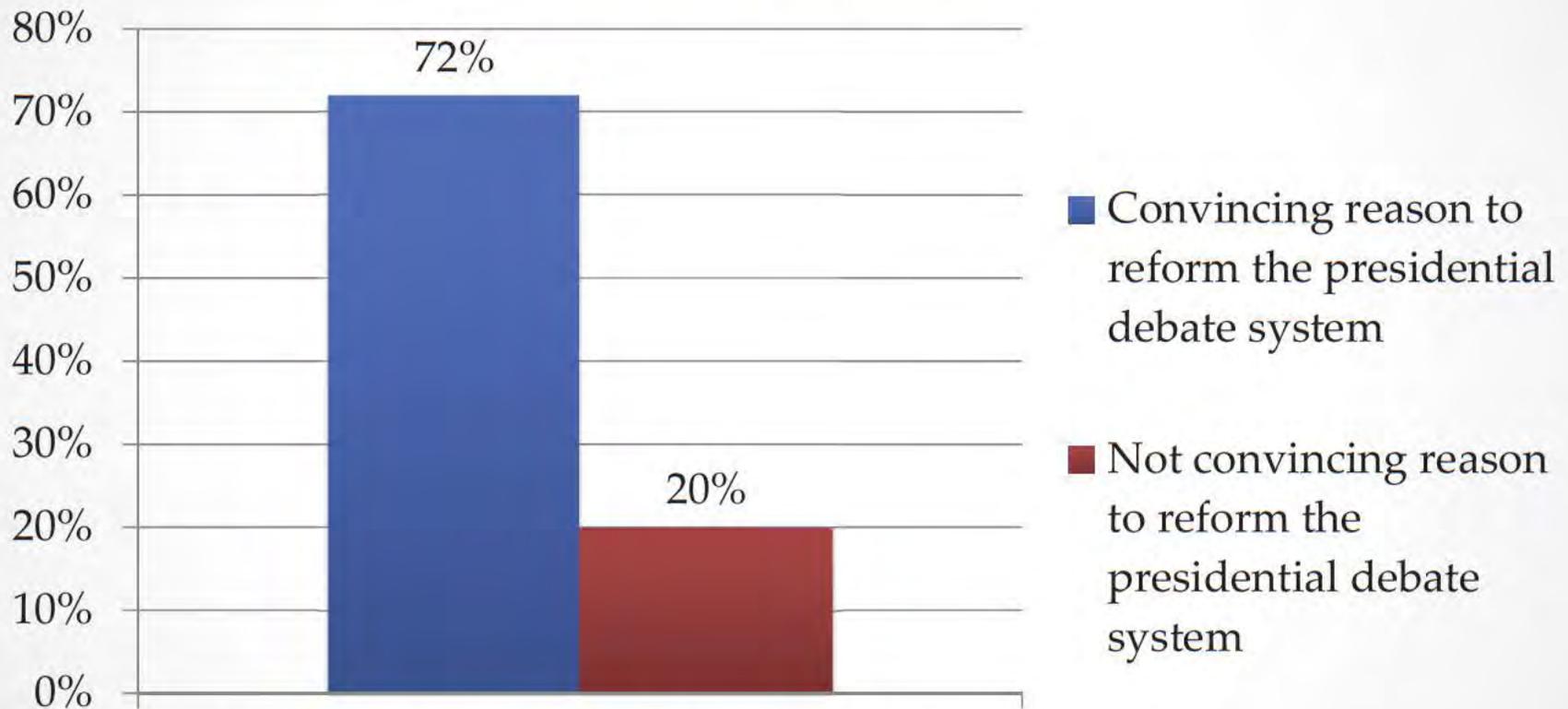
- A majority of voters (52%) say they would like it if the candidates' answers weren't pre-planned. And 50% of voters said they'd like to see a candidate from outside the two main parties and if the candidates went more in-depth on the issues.



Reforming Presidential Debates

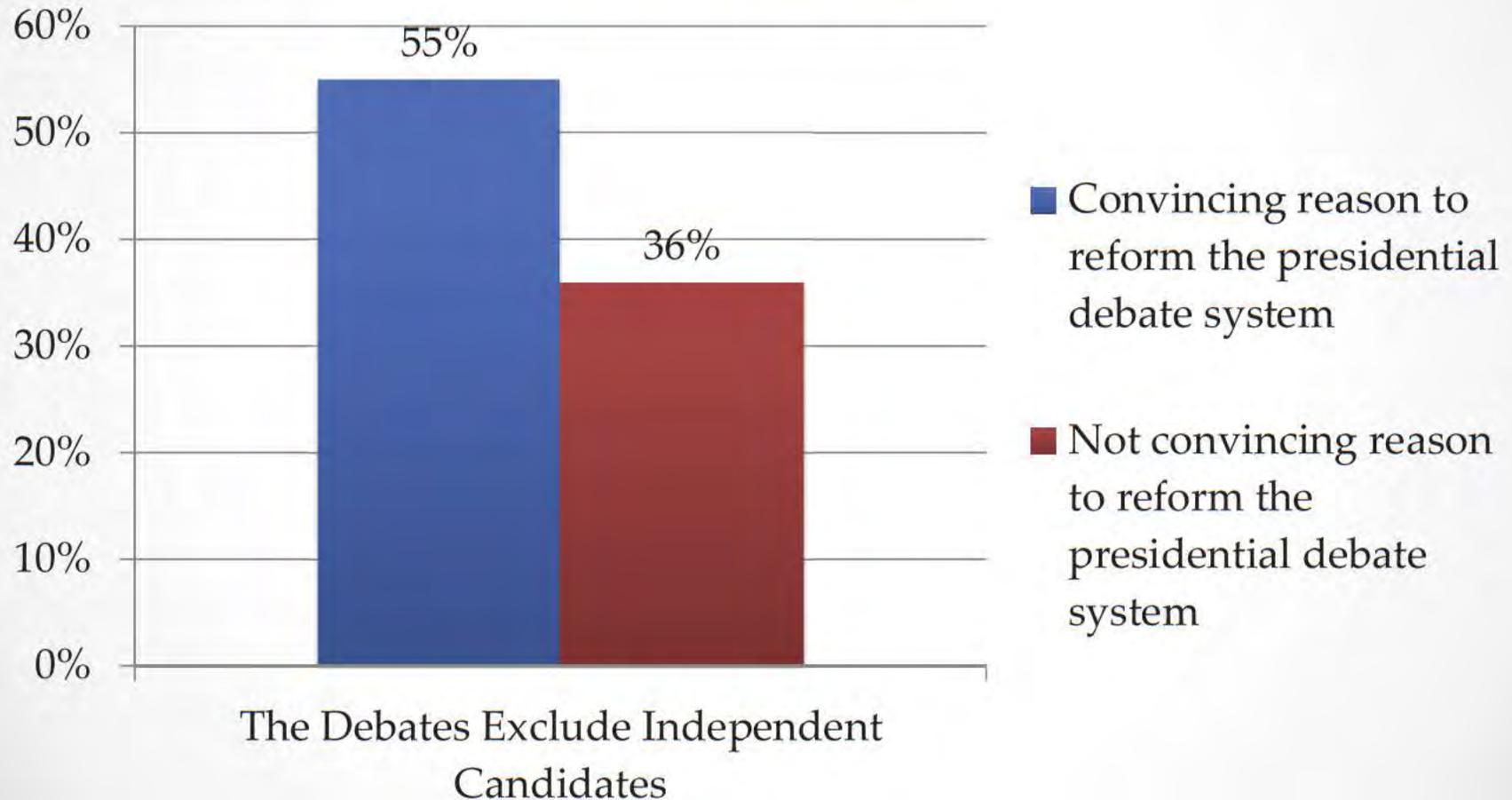
- We tested two arguments for reforming the presidential debate system to include candidates from outside the two parties. Both were convincing to a majority of voters.
- Seventy-two percent found Walter Cronkite's argument that the debates actually "sabotage the electoral process" and "defy meaningful discourse" a convincing reason to reform the presidential debate system.
- Fifty-five percent found the fact that the current Co-Chair of the Commission on Presidential Debates has said that the goal of the debates is to build up the main two parties to be a convincing reason to reform the presidential debate system.

Reforming Presidential Debates



The Debates “Sabotage the Electoral Process”
and “Defy Meaningful Discourse”

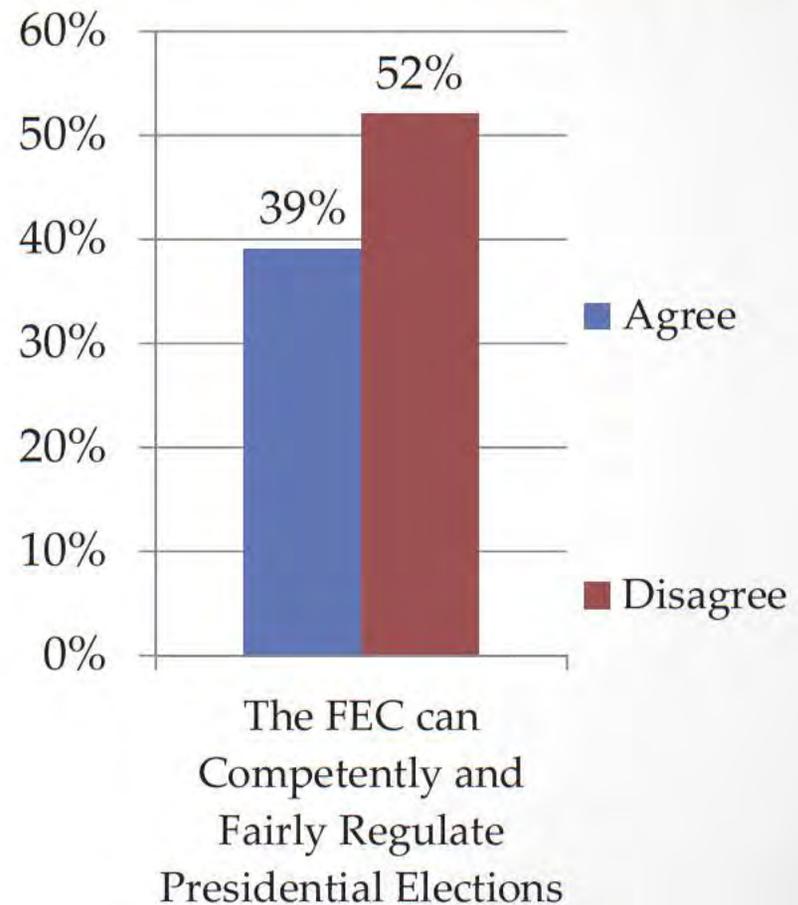
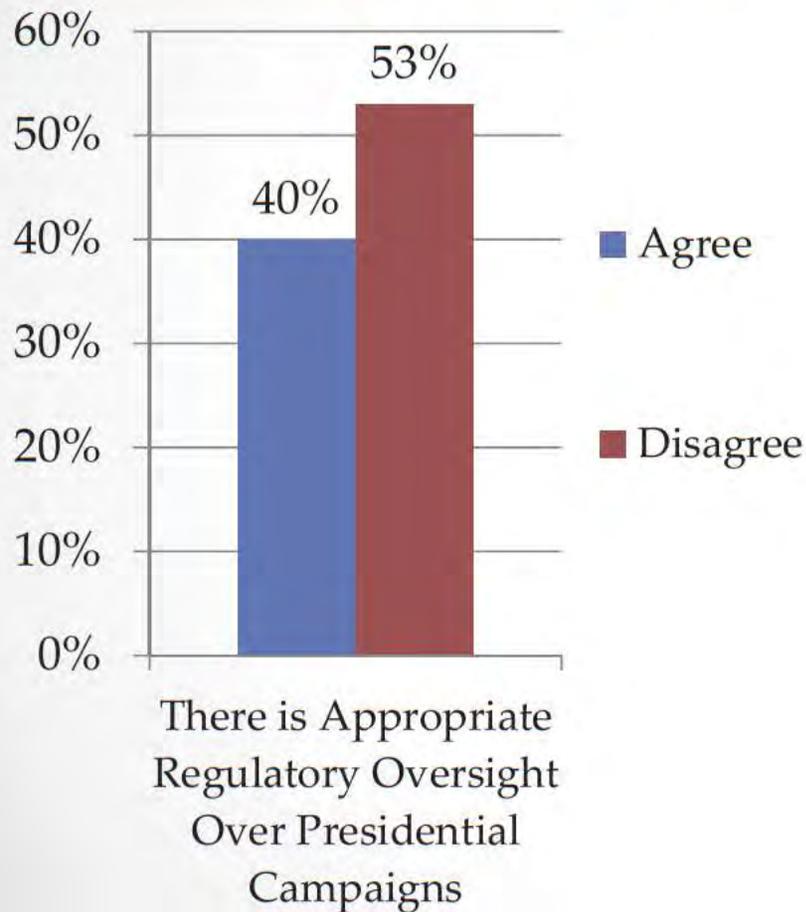
Reforming Presidential Debates



Reforming Presidential Campaigns and Elections

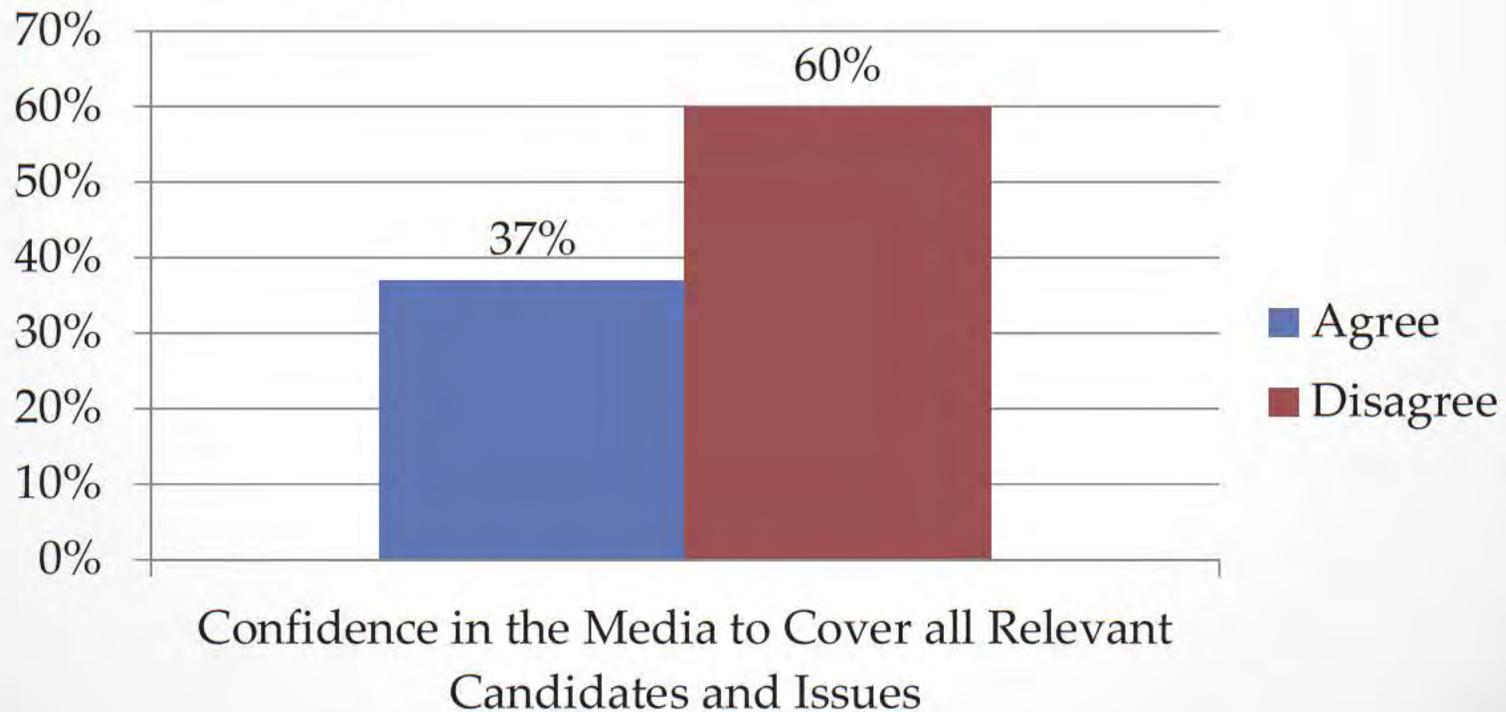
- Debates aren't the only problem: **voters feel that the campaigns and elections themselves need to be reformed.**
- A majority of voters (53%) do not believe that there is appropriate regulatory oversight of presidential campaigns or think that they are conducted with an eye towards fairness.
- And 52% of voters do not have confidence in the FEC to competently and fairly regulate presidential elections.

Reforming Presidential Campaigns and Elections



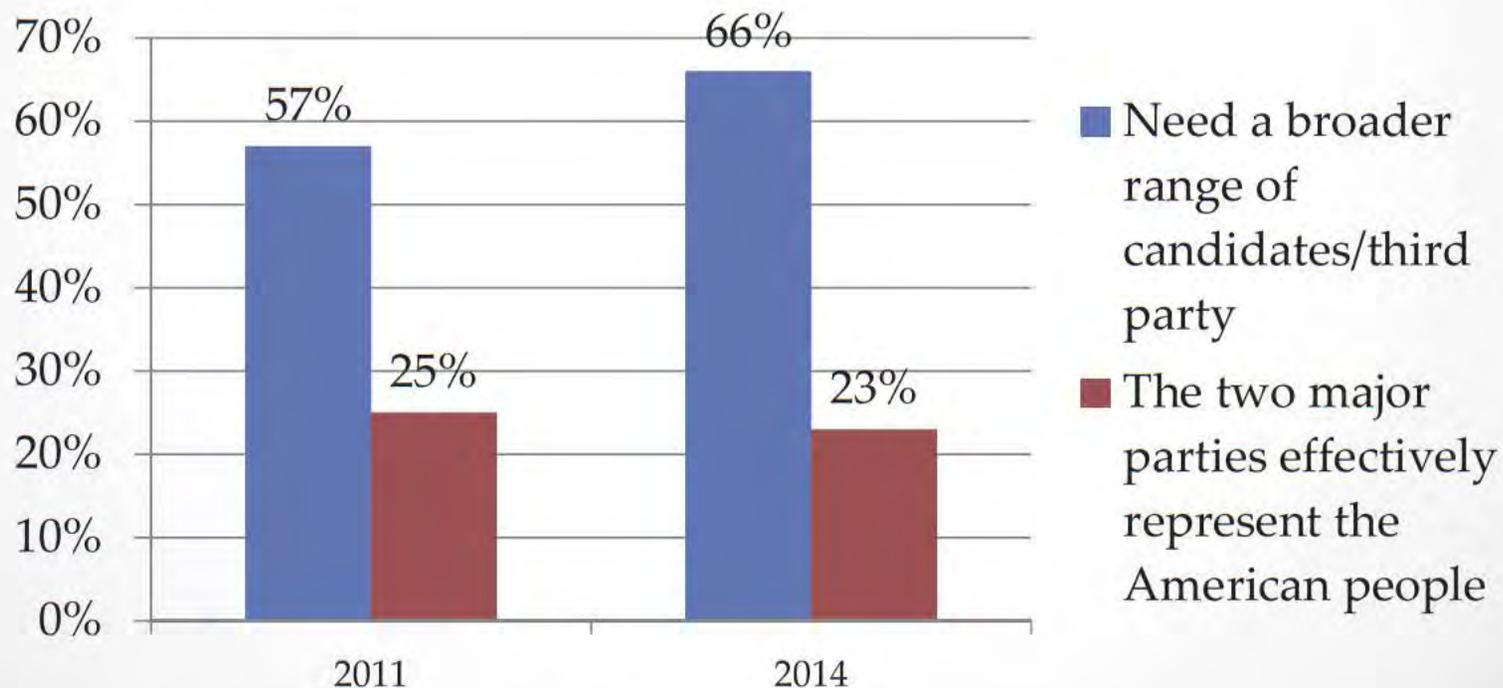
Low Confidence in the Media

- We asked respondents if they have confidence that the media will provide good coverage of all relevant candidates and issues during the next presidential election and found that 60% did not.



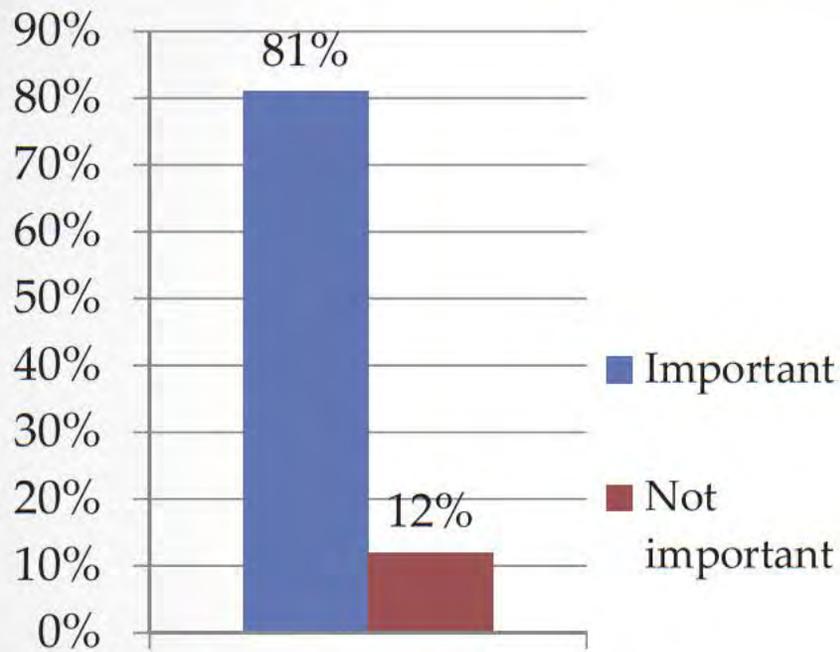
Americans Want Change

- The vast majority of voters do not think candidates from the two major parties effectively represent the American people. Sixty-six percent of voters say we need a broader range of candidates while only 23% believe the main two parties represent the American people, up from 57% in 2011.



Effectiveness of Candidates

Voters Want Independent Candidates to Run for Office

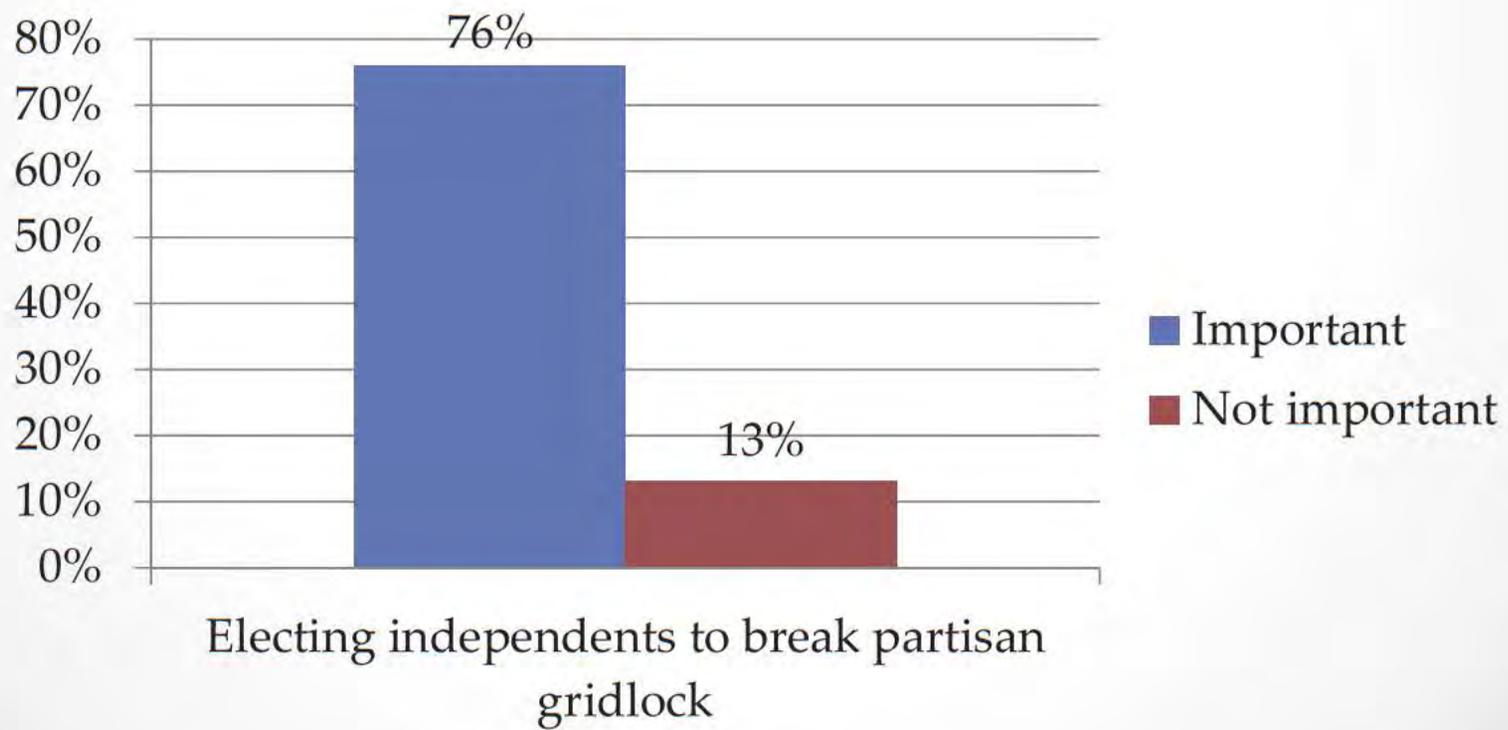


Is it important to
have independent
candidates run for
office?

- It is important to a strong majority (81%) of the American people to have independent candidates run for office.

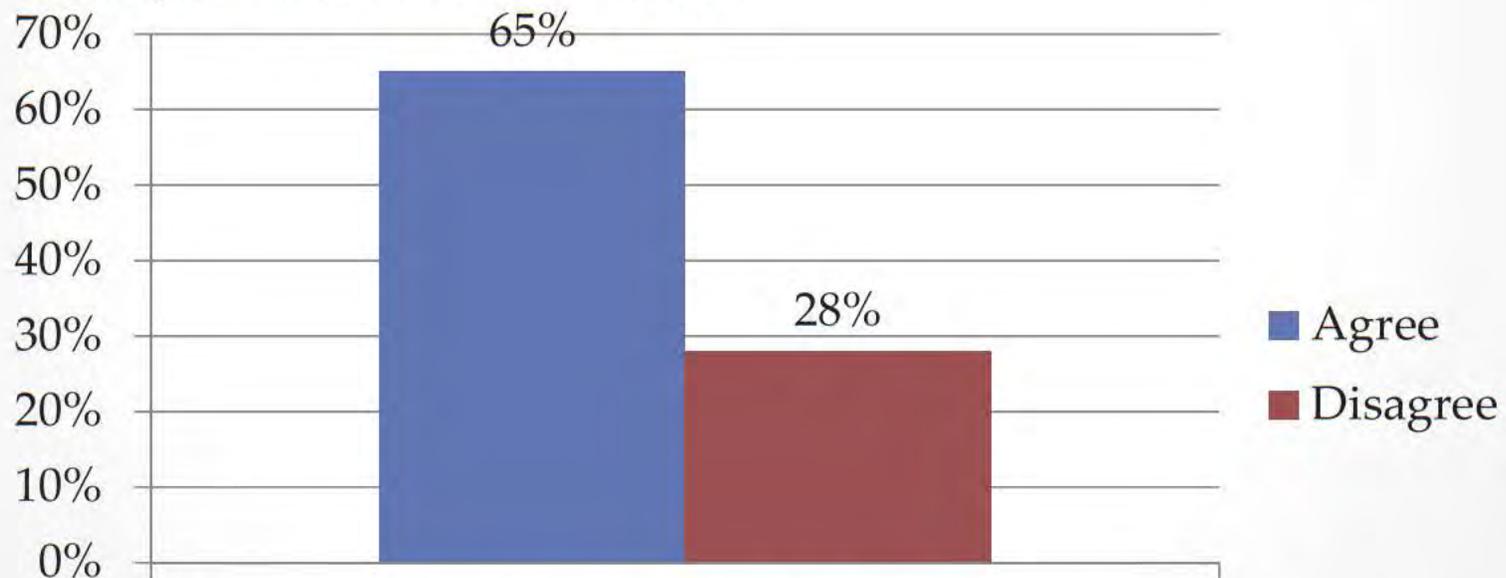
Independents Can Break Partisan Gridlock

- Over three quarters of voters (76%) believe it is important to elect independents to break partisan gridlock in Washington.



Independents Will Cover the Middle

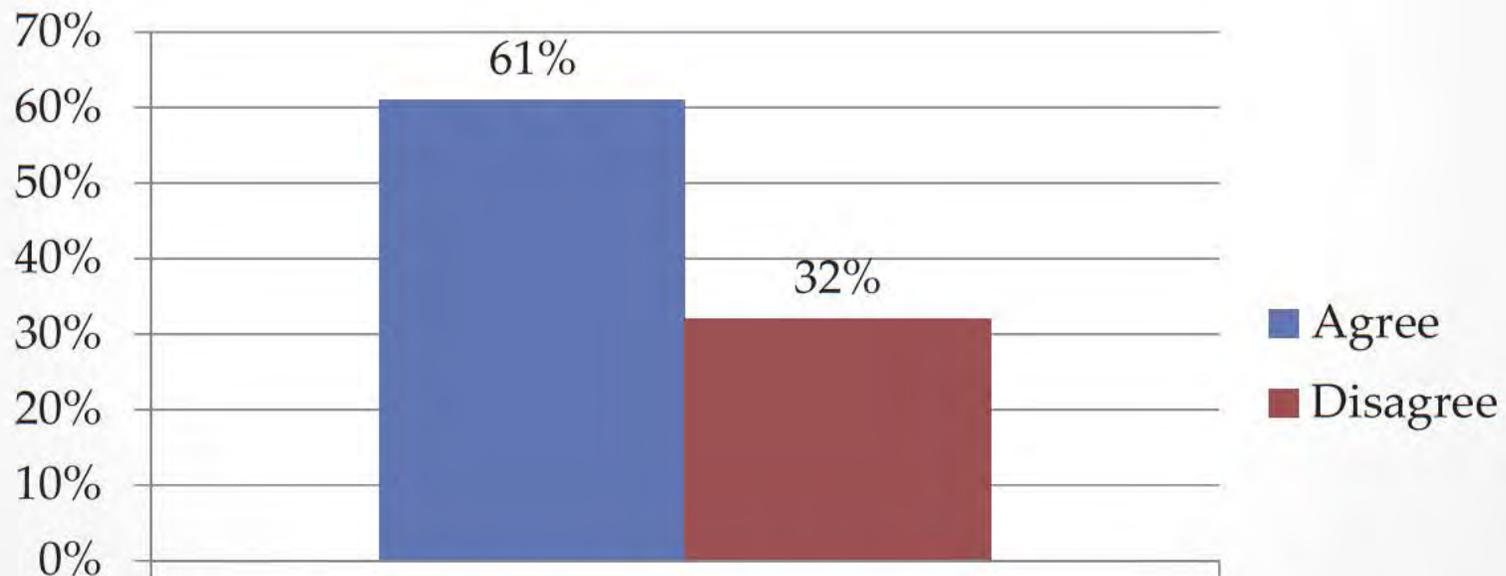
- Americans feel that Democrat candidates are too far left and Republican candidates too far to the right in presidential elections. They want the option to vote for an independent in the middle.



Would like the option to vote for an independent candidate in the middle of the political spectrum

Independents Will Cover the Middle

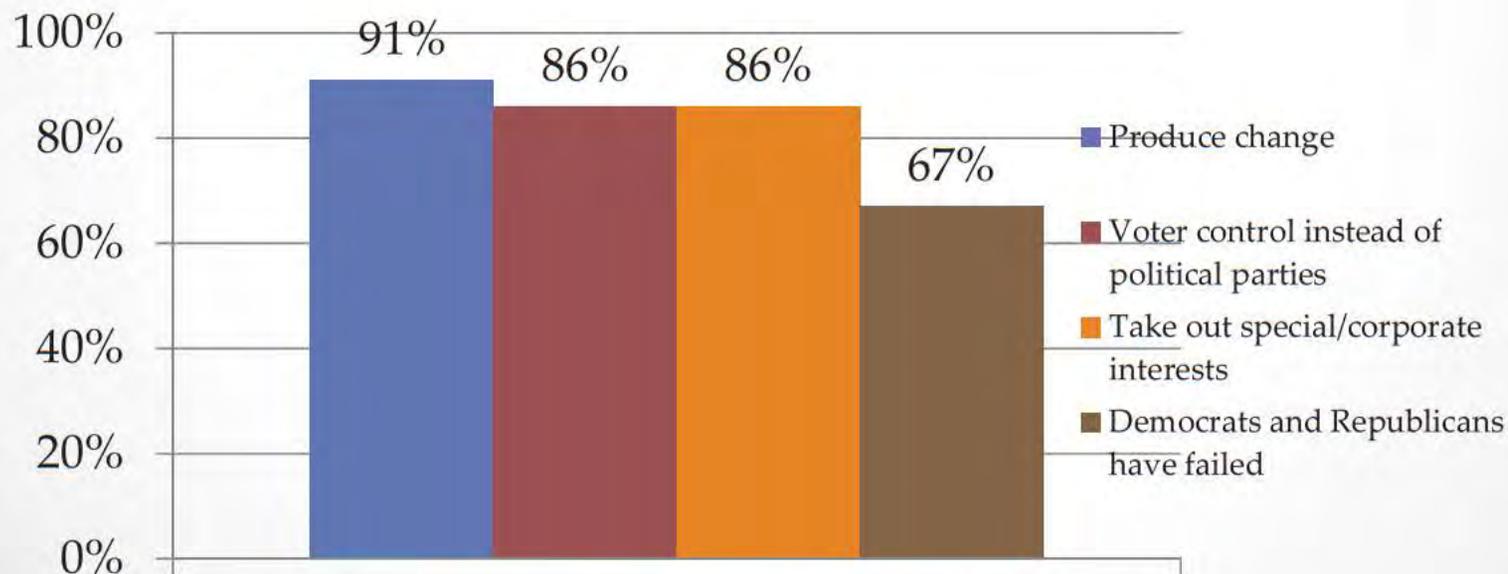
- The same is true in local and statewide office elections.



Would like the option to vote for an independent candidate in the middle of the political spectrum

Why Voters Want Independent Candidates

- Voters want to elect independents to produce change (91%); so that voters will have control over who gets into office instead of the parties (86%); and to get around special and corporate interests (86%).

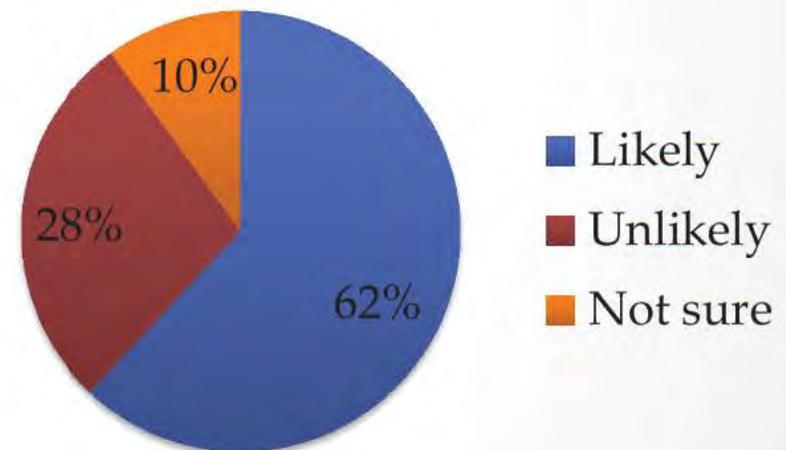


Reasons to vote for an independent

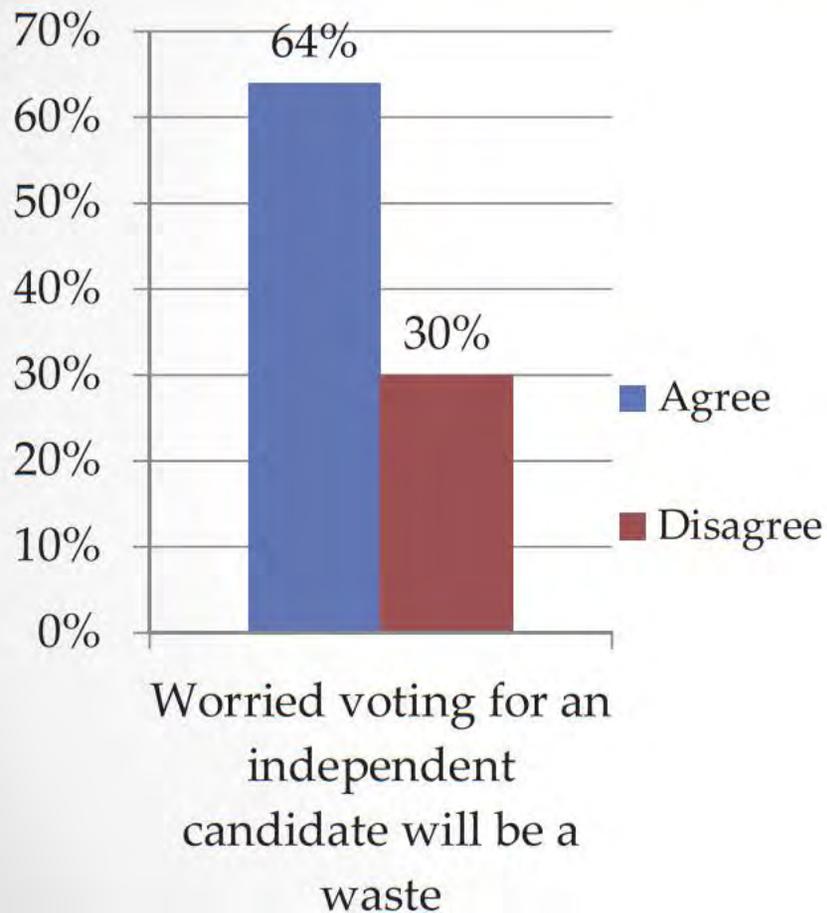
Voting for an Independent Candidate for President

- Sixty-two percent of voters are likely to vote for an independent candidate for president.

Vote for an Independent Candidate for President



But Voters are Worried About Wasting Their Vote on an Independent Candidate

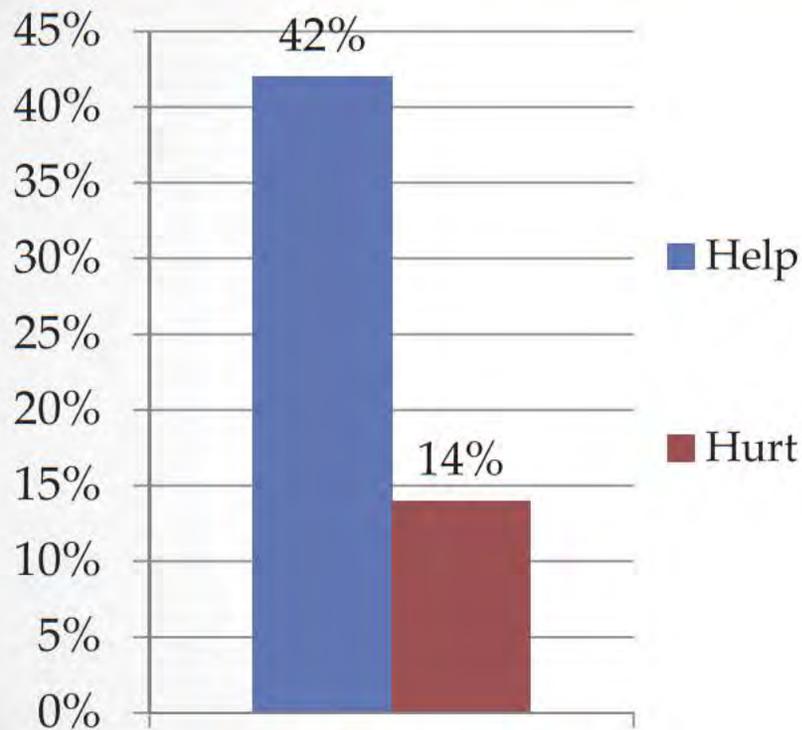


- A majority of voters (64%) reported that they worry that voting for an independent candidate will be wasting their vote and they will get the party they like the least.

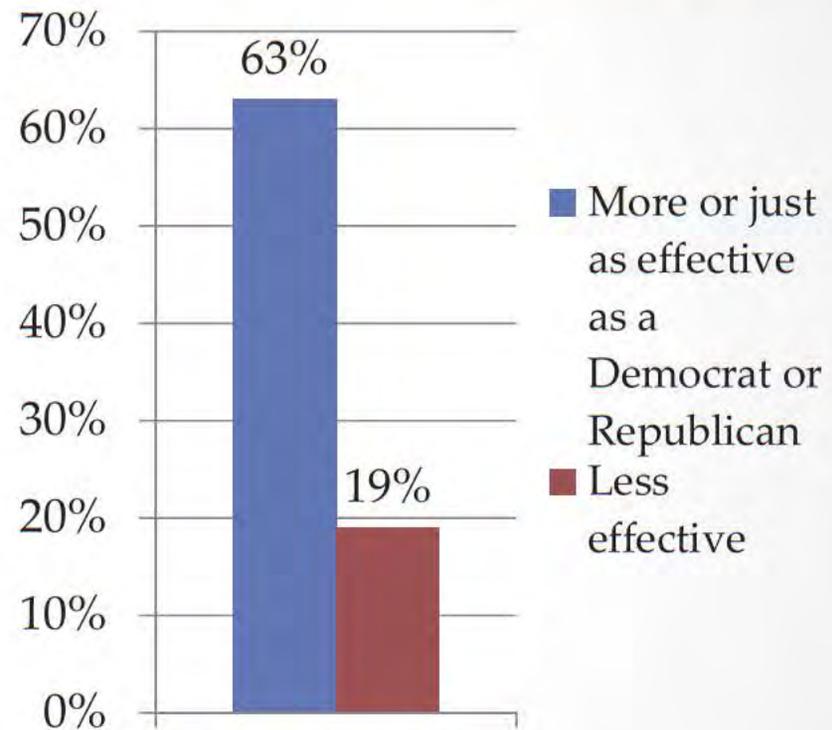
Strong Support for an Independent President

- Nevertheless, a plurality of voters (42%) think that having an independent president would improve the situation in Washington.
- Nearly two thirds (63%) think an independent president would be more or just as effective as a Democrat or Republican president.

Strong Support for Independent Candidates



An Independent President Would Help the Legislative Process



Effectiveness of an Independent President

Exhibit 3

EXPERT REPORT OF DR. CLIFFORD YOUNG

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BACKGROUND

1. I am President of Ipsos' Public Affairs practice in the United States, and also lead Ipsos' global election polling and political risk practice. I have over a decade of experience in public opinion polling and forecasting. I work with a wide variety of corporate, government, media, and political clients, and am the spokesperson for Ipsos Public Affairs in the United States. I also currently oversee Ipsos' U.S. public opinion polling for Thomson Reuters.

2. I earned my BA from the University of Illinois at Urbana-Champaign (Magna Cum Laude, Phi Beta Kappa) and completed my graduate work at the University of Chicago (MA and PhD in Sociology with a concentration in statistics and public opinion). I also trained as a survey statistician at the University of Michigan and in political psychology at Stanford. I am an adjunct professor at Johns Hopkins School of Advanced International Studies and an instructor at Columbia University School of International and Public Affairs, where I teach courses on public opinion, reputation management, election polling, and political risk. I have written and presented extensively in the fields of public opinion, election polling, election forecasting, and survey methodology.

3. In my time at Ipsos Public Affairs U.S., I have worked on a variety of projects for federal government, private sector, and global clients including: the U.S. Department of State, Thomson Reuters, Booz Allen Hamilton, Inbev, the National Intelligence Council, the Eurasia Group, and the British Council, among others. Before coming to Ipsos Public Affairs North America, I was Managing Director of Ipsos Public Affairs Brazil where I started the practice for Ipsos and established it as the leading public opinion research firm in Brazil. In this capacity, my primary responsibilities included project and staff management, sample design, questionnaire

design (qualitative and quantitative), data analysis, report writing, sales, client servicing, product and service development, and ensuring the profitability of the company.

4. My expertise includes political and public opinion polling, and I have polled on over 80 elections around the world. The elections I have researched include the 2012 U.S. presidential election, 25 state-level races for the U.S. midterms in 2010; the Nigerian presidential and gubernatorial elections in 2011; the federal and parliamentary elections in Canada in 2011; the Russian presidential elections in 2012; the Egyptian and Kuwaiti parliamentary elections in 2011/2012; the Venezuelan presidential elections in 2012 and 2013; the 2014 Brazilian presidential elections; and the 2014 U.S. mid-term elections. Trained in survey sampling and survey methods design, I have also led more than 100 full public opinion sample designs and post-survey analytics in the following countries: Mexico, Argentina, Bolivia, Peru, Ecuador, Colombia, Venezuela, Chile, South Africa, Russia, India, Indonesia, China, Egypt, Saudi Arabia, Turkey, Palestine, China, Lebanon, United Arab Emirates, Iraq, Afghanistan, Canada, United Kingdom, France, Spain, Italy, Nigeria, Mozambique, Angola, Guinea Bissau, and New Caledonia. I am a frequent writer, analyst, and commentator on elections, communication, and public opinion.

SCOPE OF REPORT

5. The Commission on Presidential Debates (“CPD”) sponsors presidential debates held before the general election. The CPD has established three criteria to govern who is included in the debates: 1) the candidate must fulfill the constitutional requirements to be president, 2) the candidate must have ballot access in sufficient states to win a majority of the electoral college, and 3) the candidate must average a vote share of at least 15% in five public polls in September of the presidential election year.

6. I have been tasked with investigating the 15% vote share threshold established by the CPD. This expert report examines two different subjects: First, it addresses the relationship between this 15% vote share threshold and candidate name recognition through an analysis of public polling data from multiple sources over the last twenty-two years. The discussion of that subject begins at paragraph 7. Second, it addresses polling error in three-way races with independent candidates. The discussion of that subject begins at paragraph 33.

CORRELATION BETWEEN NAME RECOGNITION AND VOTE SHARE IN THE ELECTORAL CONTEXT

SUMMARY

7. In opinion research there is an adage, “you have to be known to be liked.” The aggregated data shows that this adage holds true in all domains: the public sector, the private sector, and politics. In particular, it holds true for presidential candidates where, generally speaking, vote share is predicated on favorability which is in turn predicated on knowing who a candidate is. Or to put it another way, a candidate is first known, then liked, then supported.

8. In order for a candidate to achieve the CPD’s 15% vote share threshold, that candidate must be known by a significant number of people. In layman’s terms, the question that this part of the report addresses is what percentage of American voters needs to know who a candidate is before 15% of them are willing to vote for that candidate. In polling, the percentage of people who know a candidate is referred to as name recognition. Another way to phrase the question, then, is what level of name recognition does a candidate need to achieve in order to reach 15% vote share.

9. There is, of course, no uniform answer to this question that holds true across all candidates and all elections. Multiple factors, many of them beyond a candidate’s control, influence a candidate’s vote share. But that does not mean the answer to this question is entirely unknowable. For a candidate unaffiliated with the two major parties, some level of name recognition is necessary for a candidate to achieve 15% vote share. One would expect that the requisite level of name recognition is higher than 15%, since it is unlikely that 100% of people with knowledge of a candidate would be inclined to vote for that candidate. The question is whether it is possible to estimate, on average, the minimum amount of name recognition such an

unaffiliated candidate would need to achieve in order to expect to be able to claim a 15% vote share.

10. My examination of public opinion trends yields such an estimate. The data show that there is a positive correlation between name recognition and vote share. While multiple factors influence vote share, this correlation enables me to model the relationship between name recognition and vote share. Presidential polling data from the past 22 years demonstrate that on average, an independent candidate must achieve a minimum of 60% name recognition, and likely 80%, in order to obtain 15% vote share.

ACADEMIC AND THEORETIC BASIS

11. This analysis is based on extensive foundational research from the cognitive psychology and attitudinal formation literature. These scientific studies outline the thought process that leads to opinions and behaviors. The fundamental model is that an individual has to know something exists before he/she can hold an opinion about it. Once that recognition is established, an individual can evaluate the subject and form positive or negative associations with it. The individual then is able to form his/her own position toward the subject. With his/her attitude formed, the individual then is equipped to act. (Ajzen 1991; Campbell & Keller 2003; Zaller 1992). This attitudinal formation process applies to decisions on voting for presidential candidates: voters first learn of the existence of a candidate, then develop some sort of favorable opinion towards the candidate, and that opinion leads them to vote for that candidate. (Abramowitz 1975; Prior 2007).

DATA SOURCES AND METHODS

12. The public opinion data used in this report is sourced from major public opinion research organizations including Gallup, Reuters/Ipsos, Opinion Research Corporation, Pew Research Center, Bloomberg, Associated Press-GfK, ABC News, NBC News, CBS News and others. These opinion research organizations include most of the major media public opinion pollsters and include many of the organizations relied upon by the CPD. The data was collected from multiple “polling aggregators” including Polling Report, Pollster.com, the Roper Center, and Real Clear Politics which provide central clearinghouses for polling research. The data set is made up of over 800 separate observations – that is 800 instances of poll results measuring both the name recognition and vote share of the same individual candidate – from the 1992, 1996, 2000, 2004, 2008, and 2012 presidential elections.

- a. The public opinion data cited in this analysis samples several different portions of the American population. These include **all Americans** (all American adults), **registered voters** (Americans who are registered to vote), **likely voters** (Americans who, based on a variety of criteria, are considered likely to vote in the upcoming election), **Democratic voters** (Americans who identify as Democrats), and **Republican voters** (Americans who identify as Republicans).
- b. On name recognition questions, this analysis includes samples of all Americans, registered voters and likely voters.
- c. On primary election ballot questions, the sample is almost always either Democratic or Republican voters (depending on the partisan identification of the candidate).

- d. General election ballot questions most commonly use samples of registered or likely voters. However, in earlier time periods, samples of all Americans are also present.

13. The public opinion poll data in this report is analyzed using regression analysis. Regression analysis is a statistical analysis technique that allows the user to determine correlation between variables, i.e. to determine if change observed in one variable is related to change seen in another variable. This report uses regression analysis to examine the relationship between our variables: name recognition and vote share. Regression analysis contains four analytic concepts cited in this report, “variables”, an “r square”, a “regression equation”, and “linear vs. non-linear (logarithmic) line fits”.

- a. Most simply a **variable** is an object of interest, ideally expressed in some sort of mathematic form. In this report poll results for name recognition and vote share are variables. In research, variables are often referred to as “dependent” or “independent”. **Independent** variables (also referred to as explanatory variables) represent the inputs or causes in an experiment or model. The **dependent** variable (also referred to as a response variable) represents the output or effect. In this report, name recognition is the independent variable while vote share is the dependent variable.
- b. The **r square** is a measure of how well data “fits” together, that is how much of the variation in one variable is explained by observations of another variable. R square (R^2) is measured on a 0 to 1 scale where 1 indicates a perfect fit with 100% of the variance in the dependent variable explained by the independent variable,

and 0 would indicate that there is no correlation between the variables. Thus, the higher the R^2 , the more reliably predictive the model is.

- c. The **regression equation** is a mathematical expression of the relationship between two variables. It is expressed as “ $y = bx + e$ ” where y is the dependent variable, x is the independent variable, b is the parameter (how the relationship between independent and dependent is modified) and e is the error term (the average of what is not predicted).
- d. Standard regression analysis posits a fixed relationship between the variables being investigated; that is for the entire range of possible responses the change in the independent variable is associated with the same magnitude of change in the dependent variable. This fixed relationship is referred to as a **linear** regression. However, non-linear relationships exist and in many cases provide better explanatory power. A **non-linear** relationship indicates that the magnitude of the relationship between the independent and dependent variables are not fixed across all values and can change in some mathematically derived equation. In a non-linear relationship you have concepts such as “diminishing returns”.

14. This analysis is based on understanding the general trends in public opinion data. It is designed to explain the hypothetical “average” presidential candidate. As such it is built from looking at data on many different candidates over many different election cycles and not at any one individual’s experience. As with any statistical analysis, it is possible to pick individual cases that may be outliers in the context of this model (like Ross Perot in 1992). However, these cases do not invalidate the macro-level analysis in this report, as this analysis includes that experience and all others in developing the model.

TERMINOLOGY

15. “Public opinion” is a term used to simplify the discussion of the aggregated views and opinions of a particular population. In modern use, public opinion most frequently refers to public opinion polls or samples of the public that are meant to represent the opinion of the entire population. The rest of this report will use the terms public opinion and polls interchangeably to mean these public opinion polls.

16. “Name recognition” refers to the percentage of the population that is aware of a particular individual, organization or event as measured in public opinion polls. Name recognition is most often ascertained through the use of direct questions such as “have you ever heard of any of the following people...”. Name recognition is also often extrapolated as part of other questions (such as familiarity or favorability) that have multiple response options where one option includes “I have never heard of this.” In this case, the other answer categories are jointly thought of as representing the percentage of people who are aware of the person in question. Both versions of name recognition questions, the direct and the extrapolated, return similar results.

- a. The term “familiarity” is often used interchangeably with name recognition.

However, in public opinion research, familiarity refers to a specific condition. It is the percentage of the population that both recognizes a subject (i.e. name recognition) and possesses some level of deeper knowledge or understanding about that subject. While familiarity is a useful and important indicator, it is not central to this report.

17. “Favorability” is the measure of the percentage of the population that voices positive opinions about a subject. Favorability is most often measured through the use of a direct

question with a Likert scale (scale with two symmetrical poles) response set. Favorability questions generally resemble the construction, “based on all of your knowledge or experiences, are you generally favorable or unfavorable towards X or do you have no opinion? Is that strongly favorable/unfavorable or somewhat favorable/unfavorable?”

18. “Vote share”, also, frequently called horse race or ballot questions, refers to the percentage of votes a candidate would get in a hypothetical election matchup presented by the poll. Vote share questions are commonly asked like the following, “if the election for president were held today, whom would you vote for candidate X or candidate Y?” Late in the election cycle vote share questions only include the individuals still running for the particular office, often with candidates who have dropped out and perennial or third-party contenders excluded. Earlier in the election cycle, vote share questions are often asked as a series of match-ups using a broad list of actual and potential candidates.

- a. Vote share questions are often divided into “general election” and “primary election” ballot questions. **Primary** election ballot questions are restricted to candidates competing within a particular party’s primary election contest, i.e. only the Democrats or Republicans competing for their respective parties’ nomination.
- b. **General** election ballot questions are the two-way (occasionally three-way) vote share questions matching the hypothetical or actual final party nominees for the office. Most often this is represented by a single Democratic candidate vs. a single Republican candidate.

19. In public opinion research on political issues, name recognition, familiarity, favorability, and vote share are frequently measured for major candidates for public office – especially for presidential candidates. However, the set of candidates included for measurement

is determined by the individual pollsters so the candidate set can and does frequently change over the course of an election cycle. This analysis aggregates the findings from multiple polls and multiple different pollsters to try to capture the broadest set of candidates possible and minimize the effects of variation in any one poll.

ASSUMPTIONS

20. The opinion formation process for presidential candidates is a very compressed affair. The election campaign season condenses this process into at most two years and often a much shorter time period as candidates are introduced to the public, become familiar figures and ultimately win or lose. The dynamic of the election season introduces a number of complications into the opinion formation process:

- a. A successful campaign is predicated on increasing a candidate's name recognition and vote share. As a consequence, candidates generally have stronger name recognition scores later in the election cycle than earlier.
- b. Additionally, the main purpose of an election is to narrow a larger field of candidates to a single election winner. This means, on average, that observations from later in the electoral cycle will include fewer candidates as the other candidates have lost elections, run out of money, or ended candidacies for other reasons.
- c. Taking "a" and "b" together, the presidential election cycle can be typified into two periods, an **early** period where there are numerous candidates with (widely) divergent levels of name recognition and vote share, and a **late** period where there are few candidates that are mostly well known by the public. In this analysis we are categorizing **early** as before the first caucus in Iowa and **late** as after the

primary elections begin. The dividing line does not neatly coincide with a drop in the number of candidates, as there may still be numerous candidates at the time of the first primary election. But candidates are generally better known by the start of the primaries, and in subsequent weeks and months the number of candidates competing in the primaries typically decreases.

- d. The goal of this report is not to proclaim that name recognition is the only factor affecting candidate vote share. Many other factors including fundraising, candidate positioning, election results, and idiosyncratic events also exert influence over the course of the election. However, these other factors can be minimized, to an extent, by looking at the early time period when candidates are just establishing their name recognition. If they “have to be known to be liked,” they also have to be known for these other factors to take an effect as well.

21. In American electoral politics there is a strong ‘party halo effect’ where no matter who the candidates representing the Republican and Democratic parties might be, they garner a minimum vote share in the general election ballot from being associated with a party. This ultimately complicates any analysis because a virtual unknown who runs on the Republican or Democratic ticket can poll a hefty general election vote share, independent of name recognition and timing. This effect can be seen in polls from the early primary period when pollsters test hypothetical general election matchups. These hypothetical matchups can include Democratic and Republican candidates who are not yet well known. For instance, Herman Cain in June 2011 was only known to 48% of Republicans and had a primary election vote share of 7% but had a general election vote share of 34%. Another example is Mike Huckabee in September 2007, who was only known to 50% of Republicans and had a primary vote share of 4%, but his general

election vote share was 36%. Voters will be induced to express a preference for one candidate, even not knowing who he or she is, because he or she is affiliated with one of the two major parties. When included in the data analyzed, this effect tends to lower the name recognition necessary to achieve 15% vote share. Candidates unaffiliated with the major parties (often referred to as “independent” candidates in this report), however, do not benefit from this effect. (Bartels 1988; Prior 2006; Kam & Zechmeister 2013).

22. This ‘party halo effect’ only occurs in polling of general election matchups. In primary election polling, all the candidates have the same partisan identification and therefore people are not primed to express a preference for a candidate merely by virtue of his or her party affiliation. Accordingly, this party halo effect can be controlled by focusing on primary election matchups.

23. Constructing a model of the relationship between name recognition and vote share calls for some decisions about how to organize the data. Particularly, we must make decisions about looking at data from the **early** vs. **late** time periods, using **primary** vs. **general** election vote share numbers, and if the relationship is **linear** or **non-linear**.

- a. An **all elections** model involves looking at all observations across both the early and late time periods and using both the primary and general election vote share questions in a single model. This model allows us to say if the relationship between name recognition and vote share exists even in the face of complicating variables like party effects and fundraising advantages. However this model will not present the clearest view of the relationship between name recognition and vote share because of the other variables.

- b. An **all primary** model uses all the primary election vote share questions across both the early and late time periods. This model reduces the effect of party halos in the data and includes the entire time series of observations of primary vote share. However, it contains multiple late election observations where the candidates' name recognition is at or above 90% and exhibits limited variation. As such, these late cases mute some of the relationship between name recognition and vote share.
- c. The **early primary** analytical model examines primary election data from the early time period. This approach allows for the clearest view of the relationship between name recognition and vote share. Specifically, it reduces the impact of party halos and provides multiple observations of candidates with significantly varying levels of name recognition and vote share.

FINDINGS

24. The first step of the analysis of attitude formation is examining the relationship between name recognition and vote share. The direct correlation between name recognition and vote share varies based upon the assumptions built into the model. However all models point to a need for significant levels of name recognition – in excess of 60% of the American public – before a vote share of 15% can be reached. Various models are presented below:

25. **All Elections Model** (early and late observations of both primary and general election ballot questions, non-linear): Observations from both presidential election types across all time periods introduce a number of other variables that limit the predictive power of name recognition on its own. In this model the R^2 relationship is 0.41, a moderate to low level of

correlation. Under this model, a candidate would need to have 70% name recognition in order to reach the 15% vote share.

26. While this gives us a “real world” sense of the relationship between name recognition and vote share, because of the inclusion of late and general election observations, it includes a potentially wide variety of un-accounted for variables depicted by the low R^2 . These variables include potential areas like partisan effects, the effect of fundraising, the impact of news events and primary election results. This conforms to an intuitive understanding of politics; later in the election the polls focus on two candidates who are universally known among likely voters, and thus changes in vote share are likely to be unrelated to changes in name recognition. A model that more clearly represents the conditions faced by an independent candidate in reaching 15% vote share would remove the effects of partisan halos and is present in the all primary model.

27. **All Primary Model** (early and late observations in primary elections, non-linear): Observations from all time periods of the primary election (before and after the elections begin) show a similar trend to the all election model. However, by removing the general election observations this model minimizes the effects of partisan identification on vote share and has a commensurate increase in predictive power. The all primary model has a R^2 of 0.56, a moderately strong correlation. Under this model, a candidate would need to have 80% name recognition in order to reach the 15% vote share.

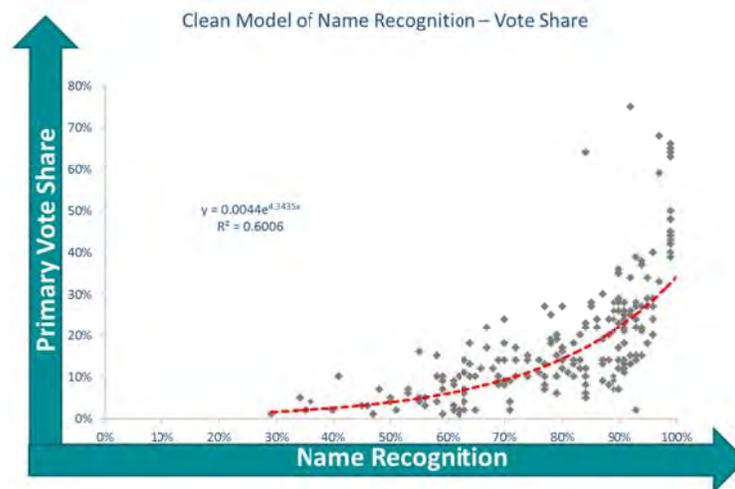
28. This model presents a clearer depiction of the conditions that an independent candidate would experience by minimizing the impact of party halo effect in the dataset. However, this model is still encumbered by the effects of the primary elections winnowing down the field of candidates and leaving the best known, highest vote share individuals. The best

simulation of the conditions for an independent presidential candidate would remove the effects of the primary elections by looking at the early time period – before vote share begins to collapse into the single ultimate winner.

29. **Earl Primary Model** (primary election data from early time period, non-linear):

This model presents a clear picture of the relationship between name recognition and vote share in conditions where partisan effects are minimal, elections have not begun to winnow the field and there is large variation among the range of possible name identification levels. This model suggests that the relationship between name recognition and vote share is non-linear; that name recognition has increasing value as a candidate nears the top of the scale. That is, a candidate has to reach a certain critical mass of recognition before their electoral support really begins to take off.

30. This model predicts about 60% of the variation in vote share (R^2 of 0.6) and suggests that a candidate needs name recognition above 80% to reach a 15% vote share threshold.



31. Further models are listed in Appendix 1.

CONCLUSIONS

32. All things being equal, independent presidential candidates need to be recognized before they have the opportunity to earn votes. The models presented here suggest that in ideal circumstances – ones that might not exist in a typical election – a typical candidate needs to be recognized by at least 80% of the public before he or she can reach a vote share of 15%.

Alternate scenarios modify this name recognition intercept but in all cases the typical candidate needs to be recognized by more than 60% of the public before he or she can reach a vote share of 15%.

**POLL ERROR IN THREE-WAY RACES
WITH INDEPENDENT CANDIDATES**

SUMMARY

33. In this section of the report, I ask two central questions. First, is election polling conducted in three-way races more error prone than in two-way races? Second, given a particular level of error, what is the probability of a false negative when a candidate is just above the 15% threshold at the date of the poll?

34. To answer these questions, I will first examine the extant theoretical literature on poll (or survey) error.¹ I then will describe the data and methods employed for the analysis. I finally will examine over 300 observations from 16 competitive three-way gubernatorial races over the past fifteen years. I benchmark my analysis against 40 two-way gubernatorial races and 6 presidential races. I do not focus exclusively on presidential races in this report given the relative lack of polling observations for competitive three-way races.

35. In my analysis, we find that three-way races are more error prone than two-way races and that such error rates are especially onerous for candidates at the cusp of the CPD's 15% threshold. Depending on the specific conditions, the probability of such a candidate being falsely excluded from the debate by the CPD 15% threshold ranges from 37% to 41%.

ACADEMIC AND THEORETIC BASIS

36. Opinion research polls are subject to two broad classes of error: 1) sampling error – or margin of error – and 2) non-sampling error. Non-sampling error includes three sub-types: 1) coverage bias, 2) nonresponse bias, and 3) measurement error. (Groves 1989 and Weisberg 2005). Coverage bias occurs when the poll sample is systematically different from the population

¹ Throughout this exhibit, I use poll and survey interchangeably.

of interest. An example would be excluding poor nonwhites from the survey sample or using incorrect assumptions about the makeup of the electorate on Election Day. Nonresponse bias occurs when those people who respond to a poll are systematically different from those who do not. Measurement error includes different families of error ranging from interview bias, to question and questionnaire bias, to issue saliency for the respondent

37. These two classes of error – sampling and non-sampling – are typically thought of as orthogonal (or unrelated) and together are referred to as total survey error and depicted by the triangle below. The central focus of pollsters and survey researchers is to minimize such error both at the survey design stage as well as the post-survey stage through weighting and other statistical calibration methods.

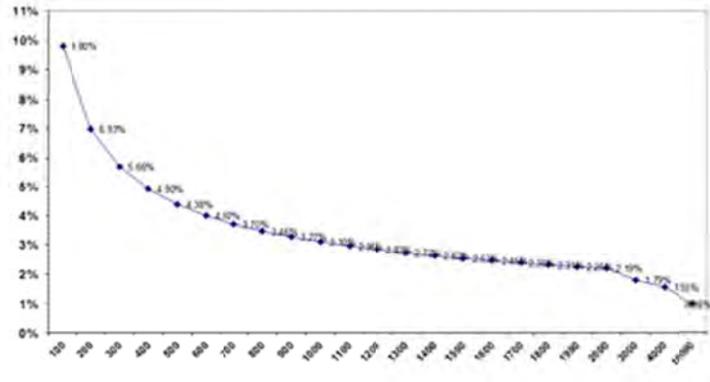


38. Sampling error, typically referred to as the margin of error (MOE), is a function of the square root of the sample size. Specifically, a MOE with a 95% confidence interval can be depicted mathematically as the following where “n” is the size of the sample:

$$MoE = \pm \frac{0.98}{\sqrt{n}}$$

39. Perhaps the easiest way to visualize a MOE is showing it in graphical form. Here a sample size of 400 has a margin of error of +/- 4.9%; while one of 10,000 has a MOE of +/- 0.95% (see graph below).

40. The MOE on a poll of 400 can be interpreted in the following way: 95 times out of 100 the population parameter (let's say actual vote share for Obama) is within +/- 4.9% percent of the



sample estimate. So, if we have a poll with Obama at 45% vote share, the true population value ranges somewhere between 40.1% and 49.9%. However, one out of twenty times the poll estimate might be completely outside the MOE's range. (Lynn Vavreck, New York Times).

41. To reduce such error, pollsters increase their sample size to the extent possible. This is easier said than done, given the high cost per interview. As such, in the U.S., the simple 'rule of thumb' is that a nationally representative poll should have a round 1,000 interviews with a MOE of +/- 3.1%, which is a reasonable cost versus error compromise. For state and local level polling, the industry standard varies from 400 to 800 interviews with a MOE ranging between +/-4.9% to +/- 3.5% given greater cost-sensitivities

42. To gain analytical robustness, many election analysts and forecasters aggregate multiple polls from multiple firms to reduce poll estimate uncertainty (Young 2014; Jackman 2005). In effect, poll aggregation is an approach to minimize the MOE. Nate Silver, among other election forecasters, employed this technique during the U.S. 2012 presidential election to good effect. Given the volume of publically available polls, the standard 3.1% MOE for a typical

1,000 interview poll can be significantly reduced by aggregating it with other polls. Take the last day of the U.S. presidential election as an example. By aggregating all polls on that day, the total sample size comes to over 13,000 interviews with a corresponding MOE of +/-0.9%.

43. Election polling can suffer from all types of non-sampling error. In my experience, election polls are especially vulnerable to coverage bias and specific kinds of measurement error associated with low levels of election salience among voters as well as strategic voting. The empirical evidence and election literature support my opinion. (See Traugott and Wlezien 2008; Blumenthau 2012; Linzer 2013; Jackman 2005). Let me explain each in greater detail:

- a. First, the central challenge of any survey researcher is to ensure that the poll sample represents the population of interest, or, in technical terms, to minimize **coverage bias**. This task is especially challenging for the pollster who *a priori* does not know exactly who, or what population, will show up on election day. To minimize such uncertainty, pollsters often employ “likely voter models” to predict the profile of voters who will actually vote (for an overview see Young and Bricker 2013).
- b. For the typical U.S. general election, only about 65% of registered voters show up on election day. Those who show up on election day are usually quite different from those who do not.
- c. Likely voter models can take on many forms. But most of them predict future behavior based on past behavior. Whether the past behavior metric is taken directly from the survey as a stated behavioral response or from external data sources, such as the Census Bureau Current Population Survey, or voter files,

pollsters use them to predict a given respondent's likelihood to vote based upon said information.

- d. Such methods work well in stable political environments but break down when underlying realities change either from an attitudinal or demographic standpoint. Case in point is in the 2012 U.S. presidential elections. The Romney campaign believed that he would win until the final moments. Why? They believed that the 2008 election actually was an aberration and that the electorate would revert back to the *status quo ante*: more white, affluent, and older. The problem with their assumption was that the U.S. electorate had shifted demographically, becoming less white, younger, and poorer.
- e. The same can be said in Italy in the 2013 parliamentary elections. The polls as a class got the election wrong because they underestimated voter discontent and, consequently, support for the comedian candidate *Grillo (the Cricket)*. He was, in practice, a 'protest' vote for disillusioned people fed up with the system who also were not habitual voters but who on this occasion came out to vote *en masse*. The polls assumed that the electorate would be the same as in years past. Ultimately likely voter models can and do often break down. This, in turn, can increase *coverage bias*—where the poll's sample systematically differs from the relevant population—and thereby reduce poll accuracy.
- f. Second, election polls especially suffer from two specific types of measurement error: (1) *election salience* among voters at the time of the poll and (2) *strategic voting* decisions at the time of the vote which are at odds with poll responses.

- g. On point one, the research literature and experience show that the farther a poll is out from election day, the more error prone it will be. (Wlezien and Erikson (2007; Holbrooke 1996; Popkin 1994). Many explanations exist, but the most common one relates to *diminished election salience* among voters at the time of the poll. Put differently, at the early stages of the electoral cycle, people are not paying attention to the candidates and issues.
- h. In this context, a disinterested voter population is also prone to the vagaries of events, e.g. party conventions, which have a momentary impact but diminish in effect, over time, as voters forget.
- i. Pollsters can measure election saliency in a number of different ways. First, often pollsters employ a simple question, such as ‘are you paying attention to the election’. They also use candidate familiarity as a proxy for greater (or lesser) voter attention and election saliency. Whatever the measure though, voters typically only start paying particular attention close to election day. In my experience, this window varies from one day to several months before election day depending on the specific circumstances.
- j. In sum, polls are more variable when they are conducted at length from election day. The average voter is worried about more relevant “bread and butter” and ‘quality of life’ issues than politics and elections. And, as such, it is not until quite close to the election that voters begin to pay attention and hence their responses are more considered and polls more accurate.
- k. Multi-candidate races have an added element of complication because voters often engage in what political scientists call *strategic voting*. (See Abramson et al.

1992; Burden 2005; Cox 1998; Riker 1976; Schaffner et. al. 2001). Strategic voting can take on two forms. First, voters might initially state a preference for a third-party or unaffiliated candidate but, on election day, go with a candidate that has a higher probability of victory. In this case, the poll would overstate the outsider or third-party and unaffiliated candidate vote share. Alternatively, voters might actually opt for a candidate at the time of voting for no other reason than to ‘send a message’ as a protest vote. The two forms of measurement error cited above can and do increase poll error as it relates to the final vote tally.

DATA SOURCES AND METHODS

44. Returning to the two research questions, is election opinion polling conducted in three-way races more error prone than in two-way races? And with a particular level of error, what is the probability of a false negative where a candidate just above the 15% threshold would be excluded from the debates?

45. To answer my two questions, I use data sourced from public opinion research organizations. This includes data from 95 firms, over 1,000 polls and approximately 2,500 observations.

- a. This includes polling firms such as CNN, USA Today, Ipsos, SurveyUSA, Field Poll, Gallup, Braun Research, Field Research Corp., Public Policy Polling, Quinnipiac, and state-level university and newspaper polls including, Brown University, Southeastern Louisiana University, Minnesota Public Radio, Los Angeles Times, Portland Tribune, Suffolk University, and others. These opinion research organization include most of the major media public opinion pollsters and include many of the same organizations relied upon by the CPD.

- b. The data set includes observations from gubernatorial elections both with and without prominent third party candidates or unaffiliated candidates in over 40 states between 1998 and 2013.
 - c. The data comes from multiple “polling aggregators” including Polling Report, Pollster.com, U.S. Election Atlas, and Real Clear Politics, which provide central clearinghouses for polling research.
46. To analyze error in election polling, I employ an often used and widely-accepted measure of poll accuracy or error, known as the Average Absolute Difference (AAD). (Mitofsky, 1998).
47. The AAD is a simple difference measure which takes (1) the absolute difference between the actual results on election day for a given candidate minus the polled vote share for that same candidate and then (2) takes the average of each absolute candidate difference.
48. An example would be a simple two-way race. To demonstrate the logic, I include two scenarios: scenario 1 with an AAD of zero (0) and scenario 2 with an AAD of 2.

	Actual Election	Poll Result	AAD	Poll Result	AAD
Candidate A	45%	45%	0	47%	-2
Candidate B	55%	55%	0	53%	+2
Total	100%	100%	0	100%	2

49. The AAD can also be depicted mathematically as:

$$ADD = (\sum |AR_i - PR_i|) / c$$

where AR is the actual election result for candidate i; PR is the poll result for candidate i ; and c is the number of candidates in a given race.

50. The AAD can be looked at as a measure that combines sampling and non-sampling error. Here pollsters will typically evaluate whether the AAD for their given poll falls

within the MOE of the poll. An AAD equal to the MOE of a poll can be thought of as having no, or minimal, non-sampling error. Alternatively, pollsters typically treat a poll with an AAD larger than the MOE as one having some form of non-sampling error.

51. Additionally, forecasters who are aggregating polls will assess whether their estimate falls within AAD of the aggregated sample size. Again, the market will assess an AAD smaller or equal to the MOE positively, and an AAD larger than the MOE negatively. At its core, the polling profession understands that MOE is a function of sample size (n) and hence cost constraints, while non-sampling error can and should be minimized via best practices and optimal pre- and post-survey design.

FINDINGS: AVERAGE ABSOLUTE DIFFERENCE

52. To assess the error in two-way versus three-way races, I employ the AAD in gubernatorial races given the relative paucity of three-way races at the presidential level

53. I find that, in two-way gubernatorial races, the AAD increases the more distant from election day the poll is conducted (see table 1 below). Specifically, the analysis shows that the AAD one week out is 3.58% – approximately equivalent to the MOE for a “gold standard” survey sample of 1000 (3.1%). In contrast, the AAD is 9% a year out from the election. Two months before election day – the approximate period when the CPD is reviewing polling – the AAD for two-way races is 5.5%.

54. Again, comparing AAD and MOE gives a ‘rule of thumb’ indication of the presence and effect of non-sampling error. At one week before the election, the AAD is minimal and estimates show little potential non-sampling error (3.58% versus 3.1%). However, at two months out, the AAD is larger than the MOE, suggesting problems with non-sampling error.

Table 1: Average Absolute Error in Two-Way Races

Time before election	Two-way gubernatorial races	
	Average absolute difference	Average margin of error
One week	3.58%	3.1%
One month	4.02%	3.1%
Two months	5.54%	3.1%
Three months	6.89%	3.1%
Six months	7.48%	3.1%
Nine months	8.26%	3.1%
Twelve months	9.06%	3.1%

55. We find the same pattern when examining three-way races. That said, the AAD is, on average, larger than that of two-way races. Indeed, the typical three-way gubernatorial race has an average AAD of 5% a week before the election and over 8% two months prior to election day.

56. Again, when compared to the MOE, even at one week, the AAD suggests significant non-sampling error (5.06% versus 3.1%). And at three months out, the AAD is much larger than a MOE of a “gold standard” 1000 interview survey (8.04% versus 3.1%).

Table 2: Average Absolute Difference in Three-way Races

Time before election	Three-way gubernatorial races	
	Average absolute difference	Average margin of error
One week	5.06%	3.1%
One month	6.65%	3.1%
Two months	8.04%	3.1%
Three months	9.10%	3.1%
Six months	9.23%	3.1%
Nine months	11.35%	3.1%
Twelve months	13.89%	3.1%

57. Here it is worth noting that gubernatorial races are more error prone than presidential races (see table 3 below). On average, the AAD for two-way gubernatorial races is 2 percentage points higher than that of presidential races. This could be a function of smaller sample sizes or greater non-sampling error. The table below compares the gubernatorial AAD with presidential-level AAD at one week, three months and one year.

Table 3: AAD for Presidential and Gubernatorial Races

Time before election	Average Absolute Difference			
	Presidential races	Two-way gubernatorial	Three-way gubernatorial	“Adjusted” three-way
One week	1.7%	3.58%	5.06%	3.06%
Three months	4.8%	6.89%	9.10%	7.10%
Twelve months	7.9%	9.06%	13.89%	11.89%

58. In our sensitivity analysis below I include a two-month AAD for a three-way gubernatorial race (8.04%) as well as an “adjusted” two-month three-way gubernatorial race AAD (6.04%) to simulate conditions that might be encountered in three-way presidential polling.

FINDINGS: POWER ANALYSIS

59. Is an AAD of 6% or 8% large or small? Here I argue that it truly depends on what you are measuring. If the CPD 15% rule is being applied to a typical two-party candidate who has a vote share in the 40’s, then probably such an AAD does not matter. However, for a candidate at the cusp of the 15% threshold, then such error rates can produce undesirable rates of ‘false negatives’ (incorrectly excluding candidates that should have qualified). This is especially worrisome given that the inherent advantages of the two-party system means that any independent candidate is more likely to be at or near the 15% mark than either major party candidate.

60. The central question is: is the ‘ruler’ being applied precise enough to correctly identify those independent candidates?

61. To answer this question, I employ ‘statistical power analysis’. Statistical power analysis is a widely-used technique employed in hypothesis testing. It can be thought of conceptually as:

62. Power = P (Reject Null Hypothesis | the Null Hypothesis is False) where P means probability; and | means ‘given’

63. Specifically, statistical power analysis can be thought of as the ability to detect an effect, if the effect actually exists, of falsely accepting the null hypothesis when it is false. Put differently, statistical power analysis assesses the probability that a type II error (false negative) will occur. The greater the power, the less likely it is to accept a false negative.

64. I base my statistical power analysis on the actual AAD rates for 1,400 polls which includes observations of presidential, two-way and three-way gubernatorial races.

65. I develop a statistical power analysis simulator that allows us to assess the probability of a ‘false negative’ under different conditions. Specifically, I examine a hypothetical major-party candidate with an actual vote share of 42% versus a hypothetical independent candidate at 17%. For the purpose of this model, the actual vote share does not necessarily mean the vote share as polled – the point of the model is to assess the likelihood of the poll accurately measuring the actual vote share. I also look at different AAD rates which include: a three-way race three months out (9%) and two months out (8%) as well as adjusted AAD rates for two and three months out (6% and 7%).

66. In this hypothetical, the chances of the major party candidate at 42% vote share experiencing a false negative result in polling is only 0.04% (or .001% adjusted) two months out, whereas the independent candidate at 17% will falsely poll below the CPD threshold 40.2% of the time (or 37% adjusted) two months out.

Table 4: False Negative Rates for Independent Candidates

	Vote share	3 months out	2 months out	3 months out Adjusted	2 months out Adjusted
<i>(AAD rate)</i>	--	<i>(9.10%)</i>	<i>(8.04%)</i>	<i>(7.10%)</i>	<i>(6.04%)</i>
		<u>False Negative Rate</u>		<u>False Negative Rate</u>	
Major party candidate	42%	0.2%	0.04%	0.01%	0.001%
Independent candidate	17%	41.3%	40.2%	38.9%	37%

67. Or consider a few example of actual candidates. Tom Horner was polling at 18% in September of the 2010 Minnesota gubernatorial election. At that point in time he had a 31% chance of a false negative result barring him from participating in debates applying a 15% threshold for admission.

68. In the 1998 Minnesota Gubernatorial Election, independent candidate Jesse Ventura was only polling at a 15% vote share one months prior to the election – indicating that he had an approximately 50% chance that the five polls the CPD would use would result in him being barred from the debates. However, Ventura ended up winning the election with 37% of the vote.

CONCLUSIONS

69. Opinion polling includes many sources of error that can impact the accuracy of poll, including sampling and non-sampling error. Non-sampling error is of special concern in election polling because it can lead to inaccurate polls when comparing them to the actual vote. While varied, election polling can especially suffer from two types of non-sampling error: coverage bias and measurement error (election salience and strategic voting).

70. The average absolute difference (AAD) is a widely-used measure of error in election polls and can be used as a proxy for assessing error (non-sampling error) above and beyond the MOE (sampling error).

71. In my analysis, I find that three-way races are more error prone than two-way races. Such error rates are especially onerous for candidates at the cusp of the CPD's 15% threshold. Indeed, depending on the specific conditions, the probability of being falsely excluded from the debate by the CPD's 15% rule for a hypothetical independent candidate at 17% ranges from 37% to 41%.

Dated: Washington, D.C.
September 5, 2014



Dr. Clifford Young

APPENDIX 1

ALTERNATIVE MODELS OF NAME RECOGNITION

- a. Model: the type of regression model fit. Linear is a straight line, log-linear is a non-linear line based on an exponential relationship and log-log is a non-linear relationship based on exponential values on both variables.
- b. Dependent Variable: The response variable. Either primary vote share or both primary and general election vote share.
- c. Independent Variable: The explanatory variable. Name recognition in all conditions.
- d. Stage in Election Cycle: The time period included. Total is all observations, early primary is before the primary elections begin, late primary is after the elections begin but before the general election.
- e. Df: Degrees of freedom. The amount of variability included in the model.
- f. R²: The predictive power of the model. The scale is from 0 to 1 with 1 indicating a completely predictive relationship.
- g. Constant: The value of the independent variable when the dependent variable equals "0".
- h. B1 (Name Recog.): The mathematic relationship between the independent and dependent variables.
- i. Name Rec to hit 15%: The value of the independent variable when the dependent variable equals 15%.

Model	Dependent Variable	Independent Variables	Stage in Election Cycle	df	R ²	Constant	B1 (Name Recog.)	Name Rec to hit 15%
Linear	Primary Vote Share	Name Recognition	Total	286	0.438	-37.44	0.733	* 71.5%
Linear	Primary Vote Share	Name Recognition	Early Primary	215	0.457	-30.274	0.627	* 72.2%
Linear	Primary Vote Share	Name Recognition	Late Primary	70	0.235	-84.186	1.289	* 76.9%
Log-linear	Primary Vote Share	Name Recognition	Total	286	0.557	-0.887	0.045	* 79.9%
log-linear	Primary Vote Share	Name Recognition	Early Primary	215	0.601	-0.812	0.043	* 81.9%
log-linear	Primary Vote Share	Name Recognition	Late Primary	70	0.134	-0.584	0.042	* 78.4%
log-log	Primary Vote Share	Name Recognition	Total	286	0.533	-10.564	3.045	* 78.2%
log-log	Primary Vote Share	Name Recognition	Early Primary	215	0.574	-9.963	2.897	* 79.3%
log-log	Primary Vote Share	Name Recognition	Late Primary	70	0.123	-12.551	3.512	* 77.1%
Linear	General & Primary	Name Recognition	Total	580	0.365	-26.928	0.694	* 60.4%
Linear	General & Primary	Name Recognition	Early Primary	368	0.344	-23.896	0.644	* 60.4%
log-linear	General & Primary	Name Recognition	Total	580	0.412	0.118	0.037	* 70%
log-linear	General & Primary	Name Recognition	Early Primary	368	0.419	0.021	0.037	* 72.4%
log-log	General & Primary	Name Recognition	Total	580	0.409	-8.419	2.633	* 68.4%
log-log	General & Primary	Name Recognition	Early Primary	368	0.417	-8.425	2.625	* 69.5%

APPENDIX 2

BIBLIOGRAPHY

- Abramson, Paul R. & Aldrich, John H. (1988). "Sophisticated" Voting in the 1988 Presidential Primaries. *The American Political Science Review*, 86 (1), 55-69.
- Abramowitz, A. I. (1975). Name familiarity, reputation, and the incumbency effect in a congressional election. *The Western Political Quarterly*, 668-684.
- Ajzen, I. (1991). The theory of planned behavior. *Organizational Behavior and Human Decision Processes*, 50(2), 179-211.
- Anand, P., & Sternthal, B. (1990). Ease of message processing as a moderator of repetition effects in advertising. *Journal of Marketing Research*, 345-353.
- Barnard, N. R., & Ehrenberg, A. S. (1990). Robust Measures of Consumer Brand Beliefs. *Journal of Marketing Research (JMR)*, 27(4).
- Bartels, L. M. (1988). *Presidential primaries and the dynamics of public choice*. Princeton University Press.
- Barwise, P. (1995). Good empirical generalizations. *Marketing Science*, 14(3_supplement), G29-G35.
- Bass, F. M., & Wind, J. (1995). Introduction to the special issue: empirical generalizations in marketing. *Marketing Science*, 14(3_supplement), G1-G5.
- Batra, R., & Ray, M. L. (1986). Affective responses mediating acceptance of advertising. *Journal of Consumer Research*, 234-249.
- Belch, G. E. (1982). The effects of television commercial repetition on cognitive response and message acceptance. *Journal of Consumer Research*.
- Berlyne, D. E. (1970). Novelty, complexity, and hedonic value. *Perception & Psychophysics*, 8(5), 279-286.
- Blumenthal, Mark (2012). Race Matters: Why Gallup Poll Finds Less Support for President Obama. *Huffington Post – Pollster*. 6/17/2012
- Burden, B. C. (2002). United States Senators as Presidential Candidates. *Political Science Quarterly*, 117(1), 81-102.
- Burden, Carry C. (2005). Minor Parties and Strategic Voting in Recent US Presidential Elections. *Electoral Studies*, 24, 603-618.

- Cacioppo, J. T., & Petty, R. E. (1989). Effects of message repetition on argument processing, recall, and persuasion. *Basic and Applied Social Psychology*, 10(1), 3-12.
- Calder, B. J., & Sternthal, B. (1980). Television commercial wearout: An information processing view. *Journal of Marketing Research (JMR)*, 17(2).
- Campbell, M. C., & Keller, K. L. (2003). Brand familiarity and advertising repetition effects. *Journal of Consumer Research*, 30(2), 292-304.
- Carpenter, G. S., & Nakamoto, K. (1989). Consumer preference formation and pioneering advantage. *Journal of Marketing Research*, 285-298.
- Carpenter, G. S., Glazer, R., & Nakamoto, K. (1994). Meaningful brands from meaningless differentiation: the dependence on irrelevant attributes. *Journal of Marketing Research*, 31(3).
- Coleman, J. J., & Manna, P. F. (2000). Congressional campaign spending and the quality of democracy. *Journal of Politics*, 62(3), 757-789.
- Colombo, R. A., & Morrison, D. G. (1989). Note-A Brand Switching Model with Implications for Marketing Strategies. *Marketing Science*, 8(1), 89-99.
- Cox, D. S., & Cox, A. D. (1988). What does familiarity breed? Complexity as a moderator of repetition effects in advertisement evaluation. *Journal of Consumer Research*.
- Cox, Gary W. (1997). *Making Votes Count: Strategic Coordination in the World's Electoral Systems*. Cambridge, Mass: Cambridge University Press.
- Ehrenberg, A, Goodhardt, G. and Barwise, P (1990). Double jeopardy revisited. *Journal of Marketing*, 54, July, 82-91.
- Erikson, Robert S. & Wlezien, Christopher (2007). Temporal Horizons and Presidential Election Forecasts. *American Politics Research*, 24, 492-505.
- Fader, P. S., & Schmittlein, D. C. (1993). Excess Behavioral Loyalty for High-Share Brands: Deviations from the Dirichlet Model For Repeat Purchasing. *Journal of Marketing Research*, 30(4).
- Holbrook, Thomas M (1996). *Do Campaigns Matter?* Thousand Oaks, California: Sage Publications.
- Hoyer, W. D., & Brown, S. P. (1990). Effects of brand awareness on choice for a common, repeat-purchase product. *Journal of Consumer Research*, 17(2), 141.

- Goidel, R. K., & Shields, T. G. (1994). The vanishing marginals, the bandwagon, and the mass media. *Journal of Politics*, 56(03), 802-810.
- Goldenberg, E. N., & Traugott, M. W. (1980). Congressional campaign effects on candidate recognition and evaluation. *Political Behavior*, 2(1), 61-90.
- Groves, Robert (1989). *Survey Errors and Survey Costs*. New York, New York: Wiley Books.
- Jackman, Simon (2005). Pooling the Polls Over an Election Campaign. *Australian Journal of Political Science*, 40 (4), 499-517.
- Jacobson, G. C. (2009). The 2008 Presidential and Congressional Elections: Anti-Bush Referendum and Prospects for the Democratic Majority. *Political Science Quarterly*, 124(1), 1-30.
- Jacobson, G. C. (2006). Campaign spending effects in US Senate elections: evidence from the National Annenberg Election Survey. *Electoral Studies*, 25(2), 195-226.
- Jacobson, G. C. (1978). The effects of campaign spending in congressional elections. *American Political Science Review*, 72(2), 469-491.
- Joseph, A., & Wesley Hutchinson, J. (1987). Dimensions of consumer expertise. *Journal of Consumer Research*, 13(4), 411-54.jacobson
- Kahneman, D., Knetsch, J., & Thaler, R. (1990). Experimental Tests of the Endowment Effect and the Coase Theorem. *Journal of Political Economy*.
- Kam, C. D., & Zechmeister, E. J. (2013). Name recognition and candidate support. *American Journal of Political Science*, 57(4), 971-986.
- Kent, R. J., & Allen, C. T. (1994). Competitive interference effects in consumer memory for advertising: The role of brand familiarity. *Journal of Marketing*, 58(3).
- Lenart, S. (1997). Naming names in a midwestern town: The salience of democratic presidential hopefuls in early 1992. *Political behavior*, 19(4), 365-382.
- Linzer, Andrew. (2013). Dynamic Bayesian Forecasting of Presidential Elections in the States. *Journal of the American Statistical Association*. 124-134.
- Mann, T. E., & Wolfinger, R. E. (1980). Candidates and parties in congressional elections. *The American Political Science Review*, 617-632.
- Marewski, J. N., Gaissmaier, W., Schooler, L. J., Goldstein, D. G., & Gigerenzer, G. (2009). Do voters use episodic knowledge to rely on recognition. In *Proceedings of the 31st Annual Conference of the Cognitive Science Society* (pp. 2232-2237).

- Maslow, A. H. (1937). The influence of familiarization on preference. *Journal of Experimental Psychology*, 21(2), 162.
- Messmer, D. J. (1979). Repetition and attitudinal discrepancy effects on the affective response to television advertising. *Journal of Business Research*, 7(1), 75-93.
- Meyer, R. J. (1981). A model of multiattribute judgments under attribute uncertainty and informational constraint. *Journal of Marketing Research*, 18(4).
- Meyer, R. J. (1982). A descriptive model of consumer information search behavior. *Marketing Science*, 1(1), 93-121.
- Meyer, R. J., & Sathi, A. (1985). A multiattribute model of consumer choice during product learning. *Marketing Science*, 4(1), 41-61.
- Michie, S., van Stralen, M. M., & West, R. (2011). The behaviour change wheel: a new method for characterising and designing behaviour change interventions. *Implementation Science*, 6(1), 42.
- Mitchell, A. A., & Olson, J. C. (1977). Cognitive Effects of Advertising Repetition. *Advances in Consumer Research*, 4(1).
- Mitofsky, Warren J. (1998). The Polls – Review: Was 1996 a Worse Year for Polls Than 1948?. *Public Opinion Quarterly*, 62:230-249.
- Panagopoulos, C. (2006). Political consultants, campaign professionalization, and media attention. *PS: Political Science & Politics*, 39(04), 867-869.
- Panagopoulos, C., & Green, D. P. (2008). Field experiments testing the impact of radio advertisements on electoral competition. *American Journal of Political Science*, 52(1), 156-168.
- Pechmann, C., & Stewart, D. W. (1989). The multidimensionality of persuasive communications: Theoretical and empirical foundations. *Cognitive and Affective Responses to Advertising*, 31-65.
- Popkin, Samuel L. (1994) *The Reasoning Voter*. Chicago, Illinois: The University of Chicago Press.
- Prior, M. (2006). The incumbent in the living room: The rise of television and the incumbency advantage in US House elections. *Journal of Politics*, 68(3), 657-673.
- Ray, M. L., Sawyer, A. G., & Strong, E. C. (1971). Frequency effects revisited. *Journal of Advertising Research*, 11(1), 14-20.

- Raj, S. P. (1985). Striking a Balance between Brand 'Popularity' and Brand Loyalty. *Journal of Marketing*, 49(1).
- Reibstein, D. J., & Farris, P. W. (1995). Market share and distribution: A generalization, a speculation, and some implications. *Marketing Science*, 14(3_supplement), G190-G202.
- Rethans, A. J., Swasy, J. L., & Marks, L. J. (1986). Effects of television commercial repetition, receiver knowledge, and commercial length: A test of the two-factor model. *Journal of Marketing Research*, 50-61.
- Riker, William H. (1976). The Number of political Parties: A Reexamination of Duverger's Law. *Comparative Politics*, 9 (1), 93-106.
- Rindfleisch, A., & Inman, J. (1998). Explaining the familiarity-liking relationship: mere exposure, information availability, or social desirability? *Marketing Letters*, 9(1), 5-19.
- Schaffner, Brian; Streb, Matthew & Wright, Gerald (2001). Teams Without Uniforms: The Nonpartisan Ballot in State and Local Elections, 54 (1), 7-30.
- Shuchman, Abe. (1968). "Are There Laws of Consumer Behavior?" *Journal of Advertising Research*, 8(1), 19-27.
- Sen, S., & Johnson, E. J. (1997). Mere-possession effects without possession in consumer choice. *Journal of Consumer Research*, 24(1), 105-117.
- Serra, G., & Cover, A. D. (1992). The electoral consequences of perquisite use: The casework case. *Legislative Studies Quarterly*, 233-246.
- Solowiej, L., & Brunell, T. L. (2003). The entrance of women to the US Congress: The widow effect. *Political Research Quarterly*, 56(3), 283-292.
- Squire, P. (1995). Candidates, money, and voters-assessing the state of Congressional elections research. *Political Research Quarterly*, 48(4), 891-917.
- Stokes, D. E., & Miller, W. E. (1962). Party government and the saliency of Congress. *Public Opinion Quarterly*, 26(4), 531-546.
- Thaler, R. (1980). Toward a positive theory of consumer choice. *Journal of Economic Behavior & Organization*, 1(1), 39-60.
- Traugott, Michael W. & Wlezen, Christopher (2009). The Dynamics of Poll Performance During the 2008 Presidential Nomination Contest. *Public Opinion Quarterly*, 73 (5), 866-894.
- Vakratsas, D., & Ambler, T. (1999). How advertising works: what do we really know? *Journal of Marketing*, 63(1).

- Weisberg, Herbert F. (2005). *The Total Survey Error Approach: A Guide to the New Science of Survey Research*. Chicago, IL: University of Chicago Press.
- Young, Clifford (2014). *The Rise of the Forecaster-Pundit: Big Data, Data Aggregation and the 2012 US Presidential Election*. Ipsos Understanding Society, July 2012.
- Young, Clifford & Bricker, Darrell (2013). *Using Likely Voter Models in Pre-Election Polling*. Internal White Paper.
- Zajonc, R. B. (1968). Attitudinal effects of mere exposure. *Journal of Personality and Social Psychology*, 9(2p2), 1.
- Zaller, John R. (1992) *The Nature and Origins of Mass Opinion*. New York, New York: Cambridge University Press.

Exhibit 4

May 17, 2011

With Huckabee Out, No Clear GOP Front-Runner

Bachmann and Cain generate high positive intensity among those who know them

by Frank Newport

PRINCETON, NJ -- With Mike Huckabee out of the race for the 2012 GOP presidential nomination, three well-known politicians, Mitt Romney, Sarah Palin, and Newt Gingrich, emerge as leaders in Republicans' preferences. Republicans, however, have less intensely positive feelings about these three than they did about Huckabee. Two less well-known potential candidates, Michele Bachmann and Herman Cain, generate high levels of enthusiasm among Republicans who recognize them.

2012 Republican Candidates and Potential Candidates: Recognition, Ballot Position, Positive Intensity Scores

	% Name recognition among Republicans [^]	% Choosing in trial heat ballot, March-April 2011 ^{**}	Positive Intensity Score [^]
Mitt Romney	83	20	14
Sarah Palin	96	18	16
Newt Gingrich	84	11	13
Ron Paul	76	8	11
Michele Bachmann	58	5	21
Mitch Daniels	35	4	13
Tim Pawlenty	48	4	13
Rick Santorum	47	2	12
Jon Huntsman	25	2	9
Gary Johnson	21	1	1
Herman Cain	29	*	24

* Less than 0.5%

[^] Based on May 2-15, 2011, Gallup Daily tracking

^{**} Includes second choice for those selecting Huckabee or Trump

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The accompanying table displays potential Republican candidates' nomination support from March and April, based on reallocating choices of those who initially supported Huckabee or Donald Trump, and Positive Intensity Scores and name recognition [for the two weeks ending May 15](#).

Republicans' nomination preferences at this point largely appear to reflect name identification. Palin, Gingrich, and Romney are the three best-known candidates, and they top the list of Republicans' preferences. Romney and Palin are essentially tied; Gingrich does slightly less well even though he and Romney have nearly identical name identification.

[Track election 2012 data >](#)

Ron Paul and Bachmann are the only other potential candidates with name recognition above 50%. They are also next in line in terms of Republican nomination support.

The remaining six candidates Gallup tracks -- Tim Pawlenty, Rick Santorum, Mitch Daniels, Cain, Jon Huntsman, and Gary Johnson -- have name recognition scores of less than 50% among Republicans. Each of them has less than 5% support in the March-April reallocated trial heat.

All in all, the basic pattern is clear: The most well-known candidates lead in nomination support at this point, while those who are not as well-known lag behind.

Positive Intensity Scores Control for Recognition

A review of the GOP candidates' favorable ratings and Positive Intensity Scores reveals their strengths once name identification is controlled for.

Republican candidates can be divided into three groups based on their recognition scores.

Group 1: Palin, Gingrich, and Romney

Republican Candidates: Recognition, Favorables, Positive Intensity

	Sarah Palin	Newt Gingrich	Mitt Romney
% Recognition	96	84	83
% Overall favorable opinion, among those who recognize	72	69	74
% Overall unfavorable opinion, among those who recognize	26	24	17
% Strongly favorable opinion, among those who recognize	23	17	17
% Strongly unfavorable opinion, among those who recognize	7	4	3
Positive Intensity Score*	16	13	14

* % Strongly favorable minus % strongly unfavorable
May 2-15, 2011, Gallup Daily tracking

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- Palin, Gingrich, and Romney have roughly similar favorable percentages among Republicans who recognize them.
- Palin and Gingrich generate slightly higher negatives than does Romney.
- Palin's support is the most intense. A higher percentage of Republicans have strongly favorable opinions than is the case for the other two, giving her a slightly higher overall Positive Intensity Score despite her higher strongly unfavorable percentage.
- Gingrich and Romney have similar Positive Intensity Scores.
- The overall differences in Republicans' views of these three well-known candidates are not large.

Group 2: Paul and Bachmann

Republican Candidates: Recognition, Favorables, Positive Intensity

	Ron Paul	Michele Bachmann
% Recognition	76	58
% Overall favorable opinion, among those who recognize	64	71
% Overall unfavorable opinion, among those who recognize	25	16
% Strongly favorable opinion, among those who recognize	14	25
% Strongly unfavorable opinion, among those who recognize	3	3
Positive Intensity Score*	11	21

* % Strongly favorable minus % strongly unfavorable; Positive Intensity Score may not equal the difference between these two percentages because of rounding
May 2-15, 2011, Gallup Daily tracking

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- Paul receives lower favorables than the three candidates in the top tier, or compared with Bachmann. Paul's Positive Intensity Score is below average.
- Bachmann's image among those who recognize her is as positive as that of any candidate tested. Bachmann has low unfavorables, similar to Romney's.
- Bachmann generates as high a percentage strongly favorable as anyone tested in this analysis. **Bachmann's overall Positive Intensity Score of 21 is the highest of any of the better-known candidates, and overall is second only to that of the less well-known Cain.**

Group 3: Pawlenty, Santorum, Daniels, Cain, Huntsman, and Johnson

Republican Candidates: Recognition, Favorables, Positive Intensity

	Tim Pawlenty	Rick Santorum	Mitch Daniels	Herman Cain	Jon Huntsman	Gary Johnson
% Recognition	48	47	35	29	25	21
% Overall favorable opinion, among those who recognize	70	69	67	71	66	56
% Overall unfavorable opinion, among those who recognize	14	13	14	13	17	23
% Strongly favorable opinion, among those who recognize	15	14	13	25	10	4
% Strongly unfavorable opinion, among those who recognize	1	2	1	1	1	3
Positive Intensity Score*	13	12	13	24	9	1

* % Strongly favorable minus % strongly unfavorable; Positive Intensity Score may not equal the difference between these two percentages because of rounding
May 2-15, 2011, Gallup Daily tracking

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- Pawlenty and Santorum are the best known of this group, with recognition scores just under 50%.
- Pawlenty and Santorum have similar favorable images among Republicans who recognize them (about average for the candidates).
- Daniels, who is less well-known, has an image profile among those who recognize him that is similar to those of Pawlenty and Santorum.
- The remaining three Republicans in this list -- Cain, Huntsman, and Johnson -- have name IDs in the 20% range.
- The exceptional individual in this group is businessman Cain. **He is recognized by 29% of Republicans and receives the highest Positive Intensity Score, based on those who know him, of any candidate measured.** One-quarter of those familiar with Cain have a strongly favorable view, and only 1% have a strongly unfavorable view.
- Huntsman and Johnson not only have low recognition scores, but at this point generate low levels of enthusiasm among those who do know them. Huntsman's Positive Intensity Score of 9 and Johnson's 1 are the lowest of any current or potential candidate. Trump, who has now indicated that he will not run, ended with a Positive Intensity Score of -1.

Summary: Where the Race Stands

There is no clear front-runner in the race for the 2012 Republican presidential nomination. Palin, who has given no indication of whether she will run for the nomination, has very high name identification, is near the top of Republicans' nomination preferences, and has a higher Positive Intensity Score than any other well-known candidate. **Palin thus must be considered one of the GOP leaders at this point.** Romney and Gingrich are also

well-known. Of the two, Romney is slightly better positioned at this point due to his higher ranking in Gallup's trial heats.

None of these three, however, comes close to generating the positive intensity of Huckabee. Palin's Positive Intensity Score, at 16, is slightly higher than Romney's or Gingrich's, but is nine points lower than Huckabee's final May 2-15 score of 25.

Paul and Bachmann are next in line in terms of their name identification among Republicans, and round out Republicans' top five candidates in the trial-heat list. Bachmann continues to generate relatively intense positive feelings among those who recognize her. Her current Positive Intensity Score is the second highest of any candidate Gallup tracks, and higher than those of the better-known Republicans.

All other candidates and potential candidates Gallup tracks have name recognition below 50%. Only one of them, Cain, creates strong enthusiasm among those who recognize him.

The biggest challenge for those in the Republican field beyond Palin, Gingrich, and Romney right now is increasing their name recognition. Observers continue to point to candidates such as Pawlenty, Daniels, and Huntsman as potential challengers for the GOP nomination, but none of them is known by more than half of Republicans at this point. Additionally, none of these less well-known candidates or possible candidates, except for Cain, is generating unusual enthusiasm among those who do know them, which suggests their need to attract attention to their candidacies in the months ahead.

The challenge for Bachmann and Cain will be to maintain their strongly positive positioning as they become more widely known.

Survey Methods

Results are based on telephone interviews conducted as part of Gallup Daily tracking May 2-15, 2011, with random samples of Republicans and Republican-leaning independents, aged 18 and older, living in all 50 U.S. states and the District of Columbia. Questions asking about the 13 potential candidates measured in this research were rotated among randomly selected samples of Republicans each night; over the 14-day period, each candidate was rated by a minimum of 1,500 Republicans and Republican-leaning independents.

For the overall ratings of each potential candidate among Republicans and Republican-leaning independents, including recognition scores, one can say with 95% confidence that the maximum margin of sampling error is ± 3 percentage points. For the Positive Intensity Score for each candidate, the maximum margin of sampling error varies depending on the size of the group recognizing the candidate.

Interviews are conducted with respondents on landline telephones and cellular phones, with interviews conducted in Spanish for respondents who are primarily Spanish-speaking. Each sample includes a minimum quota of 400 cell phone respondents and 600 landline respondents per 1,000 national adults, with additional minimum quotas among landline respondents for gender within region. Landline telephone numbers are chosen at random among listed telephone numbers. Cell phones numbers are selected using random digit dial methods. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted by gender, age, race, Hispanic ethnicity, education, region, adults in the household, and phone status (cell phone-only/landline only/both, cell phone mostly, and having an unlisted landline number). Demographic weighting targets are based on the March 2010 Current Population Survey figures for the aged 18 and older non-institutionalized population living in U.S. telephone households. All reported margins of sampling error include the computed design effects for weighting and sample design.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

For more details on Gallup's polling methodology, visit www.gallup.com.

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Exhibit 5

The logo for the CNN | ORC Poll. It features the letters 'CNN' in a stylized, outlined font, followed by a vertical bar and the letters 'ORC' in a bold, solid font. Below this, the word 'POLL' is written in large, bold, white capital letters on a black rectangular background.

Interviews with 1,026 adult Americans conducted by telephone by ORC International on February 10-13, 2012. The margin of sampling error for results based on the total sample is plus or minus 3 percentage points. The sample also includes 937 interviews among registered voters (plus or minus 3 percentage points).

The sample includes 773 interviews among landline respondents and 253 interviews among cell phone respondents.

FOR RELEASE: TUESDAY, FEBRUARY 14 AT 6 PM

RESULTS FOR ALL AMERICANS

6. We'd like to get your overall opinion of some people in the news. As I read each name, please say if you have a favorable or unfavorable opinion of these people -- or if you have never heard of them. (RANDOM ORDER)

	<u>Favorable</u>	<u>Unfavorable</u>	<u>Never heard of</u>	<u>No opinion</u>
Newt Gingrich				
February 10-13, 2012	25%	63%	8%	4%
January 11-12, 2012	28%	58%	9%	5%
November 11-13, 2011	36%	39%	16%	9%
June 3-7, 2011	30%	44%	16%	10%
April 29-May 1, 2011	30%	44%	14%	13%
April 9-11, 2010	38%	38%	14%	11%
May 14-17, 2009	36%	35%	14%	15%
March 9-11, 2007	25%	43%	18%	14%
November 3-5, 2006	28%	44%	13%	16%

CNN/USA TODAY/GALLUP TRENDS

	<u>Favorable</u>	<u>Unfavorable</u>	<u>Never heard of</u>	<u>No opinion</u>
2003 Jul 25-27	39	42	8	11
1998 Jun 5-7	32	53	5	10
1998 Feb 13-15	37	48	4	11
1997 Jun 26-29	25	61	4	10
1997 Apr 18-20	24	62	6	8
1997 Jan 3-5	25	61	5	9
1996 Mar 15-17	24	58	6	12
1996 Jan 12-15	31	57	4	8
1995 Aug 4-7	31	47	6	16
1994 Dec 28-30*	27	35	14	24
1994 Nov 28-29*	29	25	22	24
1994 Oct 7-9*	19	22	42	17

*WORDING: Oct, 1994: House Minority Leader, Newt Gingrich; Nov-Dec., 1994: Incoming Speaker of the House, Newt Gingrich

Texas Congressman Ron Paul

February 10-13, 2012	42%	36%	10%	12%
January 11-12, 2012	38%	40%	11%	11%
November 11-13, 2011	32%	34%	22%	12%
June 3-7, 2011	34%	26%	25%	15%
April 29-May 1, 2011	30%	27%	29%	14%

RESULTS FOR ALL AMERICANS

6. We'd like to get your overall opinion of some people in the news. As I read each name, please say if you have a favorable or unfavorable opinion of these people -- or if you have never heard of them. (RANDOM ORDER)

	<u>Favor- able</u>	<u>Unfavor- able</u>	<u>Never heard of</u>	<u>No opinion</u>
Mitt Romney				
February 10-13, 2012	34%	54%	5%	7%
January 11-12, 2012	43%	42%	8%	7%
November 11-13, 2011	39%	35%	14%	12%
June 3-7, 2011	39%	29%	17%	15%
April 29-May 1, 2011	40%	30%	19%	11%
October 27-30, 2010	36%	29%	18%	17%
April 9-11, 2010	40%	34%	12%	14%
October 16-18, 2009	36%	26%	17%	20%
May 14-17, 2009	42%	29%	12%	17%
July 27-29, 2008	41%	32%	13%	13%
February 1-3, 2008	38%	38%	9%	14%
January 9-10, 2008	31%	39%	11%	19%
September 7-9, 2007	28%	28%	24%	19%
June 22-24, 2007	27%	23%	26%	24%
March 9-11, 2007	18%	18%	42%	22%

**Wording Prior to Jan 2012: Former Massachusetts Governor Mitt Romney*

Former Pennsylvania Senator Rick Santorum

February 10-13, 2012	32%	38%	15%	14%
January 11-12, 2012	31%	36%	21%	12%
November 11-13, 2011	17%	27%	39%	17%
June 3-7, 2011	16%	20%	49%	15%
April 29-May 1, 2011	16%	19%	51%	14%

Exhibit 6

Presidential Pre-Nomination Campaign Disbursements February 29, 2012

	Operating Expenditures Minus Offsets	Fundraising Disbursements Minus Offsets	Legal/Accounting Disbursements Minus Offsets	Other Disbursements	Total	Latest Cash on Hand	Debts Owed by Campaign	Debts Owed to Campaign
Republicans								
Bachmann, Michelle*	\$9,940,432	\$0	\$0	\$5,000	\$12,274,326	\$411,279	\$1,049,567	\$0
Cain, Herman*	\$15,518,452	\$0	\$0	\$30,800	\$15,875,256	\$986,430	\$580,200	\$0
Gingrich, Newt*	\$19,176,106	\$0	\$0	\$0	\$19,406,463	\$1,543,032	\$1,550,517	\$0
Huntsman, Jon**	\$5,920,924	\$410,641	\$0	\$0	\$6,368,331	\$870	\$5,176,723	\$2,280
McCotter, Thaddeus G.**	\$545,587	\$0	\$0	\$1	\$548,850	\$927	\$105,636	\$761
Paul, Ron*	\$32,752,342	\$0	\$0	\$14,123	\$32,987,165	\$1,367,486	\$0	\$0
Pawlenty, Timothy***	\$5,129,159	\$0	\$0	\$102	\$5,941,144	\$5,815	\$17,500	\$0
Perry, Rick**	\$19,214,626	\$0	\$0	\$0	\$19,833,114	\$674,564	\$14,464	\$0
Romney, Mitt*	\$66,388,432	\$0	\$0	\$148	\$68,107,847	\$7,273,352	\$0	\$0
Santorum, Rick*	\$13,002,088	\$0	\$0	\$1,500	\$13,100,785	\$2,598,305	\$922,448	\$0
Democrats								
Obama, Barack*	\$72,026,652	\$0	\$0	\$2,228,503	\$78,712,495	\$84,674,461	\$30,058	\$0
Others								
Johnson, Gary Earl*	\$594,453	\$51,550	\$28,130	\$0	\$674,133	\$11,463	\$181,335	\$0
Roemer, Charles E. 'Buddy' III***	\$464,126	\$0	\$0	\$0	\$469,601	\$43,251	\$4,900	\$0
Total Republican	\$187,588,147	\$410,641	\$0	\$51,673	\$194,443,281	\$14,862,060	\$9,417,055	\$3,041
Total Democrats	\$72,026,652	\$0	\$0	\$2,228,503	\$78,712,495	\$84,674,461	\$30,058	\$0
Toal Others	\$1,058,580	\$51,550	\$28,130	\$0	\$1,143,734	\$54,714	\$186,235	\$0
Grand Total	\$260,673,379	\$462,191	\$28,130	\$2,280,175	\$274,299,510	\$99,591,236	\$9,633,349	\$3,041

* First Financial Report for 2012 Cycle - 2011 Q2

** First Financial Report for 2012 Cycle - 2011 Q3

*** First Financial Report for 2012 Cycle - 2011 Q1

Exhibit 7



By STEPHANIE CONDON / CBS NEWS / October 28, 2011, 8:32 PM

Herman Cain becomes a familiar name, poll shows



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Herman Cain's popularity surging

Herman Cain's name recognition among Republican voters has made a remarkable surge in recent months, a [Gallup poll](#) from this week shows, while his favorability rating among GOP voters stays strong.

As many as 78 percent of Republicans nationwide recognize Cain's name -- a jump of 28 points from September and 57 points from March -- making him as recognizable with other Republican presidential candidates.

Cain's surge in name recognition among Republicans corresponds with his rise in the polls. This week's [CBS News/ New York Times poll](#) shows Cain leading the field of GOP candidates with 25 percent support, with Mitt Romney following with 21 percent.

Unlike other Republican candidates that have climbed in the polls (only to fall some weeks later), Cain's favorability rating has stayed strong so far. Cain has the highest percentage of favorable opinions among Republicans (74 percent) and the lowest percentage of unfavorable opinions (16 percent).

[CBSNews.com special report: Election 2012](#)

Rep. Michele Bachmann's favorability rating peaked in the first week of July at 77 percent, when her recognition level was also at 77 percent. Her unfavorability rating stood at 15 percent. Bachmann's favorability rating has since fallen to 56 percent while her unfavorable rating has climbed to 34 percent.



Texas Gov. Rick Perry also had a high favorability rating in mid-July of 74 percent, though it's since fallen to 60 percent. His unfavorable rating has risen from 15 percent to 29 percent.

Former Massachusetts Gov. Mitt Romney currently has the second-highest

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Newly discovered dinosaur was king of the giants



Herman Cain will be this Sunday's guest on CBS' "Face the Nation." / CBS

favorability rating at 66 percent and an unfavorable rating of 24 percent.

Cain's campaign appears to have had some staying power in spite of recent missteps, like conflicting remarks on abortion policy, and new scrutiny on his campaign. The longer he remains atop of the polls, however, the more scrutiny he can expect.

Watch Herman Cain this Sunday on CBS' "Face the Nation."

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Stephanie Condon

ON TWITTER » ON FACEBOOK »

Stephanie Condon is a political reporter for CBSNews.com.

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As Iraq's civil war rages, is containing ISIS enough?

The U.S. is launching air strikes to soften the group until the Iraqis and other regional allies can neutralize it, but some urge deeper involvement



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20 PHOTOS

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Video purports to show beheading of U.S. journalist Steven Sotloff



Obama's delay on ISIS strategy leads to strange bedfellows



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Exhibit 8

Presidential Pre-Nomination Campaign Disbursements December 31, 2011

	Operating Expenditures Minus Offsets	Fundraising Disbursements Minus Offsets	Legal/Accounting Disbursements Minus Offsets	Other Disbursements	Total	Expenditures Subject to Limit	Latest Cash on Hand	Debts Owed by Campaign	Debts Owed to Campaign
Republicans									
Bachmann, Michelle*	\$9,573,065	\$0	\$0	\$5,000	\$11,904,546	\$0	\$608,884	\$1,055,924	\$0
Cain, Herman*	\$15,518,452	\$0	\$0	\$30,800	\$15,875,256		\$986,430	\$580,200	\$0
Gingrich, Newt*	\$10,539,734	\$0	\$0	\$0	\$10,624,423		\$2,108,831	\$1,199,361	\$0
Huntsman, Jon**	\$5,373,170	\$399,023	\$0	\$0	\$5,807,460		\$110,965	\$3,775,253	\$2,280
Johnson, Gary Earl*	\$480,432	\$51,550	\$28,130	\$0	\$560,112		\$18,013	\$203,761	\$0
McCotter, Thaddeus G	\$545,587	\$0	\$0	\$1	\$548,850		\$927	\$105,636	\$761
Paul, Ron*	\$23,982,967	\$0	\$0	\$13,423	\$24,199,806		\$1,904,915	\$0	\$0
Pawlenty, Timothy***	\$5,032,256	\$0	\$0	\$102	\$5,844,177		\$46,268	\$102,911	\$0
Perry, Rick**	\$16,013,250	\$0	\$0	\$0	\$16,347,912		\$3,761,886	\$93,745	\$0
Roemer, Charles E. 'Buddy'	\$331,842	\$0	\$0	\$0	\$335,556		\$9,476	\$4,900	\$0
Romney, Mitt*	\$36,157,457	\$0	\$0	\$148	\$36,968,828		\$19,916,126	\$0	\$0
Santorum, Rick*	\$1,898,269	\$0	\$0	\$1,500	\$1,906,019		\$278,935	\$204,836	\$0
Democrats									
Obama, Barack*	\$43,496,709	\$0	\$0	\$1,844,349	\$48,448,032		\$81,761,012	\$3,035,737	\$0
Total Republican	\$125,446,483	\$450,573	\$28,130	\$50,973	\$130,922,944	\$0	\$29,751,657	\$7,326,527	\$3,041
Total Democrats	\$43,496,709	\$0	\$0	\$1,844,349	\$48,448,032	\$0	\$81,761,012	\$3,035,737	\$0
Grand Total	\$168,943,192	\$450,573	\$28,130	\$1,895,322	\$179,370,976	\$0	\$111,512,668	\$10,362,265	\$3,041

* First Financial Report for 2012 Cycle - 2011 Q2

** First Financial Report for 2012 Cycle - 2011 Q3

*** First Financial Report for 2012 Cycle - 2011 Q1

Exhibit 9

2012 House and Senate Campaign Finance for Ohio

Election Cycle: 2013-2014 2011-2012 2009-2010 2007-2008

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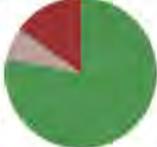
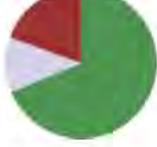
All Senate Candidates -- OH

Select 2 of 4 candidates to [Compare](#)

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Page 1 of 1 (15 records)

Candidate (+)	District	Party	Incumbent / Challenger / Open	Receipts	Disbursements	Cash On Hand	Debt	Date Through
<input type="checkbox"/> BLISS, RUSSELL P JR (RUSTY)	00	REPUBLICAN PARTY	CHALLENGER	Receipts \$3,110 Individual \$0 PAC \$0 Party \$0 Candidate \$2,500 Other \$610	\$2,963	\$143	\$0	03/31/2012
<input type="checkbox"/> BROWN, SHERROD	00	DEMOCRATIC PARTY	INCUMBENT	Receipts \$20,945,196 Individual \$17,816,108 PAC \$2,123,580 Party \$43,100 Candidate \$335 Other \$962,073	\$21,914,316	\$551,089	\$38,651	12/31/2012
<input type="checkbox"/> COUGHLIN, KEVIN J	00	REPUBLICAN PARTY	CHALLENGER	Receipts \$64,615 Individual \$64,614 PAC \$0 Party \$0 Candidate \$0 Other \$1	\$64,444	\$170	\$0	10/14/2011
<input type="checkbox"/> DEMARE, JOSEPH ROSARIO	00	GREEN PARTY	CHALLENGER	Receipts \$0 Individual \$0 PAC \$0 Party \$0 Candidate \$0 Other \$0	\$0	\$0	\$0	
<input type="checkbox"/> DODT, DAVID W SR	00	REPUBLICAN PARTY	CHALLENGER	Receipts \$0 Individual \$0 PAC \$0 Party \$0 Candidate \$0 Other \$0	\$0	\$0	\$0	
<input type="checkbox"/> EWING, DANA LEE	00	INDEPENDENT	CHALLENGER	Receipts \$0 Individual \$0 PAC \$0 Party \$0 Candidate \$0 Other \$0	\$0	\$0	\$0	
<input type="checkbox"/> FOCKLER, JOHN	00	LIBERTARIAN PARTY	CHALLENGER	Receipts \$0 Individual \$0 PAC \$0 Party \$0 Candidate \$0 Other \$0	\$0	\$0	\$0	
				Receipts \$6,325 Individual \$825				

<input type="checkbox"/>	GLISMAN, DONNA KAREN	00	REPUBLICAN PARTY	CHALLENGER	<ul style="list-style-type: none"> ■ PAC \$0 ■ Party \$0 ■ Candidate \$5,500 ■ Other \$0 	\$5,751	\$574	\$4,900	02/15/2012
<input type="checkbox"/>	GREGORY, ERIC LAMONT	00	REPUBLICAN PARTY	OPEN	<ul style="list-style-type: none"> Receipts \$0 ■ Individual \$0 ■ PAC \$0 ■ Party \$0 ■ Candidate \$0 ■ Other \$0 	\$0	\$0	\$0	
<input type="checkbox"/>	MANDEL, JOSH	00	REPUBLICAN PARTY	CHALLENGER	<ul style="list-style-type: none"> Receipts \$18,912,557 ■ Individual \$14,794,894 ■ PAC \$1,248,185 ■ Party \$44,200 ■ Candidate \$0 ■ Other \$2,825,278 	\$18,868,809	\$43,698	\$0	12/31/2012
<input type="checkbox"/>	MCGINNIS, MARK A	00	DEMOCRATIC PARTY	CHALLENGER	<ul style="list-style-type: none"> Receipts \$0 ■ Individual \$0 ■ PAC \$0 ■ Party \$0 ■ Candidate \$0 ■ Other \$0 	\$0	\$0	\$0	
<input type="checkbox"/>	PRYCE, MICHAEL LINDSEY MD	00	REPUBLICAN PARTY	CHALLENGER	<ul style="list-style-type: none"> Receipts \$2,460 ■ Individual \$1,795 ■ PAC \$0 ■ Party \$0 ■ Candidate \$665 ■ Other \$0 	\$1,997	\$872	\$0	01/31/2012
<input type="checkbox"/>	RIOS, ANITA	00	GREEN PARTY	CHALLENGER	<ul style="list-style-type: none"> Receipts \$0 ■ Individual \$0 ■ PAC \$0 ■ Party \$0 ■ Candidate \$0 ■ Other \$0 	\$0	\$0	\$0	
<input type="checkbox"/>	RUPERT, SCOTT ALLEN	00	INDEPENDENT	CHALLENGER	<ul style="list-style-type: none"> Receipts \$5,379 ■ Individual \$3,693 ■ PAC \$0 ■ Party \$0 ■ Candidate \$639 ■ Other \$1,047 	\$6,337	\$61	\$0	12/31/2012
<input type="checkbox"/>	WALTERS, RYAN DEAN	00	REPUBLICAN PARTY	CHALLENGER	<ul style="list-style-type: none"> Receipts \$0 ■ Individual \$0 ■ PAC \$0 ■ Party \$0 ■ Candidate \$0 ■ Other \$0 	\$0	\$0	\$0	

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Select 2 ~ 4 candidates to Compare

Exhibit 10

U.S. Senate seat now costs \$10.5 million to win, on average, while US House seat costs, \$1.7 million, new analysis of FEC data shows

The price of power has risen to an all-time high for entry into the exclusive congressional club, says a new analysis by Maplight.org of data from the Federal Elections Commission.

BY DAVID KNOWLES Follow / NEW YORK DAILY NEWS / Monday, March 11, 2013, 5:32 PM

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218 63 4



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The amount of money that a person, on average, needs to raise in order to win a U.S. Senate race is now \$10,476,451, an analysis from MapLight.org found.

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[Obama meeting donors to new political group](#)

They're definitely not the cheap seats, that's for sure.

The cost of winning a seat in Congress rose to a new all time high in the 2012 election cycle, according to a new analysis by [MapLight.org](#) of data from the Federal Elections Commission.

The average price of winning or holding on to a six-year term in the U.S. Senate averaged \$10,476,451 in the 2012 election cycle, MapLight said.

Slightly less pricey, obtaining or being re-elected to the U.S. House of Representatives cost an average of \$1,689,580.

In effect, that means that the winning Senate candidates needed to raise an average of \$14,351 every day between Jan. 1 2010 and election day, 2012 in order to pull off a win, while the victorious House members raised \$2,315 per day, MapLight found.

"They're spending more of their time fundraising than making actual laws," MapLight President Daniel Newman told the Daily News. "They've become high priced telemarketers."

Perhaps not surprisingly, the price of winning a seat in Congress has risen since the 2008 election cycle. Four years ago, the average amount raised by a winning Senator was \$9,211,992, FEC data shows. Winning House members, by comparison, raised \$1,471,702 during the same cycle.



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Newman says that no shortage of the money raised by members of Congress comes from corporations.

"Most industries give money to members of Congress because it buys them access and influence," Newman said. "And now, with Citizens United, corporations can spend unlimited amounts of money on these races. The result is that members of Congress are fearful about voting against corporate interests because there's so much money at stake."

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Real estate tycoon Larry Glazer, wife were aboard plane that crashed near Jamaica

They were pilot and co-pilot in life — and in death. Larry



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A Bronx man was jailed in Florida for recording an up-skirt video of a woman at



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Lily Marie Hartwell allegedly soaked a towel and bed sheet with bleach and rum before setting them alight in



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A telegenic ex-Navy SEAL lied about being shot by three black men after a March altercation in an Ohio



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A Queens man convicted of killing a Long Island cop



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A white security guard has been suspended after his welcome-back-to-school photo bomb with a black



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A C.I.A. station chief reportedly stopped five



Kim on another sex tape: 'Never make the same mistake twice'

Kim Kardashian bares all! The reality star opened up about her sex life with husband Kanye West, the



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Crime Scene Unit Officer Haydn Chacana, 39, was promoted Friday during the



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Miley Cyrus complains about the paparazzi, and yet with each passing day, she's spotted out and about



SEE IT: Firefighters pull heat-stroked toddler...

This is the dramatic moment firemen rescued a toddler from a sweltering car after his mom left him to



Jay Z celebrated his superstar wife's birthday with a special video.

Our representative republic has devolved since it's inception to what could be called today a PLUTOLIGARCHY government system. My supporting argument as follows:
PLUTOCRACY:

- 1: government by the wealthy
- 2: a controlling class of the wealthy

OLIGARCHY:

1: Power structure in which power effectively rests with a small number of people. These people could be distinguished by royalty, wealth, family ties, education, corporate, or military control. Such states are often controlled by a few prominent families who pass their influence from one generation to the next.

Quite the hybrid, and what Thomas Jefferson feared possible in the long term when debating checks and balances in order to prevent just this from coming to fruition.
As "Born in the U.S.A." plays in the background.....

Like REPLY

ITSALLINPERCEPTION 0
542 days ago

Exactly.....the "only" way to fix this is to fix how people get elected.....of course, it is a multi-billion dollar system so the chances are slim to none.

Like REPLY SHARE

IRAQVET04 0
542 days ago

What's worse, they don't even try to hide it anymore...and apparently, the electorate doesn't care.

Like REPLY SHARE

BATSEN 0
543 days ago

And we wonder why they do the bidding of the rich? They're one and the same!

Like REPLY SHARE

SEE IT: Jay Z slams sweet video for Beyonce's birthday



Tom Brady 'throws fits' and 'pouts' to get attention from Gisele

Wait, even Tom Brady has to beg for attention from supermodel wife Gisele Bündchen? The handsome



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You couldn't drink liquor any quicker. A Welshman earned a lot of fans after claiming to chug an entire



Nick Cannon denies confirming split from Mariah Carey

Nick Cannon dropped off the face of the social media world a while back due to rumors of "trouble in



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Exhibit 11

EXPERT REPORT OF DOUGLAS SCHOEN

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I. OVERVIEW

My name is Douglas Schoen, and I am a political analyst, pollster, and author. My work on politics, current events, and international affairs has been published by *The Wall Street Journal*, *The Washington Post*, *Forbes*, *Fox News*, *The Huffington Post*, and *Newsmax*, among others. I was a founding partner of the polling firm *Penn, Schoen, Berland*, and more recently, *Schoen Consulting*. At these firms, I have worked on a number of campaigns, including those of Bill Clinton, Hillary Clinton, Jon Corzine, Evan Bayh, Mike Bloomberg, Tony Blair, Silvio Berlusconi, and three Israeli prime ministers. At these campaigns, I conducted both qualitative and quantitative analysis. One of my main and consistent focuses was on the candidate's messaging: what themes and arguments were voters most receptive to, and how to structure a campaign to best convey these to the voters. To do so, I had to design and conduct countless polls. This forced me to develop an intimacy with the attitudes, expectations, and realities of the voter, both American and international. My research interests span a range of issues, having written books on topics as far reaching as the Tea Party movement, the waning influence of American moderates, and a history of presidential campaigns, to name a few.

In this memo I explore several questions concerning reform of the selection criteria for presidential debates used by the Commission on Presidential Debates ("CPD")—which require that a candidate have at least 15% support in national public opinion polls in September of a presidential election year—and the attendant consequences for presidential candidates unaffiliated with a major party:

- A. **What would an independent candidate running for president reasonably expect to spend in order to meet current requirements to participate in a presidential debate?**

- B. Is it reasonable to expect an independent candidate to raise the money necessary to meet current requirements to participate in a presidential debate?**
- C. Is polling in September of the election year an accurate way to measure the viability of an independent candidate?**

In my report, I have drawn on academic papers, popular news sources, raw data from the Federal Election Commission (“FEC”), published accounts of past campaigns, and my personal experience in politics. What follows is an overview of the key findings of the research I undertook to answer these questions. A full elaboration and discussion of these findings can be found beginning on page 4 of this document.

II. EXECUTIVE SUMMARY OF KEY FINDINGS

- 1. What would an independent candidate running for president reasonably expect to spend in order to meet current requirements to participate in a presidential debate?**

An independent candidate should reasonably expect to spend approximately \$266,059,803 to run a viable campaign capable of reaching 15% support in polls by September of the election year.

This estimation is predicated on the assumption that a candidate would need to achieve name recognition of at least 60% among the general public in order to be able to reach 15% support by the current deadline. The media purchase necessary to take a candidate lacking national name recognition to above 60% name recognition is over \$100 million, and even this number should be taken as the minimum. This includes broadcast, cable, and digital media placement costs. The rest of my figure is accounted for by the production of the advertisements as well as general campaign expenditure.

2. Is it reasonable to expect an independent candidate to raise the money necessary to meet current requirements to participate in a presidential debate?

This figure represents a level of financing that is, for all practical purposes, impossible for all but the major-party candidates.

With three candidates vying for access to the same media, costs are likely to be even higher due to the increased competition. Furthermore, an independent candidate may lack the ties with networks and broadcast companies that major parties have, preventing them from buying spots even with sufficient funds. In addition to this, the media will not cover an independent candidate until they are certainly in the debates. Thus, they must pay for all their media, making this prohibitively high number unavoidable.

3. Is polling in September of the election year an accurate way to measure the viability of an independent candidate?

Elections with more than two candidates are prone to distinct volatility in voter support that limits the predictive power of pre-election polling data.

All polling includes assumptions about margin of error, but the presence of a third candidate in a race introduces a level of volatility that makes it especially difficult for pollsters to accurately capture candidate support, and September polling is not reliable enough to assess candidate viability. Pre-election polling in September lacks credibility in determining which candidates are viable enough to be included in the presidential debates in three-way races.

* * *

What follows is a detailed exploration and discussion of these questions and findings.

III. ESTIMATED CAMPAIGN COSTS

A. MEDIA COSTS

Currently, the CPD rules only allow participation from candidates who are polling at or above 15% in national opinion polls in late September and have ballot access in states totaling at least 270 electoral votes, making it mathematically possible for them to win the election. In order to meet the CPD's 15% requirement, a largely unknown independent candidate would need national name recognition¹.

Under the current rules, whether an independent candidate running for president will be able to participate in the debates depends on his polling two months before the election. This uncertainty about debate participation, which persists throughout the summer and into September of the election year, precipitates a wider uncertainty which has its own pernicious effects: A candidate is not a serious contender unless he or she participates in the debates. Not knowing whether the campaign is viable, or the candidate credible, the media refuses to pay the campaign much attention.

As one report notes, "Minor party and Independent candidates' financial disadvantages are compounded by their inability to attract earned media"². It is widely acknowledged that non major party candidates lack media attention, and that Americans' presidential choices are limited by the media to just two³. Indeed, the media structures its

¹ For purposes of this report, the term "independent candidate" means a presidential candidate running as an independent (*i.e.*, unaffiliated with any party) or as a third-party nominee. It does not encompass candidates who compete in the Democratic and Republican primaries but then drop out to mount independent or third-party bids.

² Paul Herrnson & Ron Faucheux, *Outside Looking In: Views of Third Party and Independent Candidates, Campaigns & Elections* (Aug. 1999), available at <http://www.gvpt.umd.edu/herrnson/art3.html>.

³ Kristina Nwazota, *Third Parties in the U.S. Political Process*, PBS NewsHour (July 26, 2014, 8:40 PM), http://www.pbs.org/newshour/updates/politics-july-dec04-third_parties/.

coverage so as to preclude the possibility of an independent generating attention. *Reason*, a libertarian publication, was the only media organization to send someone to follow Gary Johnson, a two term governor of New Mexico who was on the ballot in 48 states⁴.

That there was only one reporter charged with covering the Gary Johnson campaign highlights the point made above: the media does not give non major party candidates a chance to present themselves to the voters. This is extremely detrimental to non major party candidates because today, “the ‘viability’ of a political candidate is predicated upon one factor – mainstream media coverage”⁵.

As the foregoing demonstrates, it is much more difficult for the independent candidate to build name recognition and support and to raise money.

Deprived of free media attention, the independent candidate must resort to launching a massive national media campaign. On the other hand, the major party candidates, by competing in small state primaries, can build their name recognition without the costs of running a national campaign. Just as Obama’s 2008 victory in the Iowa caucuses catapulted him to national prominence, major party candidates may build a national profile by performing well in states with early primaries. Rick Santorum, who won the Iowa caucuses by 39 votes, spent only \$21,980 in the state, or 73 cents per vote⁶. But spending nearly \$22,000 in such a small, highly watched state had a huge national

⁴ Elia Powers, *The Lonely Life of a Third-Party Presidential Candidate*, AJR (Nov. 5, 2012), <http://ajrarchive.org/article.asp?id=5448>.

⁵ Chris Hinyub, *Third Party Candidates Still Face Innumerable Political Obstacles*, IVN (Mar. 31, 2010), <http://ivn.us/2010/03/31/third-party-candidates-still-face-innumerable-political-obstacles/>.

⁶ Felicia Sonmez, *Perry Spent More Than \$300 Per Vote in Iowa; Santorum, Only 73 Cents*, The Washington Post (Jan. 1, 2014, 6:00 AM), http://www.washingtonpost.com/blogs/post-politics/post/perry-spent-more-than-300-per-vote-in-iowa-santorum-only-73-cents/2012/01/04/gIQAltDmZP_blog.html.

impact. Before the Iowa caucuses, Santorum was polling below 5% nationally; a week after them, he had jumped to third place among the Republicans, polling above 15%⁷. The primary campaign, which starts in small states with lilliputian media markets but draws immense and free national media, gives underfunded campaigns the chance to build name recognition affordably. The independent candidate, however, is never given this chance.

If I were advising an independent candidate running for president, I would suggest that in order to reach 15% in the polls, to be prudent the candidate would need to plan to raise his or her name recognition to at least 60% among the public at large. **Canal Partners Media, a leading corporate and political media-buying firm, estimates that it would cost at least \$100,000,000 to buy the ad time necessary to go from near-unknown to 60% name recognition – below I follow the guidelines their plan establishes.** Partners at Canal Partners Media have planned the paid media for dozens of political campaigns, including the presidential campaigns of major party nominees. Their estimate is based on recent national awareness campaigns that they have conducted for both political and corporate clients, and reflects what it has cost them in the past to achieve awareness levels of around 60%. I trust their estimate and it is in line with my own experience.

I would advise that any national media campaign incorporate broadcast, cable, and digital advertising. Broadcast is split between national and local buys, and targeting the largest 30 media markets allows a candidate to reach 54% of the country. This, I

⁷ *2012 Republican Presidential Nomination*, Real Clear Politics, http://www.realclearpolitics.com/epolls/2012/president/us/republican_presidential_nomination-1452.html (last visited Sept. 2, 2014).

believe, will lead to cost efficiency. Focusing on the largest media markets allows each ad to be seen by more people, and therefore discussed by more people, both virtually and personally. The ads, therefore, have an impact beyond just being aired on television; because they are being seen in the largest media markets – which are often dense areas, or areas where there is constant commuting – the advertisements will be able to impact more people than just those who have viewed the ads. Although any particular campaign strategy will be specific to the candidates and the electorate of the given election year, targeting these 30 markets is an efficient means of reaching the requisite amount of the public, and is therefore a reasonable assumption for purposes of this estimate. A candidate following this plan would thus be buying 250 gross ratings points (GRPs) per week on local broadcasting, for a total 45,000 GRPs.⁸ **This alone would cost an estimated \$65,857,500.**

National broadcast buys, such as buys on popular morning shows (GMA, Today, Early Show), a limited number of prime time shows (60 Minutes), and popular sporting events (MLB All-Star Game, Ryder Cup, U.S. Open), raise costs further. This minimalist media strategy targets the most viewer-dense television events, giving candidates the greatest effect for their dollar. A national broadcast buy as described above would total 1,145 GRPs and cost an estimated \$21,547,845. **All told, this moderate broadcast campaign would cost at least an estimated \$87,405,345.**

⁸ A GRP is a unit used to measure the size of the group reached, and is arrived at by multiplying the percentage of the population reached by the frequency with which they see that ad. When I say, then, that an ad has so many GRPs, what I really mean is that so many people have seen it so many times. Achieving higher GRPs means increasing the size of the audience reached and the frequency at which ads are aired.

A study from opinion research firm Ipsos provides a context for these figures: to achieve proper saturation, that is, to reach the desired percentage of the population, traditional advertising only needs to be between 600-700 GRPs⁹, but a political ad should achieve around 1,000 GRPs. This is so because campaigns operate on a shortened time horizon compared to commercial products: a company can afford to build name recognition and product loyalty slowly over several years, whereas a campaign cannot.

Considering this, I believe the plan described by Canal Partners is accurate, and achieves a sufficient level of visibility to generate a considerable amount of name recognition in a short period of time while also keeping an eye towards minimizing costs.

Viewership for television is often divided along demographic lines, like age¹⁰, gender¹¹, and race¹². Therefore, I would advise that a candidate have a cable campaign to accompany his broadcast buy as a means to specifically target several major demographic groups. A cable buy would have three pillars: a news component, an entertainment component, and a sports component.

For the news component, 215 GRPs would be bought on MSNBC and CNN respectively. The buy would focus on each network's premier shows – AC360, Erin Burnett, Situation Room, Morning Joe, Rachel Maddow, and Hardball – to reach viewers

⁹ See Ipsos-ASI, *Media Flighting and Expected Impact* (Aug. 27, 2010) (on file with author).

¹⁰ Lynette Rice, *Ratings Alert: What You're Watching if You're 11, 50, or 34 Years Old (The Results May Surprise You!)*, *Entertainment Weekly* (Mar. 15, 2011, 2:38 PM), <http://insidetv.ew.com/2011/03/15/ratings-by-age/>.

¹¹ *Demographics*, TRAC Media Services (Apr. 20, 1988), <http://www.tracmedia.org/library/Concepts/Demographics/default.aspx> (last visited Sept. 2, 2014).

¹² Derek Thompson, *Which Sports Have the Whitest/Richest/Oldest Fans?*, *The Atlantic* (Feb. 10, 2014, 10:51 AM), <http://www.theatlantic.com/business/archive/2014/02/which-sports-have-the-whitest-richest-oldest-fans/283626/>.

in the most cost-effective way. This would be a total of 430 GRPs on cable news, for a total estimated cost of **\$5,294,875** (\$2,933,775 for MSNBC and \$2,861,100 for CNN).

The purpose of the entertainment component is to offset the male-skew of news programs, and to reach influential and engaged media consumers. This would require buying 390 GRPs: 215 GRPs on HGTV, and 175 GRPs on the Food Network. This would cost a combined total of \$5,857,350 (\$3,274,200 on HGTV and \$2,583,150 on the Food Network).

The cable sports buy would target regional and team networks. This allows a level of specificity in picking where a candidate's message would appear, penetrating into hard-to-reach markets; ads can be inserted into specific games, series, and events. This would be a modest buy of 65 GRPs, which would cost an estimated \$1,932,000.

This, to be clear, is not an extravagant cable rollout. Only two news networks and two entertainment networks are being targeted, and sports buys only focus on regional and team networks, not large national programming like games on Fox and ESPN. This *restrained* cable rollout would cost an estimated \$13,584,225.

The final aspect of a media buy would include a **digital effort**. This includes a vast array of activities: search engine marketing, social media advertising (in this case limited to Facebook), digital radio, mobile advertising, video sites (YouTube, Hulu, etc.), advertising on national news sites (Politico, NYT, LA Times, TPM, etc.), and content integration. This would cost an estimated \$5,716,206. While the internet and social media are changing political communications by introducing new ways to reach voters, traditional methods of advertisement remain dominant and critical as far as determining

awareness levels. No serious candidate can expect to rely primarily on lower-cost social media in order to drive awareness, and I would not advise a candidate to do so.

Thus, when broadcast, cable, and digital media placement costs are taken together, the cost for all the spots needed to reach 60% name recognition is \$106,705,776.

It is also important to note that the actual costs are likely to be **significantly higher** since in an election year featuring three viable candidates, or at least three candidates capable and willing to spend the requisite amount of money on advertising, ad markets will be extraordinarily competitive and expensive. It is impossible to predict exactly how prices might increase, but it is enough to understand that they almost certainly will. A simple 5% increase in costs would drive the total up by roughly \$5.5 million.

Another factor to consider is that a hypothetical independent candidate may not be able to buy the necessary spots, even if he has the funds. Established campaigns and parties have well-developed relationships with networks, allowing them to often times buy large chunks of ad space all at once. As I can personally verify, campaigns buy ad time in an effort to exclude their opponents from doing so. Because the two major party campaigns are more likely to get the best spots, an independent candidate might have to run a higher volume of ads to reach 60% name recognition. **In short, it is nearly impossible to measure exactly how much costs might go up during a presidential election year for an independent candidate. If I were putting together a media campaign for an independent presidential campaign, \$106,705,776 is the absolute least that I could imagine it costing.**

In 2012 the Romney campaign spent \$8,895,978 on media production, and the Obama campaign spent \$6,315,301. Using these two numbers as a reference point, I believe an independent candidate would likely pay somewhere between \$6 and \$9 million, with an optimistic estimate putting the cost of production at roughly \$6,200,000. **Producing ads and buying the minimum number of placements in order to achieve 60% name recognition would cost an estimated total of \$112,905,776.**

The above figure, as noted, assumed that it would take 60% name recognition among the public at large for an independent candidate to reach 15% in polls. However, research from Ipsos suggests that name recognition would in fact need to be much higher, around 80%¹³. This constitutes near-universal name recognition, since significant portions of the American electorate simply do not participate politically. It is difficult even for industry professionals to establish the cost of household name recognition, and this can only be attempted with the understanding that costs could vary significantly from any estimate. If we keep media costs linear, and therefore do not factor in diminishing marginal returns, and assume that the media buy described above would yield 60% name recognition, the figure provided from Canal Partners Media can be scaled up. **The estimated costs of a media buy to reach 80% national name recognition would be at least \$150,541,034.** This is a modest estimate, but I would advise a candidate attempting to reach 80% name recognition to expect to spend an amount in this range on media.

¹³ See Expert Report of Dr. Clifford Young, dated Sept. 5, 2014, submitted as an exhibit to the Complaint of Level the Playing Field and Peter Ackerman against the Commission on Presidential and its directors, filed with the Federal Election Commission.

B. ADDITIONAL COSTS

Campaigns incur a host of other costs other than paid media. These costs, detailed below, are part and parcel of running a campaign. They are necessary for the candidate to communicate his message, seek press attention, attract volunteers, get on the ballot, comply with election law, etc. To be sure, not all of them directly relate to the acquisition of name recognition as directly as advertising does. But they are necessary for the candidate to obtain favorability and, ultimately, votes. After all, political advertisements must advertise something, and that something is an operational campaign, which involves a myriad of moving parts. For example, ads refer to the candidate's positions, but these positions must be developed in papers written by a policy team, which in turn might need its own small research staff. I believe a campaign is holistic, at least in that one cannot view its parts discretely, saying X is supererogatory but Y is necessary. On the contrary, a campaign is a single entity with each part of it being essential to any competitive campaign.

It is also important to note that I am using figures from the entire presidential campaign, even though the task at hand ostensibly is to suggest a budget that could get a candidate to 15% in the polls by September of an election year. I do not feel comfortable – nor do I believe would other advisors – creating a partial budget for a campaign. In other words, it does not strike me as prudent to advise a client to develop a strategy and campaign structure up until a certain point and then, essentially, make a new plan on the fly. Instead, it is much better to create a working budget for the entire campaign, with the intention of reevaluating throughout. This is advisable, and perhaps even necessary, because donors, supporters, and volunteers will be disturbed by the lack of a complete

election plan; no one is going to invest their emotions, efforts, or resources into a campaign that only has a plan to go part of the way. Also, it is not always possible to separate costs between months: perhaps the campaign must sign leases for various headquarters that extend through November, or make commitments to television networks, or staff.

In order to calibrate their message, chart campaign strategy, and evaluate progress, campaigns need polling. In 2012 Romney spent \$8,204,469.9, and Obama spent \$10,632,718.86 on polling¹⁴.

In addition, the Romney campaign spent \$1,149,581.10 on legal fees, while the Obama campaign spent \$2,879,057.43.

Running a campaign requires a large staff and therefore a large payroll. The Romney campaign spent \$19,358,245.08 on payroll, while the Obama campaign spent nearly double that, \$38,232,173.08. Staff requires facilities, and in 2012 the Romney campaign spent \$2,060,237.14 on rent and utilities bills, while the Obama campaign spent \$2,225,324.04 on rent and occupancy. A candidate and his staff must travel from event to event. The Romney campaign spent \$13,361,101 on travel expenses, while the Obama campaign spent \$21,271,608.

Campaigns tend to file small charges and minor purchases as credit card expenses. The Romney campaign paid \$2,237,003.46 for these expenses, and the Obama campaign paid \$9,477,728.60.

¹⁴ The data on campaign spending for the Romney and Obama campaigns was taken from reports available on the FEC's website. See *Details for Candidate: P80003353 (Mitt Romney)*, Federal Election Commission, <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do?candidateCommitteeId=P80003353&tabIndex=1> (last visited Sept. 3, 2014); *Details for Candidate: P80003338 (Barack Obama)*, Federal Election Commission, <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do?candidateCommitteeId=P80003338&tabIndex=1> (last visited Sept. 3, 2014).

Direct mail is another necessity if an independent campaign aims for widespread name recognition and issue awareness. The Romney campaign spent \$11,954,177.52 on direct mail printing and postage, while the Obama campaign spent a more modest \$3,466,697.90.

The Romney and Obama campaigns each spent slightly more than \$8 million on campaign events and event consulting.

The Romney campaign paid \$1,191,444.61 in bills for security. This security, of course, is in addition to the secret service protection he received. It is not clear an independent candidate would receive such protection.

The Romney campaign spent \$6,144,121.04 on design and printing services, while the Obama campaign spent \$11,543,896.26 on similar services.

The Romney campaign spent over \$17,000,000 on telemarketing and managing telemarketing data, while the Obama campaign spent \$23,144,244.22.

Taking this information into account, **any partial budget that I would endorse for an independent presidential campaign I were consulting, one that aimed to run a serious campaign capable of competing with the two major parties, would be no less than \$133,026,467, or 75% of Mitt Romney's major campaign spending in 2012 excluding media.** This number represents part of what I believe an independent would have to spend if they wanted to reach 15% and compete in the debates.

I arrived at this figure – 75% of the partial Romney budget – by comparing the budgets of viable presidential campaigns from the last decade. Since in the most recent election the Romney campaign spent less than the Obama campaign did, I chose their number as a starting point. From there, I determined how much less an independent

campaign could realistically spend. In 2012, the Romney campaign spent 77% as much as the Obama campaign did; in 2008, the McCain campaign spent 46% as much as the Obama campaign did¹⁵; in 2004, the Kerry campaign spent 90% as much as the Bush campaign did¹⁶. The mean of these numbers is 74%. In the current environment it appears that a presidential campaign can spend, depending on the election cycle, as little as 45% of what a larger campaign is spending and still be competitive. Based on this historically inflected range, and supposing that this range might persist into the future, it is my opinion that the budget I have constructed is a good guide as to what is considered the industry norm. It is important to remember that the decision makers who came up with these numbers were themselves motivated by cost efficiency and tried to spend as little as possible. The numbers, therefore, themselves serve as commentary: they are each campaign's statement, so to speak, about how little they could spend.

This trend would apply to an independent campaign. 75% sits comfortably in the middle of this range and is close to its mean, and I would not recommend anything less to a serious candidate. Indeed, my personal experience on a number of campaigns, at the congressional, senate, and presidential levels, confirms this technical analysis. Further, using this method, the independent campaign would be spending 75% as much as the second largest campaign, which in turn would be spending 75% as much as the largest campaign. This means that the independent campaign would be spending 56.25% as much as the largest campaign.

¹⁵ *John McCain*, OpenSecrets.org, <http://www.opensecrets.org/pres08/summary.php?cycle=2008&cid=n00006424> (last visited Sept. 3, 2014); *Barack Obama*, OpenSecrets.org, <http://www.opensecrets.org/pres08/summary.php?cycle=2008&cid=n00009638> (last visited Sept. 3, 2014).

¹⁶ *2004 Presidential Race*, OpenSecrets.org, <https://www.opensecrets.org/pres04/index.php?sort=E> (last visited Sept. 3, 2014).

Those who say this is supposing an independent campaign would spend more than is necessary are not considering the unique political context in which an independent would be running. In a two-way race, the political reality for each major party, in a way, puts a ceiling on the amount of money each major party campaign will spend. For instance, there are states Republicans never worry about, and states Democrats never worry about. Thus, in a two-way race, their campaigns are not truly national – in 2012, there were only 13 states in which *both* campaigns together spent over \$1,000,000 on advertisements¹⁷. The independent candidate, however, would not benefit from the entrenched structures – both actual and ideological – that allow major party candidates to compete on such a reduced map. The independent candidate, in order to have any chance of winning, would likely have to increase the playing field, bringing states that are not contested in a two-way race into play. This suggests that an independent, even if he runs a fiscally disciplined campaign, will have to spend a great deal because the campaign map will be larger than the typical two-way race. Thus, my proposition that an independent campaign could get by spending 75% as much as the smaller campaign may be too modest.

C. ESTIMATE OF TOTAL COSTS

Table 1 on the following page provides an accounting of all major campaign costs for Obama and Romney in 2012. There are, however, numerous miscellaneous costs associated with each campaign that it does not make sense to detail, each cost itself being modicum. When all these minor costs add up, though, they represent a significant amount

¹⁷ Wilson Andrews et al., *Tracking TV Ads in The Presidential Campaign*, The Washington Post (Sept. 25, 2012), <http://www.washingtonpost.com/wp-srv/special/politics/track-presidential-campaign-ads-2012/v1/>.

of money. In sum, the total costs for the Obama campaign in 2012 was \$598,709,622, and the total cost for the Romney campaign in 2012 was \$460,505,714.

Even if we suppose that a bare-bones campaign can get by with only spending money on the most necessary and major budget items (Table 1), we are *still* left with an astronomically high number.

The Romney campaign spent \$177,368,609.53 on all major campaign costs, excluding buying ad spots. We exclude ad spots from this figure because Romney already benefitted from a high degree of name recognition. Instead we use the figure that Canal Partners Media provided, as that figure was arrived at with the specific needs of an independent candidate with little-to-no national name recognition in mind. **Taking the \$133,026,467 in major campaign costs arrived at above, we add the media cost figure Canal Partners Media estimated for 60% national name recognition. From here, we add the cost of ballot access that Americans Elect paid in 2012¹⁸ to get \$253,221,474.**

Elections become more expensive each cycle, and so any estimate based on 2012 numbers must be adjusted for campaign cost inflation. In 2004, the two major campaigns spent a combined total of \$654,967,245¹⁹, in 2008 \$1,062,895,257²⁰, and \$1,116,828,064 in 2012²¹. If costs grow at the same rate that they did between 2008 and 2012 (5.07%),

¹⁸ In 2012, Americans Elect sought ballot access as a political party, and reached the level of signatures necessary to get on the ballot in 41 states. The cost of that ballot access effort was \$13,489,231.

¹⁹ *2004 Presidential Race: Summary*, OpenSecrets.org, <http://www.opensecrets.org/pres04/index.php?sort=E> (last visited Sept. 2, 2014).

²⁰ *2008 Presidential Election*, OpenSecrets.org, <http://www.opensecrets.org/pres08/> (last visited Sept. 2, 2014).

²¹ *2012 Presidential Race*, OpenSecrets.org, <http://www.opensecrets.org/pres12/> (last visited Sept. 2, 2014).

my proposed campaign budget for an independent candidate would be \$266,059,803. In other words, if I were working on an independent presidential campaign in 2016, I would like to see a budget at around that number. Anything less and I would not believe that the campaign had a chance. Based on my years of experience both as a practitioner and student of politics, this is the number I would advise my campaign to be prepared to spend.

The arithmetic is summarized below.

TOTAL INDEPENDENT CAMPAIGN COST (SUMMARY 1)

Romney campaign spending on major items:
\$242,368,609.53
Romney campaign spending on major items excluding spending on media buys:
\$177,368,609.53
Barebones independent campaign (75% of Romney costs):
\$133,026,467 (+ ballot access costs \$13,489,231)= \$146,515,698
Independent campaign budget + media buy:
\$146,515,698 + \$106,705,776 = \$253,221,474
Independent campaign budget + media buy, with growth in campaign spending factored in:
\$253,221,474 x (1.0507) = <u>\$266,059,803</u>

Furthermore, this number is just a baseline—I have assumed that costs will be linear, but in reality they are likely to grow exponentially as media buys become more competitive and the marginal cost of voter support increases.

Simply put, there is no way of telling exactly how expensive a modern election with three competitive candidates will be. The unique circumstances of such an election will likely drive costs upwards and excite/frighten partisan donors to give more than they have in the past.

My recommended \$266 million budget should thus be considered an absolute minimum for an independent candidate who wishes to reach 15% national name recognition by September and secure participation in the debates.

Tables itemizing campaign costs can be found on the following pages.

SUMMARY OF MAJOR 2012 CAMPAIGN COSTS²² (TABLE 1)

Item	Romney Campaign	Obama Campaign
Ad spots²³	\$65 million (Only includes summer buys)	\$153.4 million (Only includes summer buys)
Ad production	\$8,895,978	\$6,315,301
Campaign Event Costs	\$4,871,947.32	\$3,497,643.60
Consulting²⁴	\$79,496,572.34	\$6,538,327.17
Credit card	\$2,237,003.46	\$9,477,728.60
Legal	\$1,149,581.10	\$2,879,057.43
Mailing	\$11,954,177.52	\$3,466,697.90
Payroll	\$19,358,245.08	\$38,232,173.08
Polling	\$8,204,469.94	\$10,632,718.86
Printing and design	\$6,144,121.04	\$11,543,896.26
Rent	\$2,060,237.14	\$2,225,324.04
Telemarketing	\$19,645,175.59	\$23,144,244.22
Travel	\$13,361,101	\$21,271,608
Total	\$242,368,609.53	\$292,624,720.16

²² The data for this table and Tables 2 and 3 were drawn from the Romney and Obama campaign finance reports filed with the FEC. Those reports can be accessed online via the FEC's Candidate and Committee Viewer portal, located at <http://www.fec.gov/fecviewer/CandCmteTransaction.do>.

²³ For a more detailed breakdown of money spent on ad buys, *see* Table 4 below.

²⁴ For a more detailed breakdown of money spent on consulting, *see* Tables 2 and 3 below.

ROMNEY CONSULTING BUDGET (TABLE 2)

Consulting Field	Cost
Audio Visual	\$63,437.92
Communications	\$2,852,396.53
Compliance	\$1,044,664.99
Digital	\$25,455,107.14
Direct Mail	\$38,749,628.17
Field	\$1,264,825.90
Fundraising	\$9,781,244.03
Policy	\$285,267.66
Total	\$79,496,572.34

OBAMA CONSULTING BUDGET (TABLE 3)

Consulting	Cost
Accounting	\$166,855.48
Fundraising	\$141,599.45
Media	\$1,101,296.58
Research	\$92,134.45
Strategic	\$943,959.89
Technology	\$4,092,481.32
Total	\$6,538,327.17

WEEKLY TV SPENDING IN SUMMER 2012²⁵ (TABLE 4)

Week	Romney campaign	Obama campaign	Total by campaigns, committees, and PACs
April 30 - May 6	\$50 (\$50 per average spot)	\$790,670 (\$366 per average spot)	\$4.4 million (\$753 per average spot)
May 7 - 13	\$0	\$3 million (\$521 per average spot)	\$8 million (\$689 per average spot)
May 14 - 20	\$405,080 (\$342 per average spot)	\$4.6 million (\$455 per average spot)	\$11 million (\$594 per average spot)
May 21 - 27	\$1.4 million (\$349 per average spot)	\$4.8 million (\$422 per average spot)	\$10.9 million (\$488 per average spot)
May 28 - June 3	\$1.4 million (\$343 per average spot)	\$4.9 million (\$412 per average spot)	\$11.1 million (\$477 per average spot)
June 4 - June 10	\$2.1 million (\$348 per average spot)	\$4.4 million (\$492 per average spot)	\$10.8 million (\$482 per average spot)
June 11 - June 17	\$2.3 million (\$356 per average spot)	\$5.4 million (\$410 per average spot)	\$11.7 million (\$426 per average spot)
June 18 - June 24	\$2.2 million (\$336 per average spot)	\$5.9 million (\$354 per average spot)	\$16.5 million (\$491 per average spot)
June 25 - July 1	\$3.1 million (\$340 per average spot)	\$9.4 million (\$350 per average spot)	\$21.5 million (\$474 per average spot)

²⁵ The data in this table were drawn from the Washington Post's analysis of 2012 presidential race television advertising spending, available at *Tracking TV ads in the presidential campaign*, Washington Post, <http://www.washingtonpost.com/wp-srv/special/politics/track-presidential-campaign-ads-2012/v1/> (last visited Sept. 4, 2014).

July 2 – July 8	\$3.2 million (\$365 per average spot)	\$5.4 million (\$317 per average spot)	\$12.2 million (\$385 per average spot)
July 9 – July 15	\$3.5 million (\$370 per average spot)	\$6.5 million (\$317 per average spot)	\$16.4 million (\$395 per average spot)
July 16 – July 22	\$3.4 million (\$364 per average spot)	\$6.7 million (\$327 per average spot)	\$19.1 million (\$390 per average spot)
July 23 – July 29	\$2.6 million (\$361 per average spot)	\$8.5 million (\$463 per average spot)	\$23.4 million (\$467 per average spot)
July 30 – Aug. 5	\$498,880 (\$403 per average spot)	\$15.9 million (\$985 per average spot)	\$36 million (\$709 per average spot)
Aug. 6 – Aug. 12	\$2.3 million (\$612 per average spot)	\$4.6 million (\$334 per average spot)	\$23.1 million (\$608 per average spot)
Aug. 13 – Aug. 19	\$5.2 million (\$619 per average spot)	\$4.6 million (\$334 per average spot)	\$33.9 million (\$643 per average spot)
Aug. 20 – Aug. 26	\$2.2 million (\$1,160 per average spot)	\$11 million (\$537 per average spot)	\$34.7 million (\$627 per average spot)
Aug. 27 – Aug. 31	\$2.3 million (\$514 per average spot)	\$10.9 million (\$546 per average spot)	\$21.7 million (\$673 per average spot)
Sept. 1 – Sept. 9	\$2.3 million (\$514 per average spot)	\$11.7 million (\$588 per average spot)	\$14.3 million (\$455 per average spot)
Sept. 10 – Sept. 16	\$4.5 million (\$447 per average spot)	\$9.3 million (\$431 per average spot)	\$19.6 million (\$481 per average spot)
Total	\$65 million	\$153.4 million	\$354.1 million

IV. FUNDRAISING DISADVANTAGES FOR INDEPENDENTS

A plurality of donations to the Romney and Obama campaigns were under \$200²⁶. Assuming that the average individual donation was \$200– although it was likely smaller, we are using a high figure to present the *best case fundraising scenario* – and assuming 3% of people solicited decided to donate – an optimistic estimate (especially for an independent as opposed to a major party candidate) drawn from my personal campaign experience – **it would take presentations to over 44,343,300 people to raise the necessary funds for a presidential campaign capable of reaching the debates under current standards.** A summary of the arithmetic is below.

It is important to understand what I mean by “presentations”. A presentation is not necessarily a unique appeal by phone or in-person to a potential donor. Instead, a presentation is any interaction the campaign has with a voter that explicitly or implicitly touches on the subject of fundraising. Many advertisements – both digital and on television – implicitly ask for donations, for example. 44,343,300 people is about one fifth of the adult population, which is a dauntingly high number of appeals to make, unique or not.

Of course, the assumption for average donation can vary depending on the candidate, as well as the time the donation is made. In the 2012 presidential election, for example, Barack Obama’s campaign disclosed that the average donation to his campaign and the Democratic National Committee was \$65.89²⁷. Those small donations are the

²⁶ Jeremy Ashkenas et al., *The 2012 Money Race: Compare the Candidates*, The New York Times, <http://elections.nytimes.com/2012/campaign-finance> (last visited Sept. 2, 2014).

²⁷ Byron Tau, *Obama Campaign Final Fundraising Total: \$1.1 billion*, Politico (Jan. 9, 2013), <http://www.politico.com/story/2013/01/obama-campaign-final-fundraising-total-1-billion-86445.html>.

product of Obama’s concentrated online “microtargeting” efforts, meant to reach as far as possible to draw in campaign contributions. Candidates may, with this especially accurate, far-reaching, and internet-based solicitation method, be able to claim the politically desirable statistic that they receive more small donations than their opponent, an edge up intended to prove a link between the candidate and a supportive middle class. Still, many of these variables for establishing an assumed average contribution amount come down to strategy. In contrast to Obama’s far-reaching, small donation approach, Romney received more support from the RNC and his super PAC than did Obama from the DNC and his super PAC.

Because the maximum donation for an individual to a candidate in any race is \$2,600, candidates who appeal to donors with more money may be inclined to do so through those PACs. For that reason, I left out anything over that amount when coming up with my average donation of \$200. This figure is meant to represent the probable average disclosed donation of a candidate who is able to appeal to those donating small sums as well as those giving several hundred dollars.

DONORS NEEDED (SUMMARY 2)

Money needed:
\$266,059,803
Plurality of donations: under \$200 → hypothetical average donation size: \$200
Donations of \$200 needed:
$\$266,059,803 / \$200 = 1,330,299$ donations
Required amount of solicitations, supposing that 3% of potential donors contacted agrees to donate: $1,330,299 / 0.03 =$
44,343,300 solicitations required

V. POLLING INACCURACY

It is my belief that, by their nature, elections with more than two candidates do not lend themselves to the same accuracy in polling as head-to-head campaigns. This belief is substantiated by a significant amount of data and shared by other experts. Indeed, races with a serious third party or independent contender are prone to a distinct volatility in terms of voter support that limits the predictive power of pre-election data. The extent of this volatility is, of course, dependent on the nature of the electorate and its perception of that third party candidate. A recent article by Harry Enten of *FiveThirtyEight* outlined a short historical analysis over the last 12 years for gubernatorial races where a third candidate was polling at or above 5%. Analyzing polling data from the months prior to the election and comparing them to the final results, he found a median absolute error of 10.1% in the mid-election polls for those polling in second place. That number grows to 15.3% for those polling third. Further, it was wholly unclear whether the polling over- or underestimated the potential of the third party candidate, with some polls missing a runaway by the major-party contender and others unable to foresee a third-party victory²⁸.

Such a significant error is too significant to base assumptions about candidate viability on. Pre-election polling in September already lacks credibility in determining which candidates are viable enough to be included in the presidential debates, even in races with only two contenders. Thus, the findings of *FiveThirtyEight* further call into question polling data when there is a third candidate. A hypothetical third candidate can

²⁸ Harry Enten, *Three-Way Governor's Race Could Get Messy For Cuomo*, *FiveThirtyEight* (May 30, 2014), <http://fivethirtyeight.com/datalab/three-way-governors-race-could-get-messy-for-cuomo/>.

be polling at 5% against his two opponents, excluding him from the debate due to the 15% participation standard. However, because of the pronounced error in a three-way race – 15.3% on average – that candidate could still finish with 20% of the vote. This highlights the absurdity of using poll data to gauge support of third-party candidates.

Perhaps, though, three way polls are not inaccurate per se, but still lack predictive power due to the *volatility* of three-way races. Each poll might represent an accurate snapshot of a rapidly shifting landscape, and, being only a snapshot, is unable to capture the shift. When I say “inaccuracy”, hence, I do not mean that the polls necessarily have not captured the voters’ sentiments at the time the poll was conducted, but that they are inaccurate in terms of predicting the final election results. In other words, the inaccuracy extends to the polls’ ability to capture and therefore anticipate quick shifts in voter preferences, not to their ability to discover how voters feel at the moment, however ephemeral that may be.

The inaccuracy of pre-election polling when a third candidate is involved is further exacerbated by the difficulty a pollster faces in identifying an appropriate sample of likely voters. As we have seen with the recent failure of Eric Cantor’s pollster to predict his primary election defeat, an error in sampling can lead to large errors in results that go undetected until Election Day. As Lynn Vavreck has described in the New York Times, and as I can personally affirm, pollsters who produce pre-election polls must arrive at some estimate of who they think will vote in that election. In other words, the true accuracy of a poll is contingent upon how right that pollster got the sample. As Vavreck puts it, “Pollsters don’t shoot balls between fixed goal posts, they shoot horeshoes around a fixed stake. . . . Being on the wrong court, however, is a much bigger

problem.”²⁹ Herein lies the problem with a race between three or more candidates – identifying the right sample becomes exponentially more difficult. This is largely in part because of the new voters that serious third party and independent candidates tend to bring out in an election, just as Ross Perot did in 1992. These voters, some of whom are politically inactive or even unregistered until mobilized by a compelling candidate, are easily overlooked when creating samples for pre-election polls.

When Jesse Ventura successfully ran for governor in 1998, Minnesota lead the nation in voter-turnout due to the influx of first time voters. One in six voters, nearly 17% of the electorate, registered to vote on Election Day. According to exit polls, 12% of the electorate would not have voted had Ventura not been on the ballot³⁰. Non major party candidates represent new views, or new combinations of tried and trusted views. The excitement that builds around them – if they are given proper media attention – and the effect it has creating first time votes, is understandable yet hard to anticipate exactly.

When these difficulties in sampling are combined with the inaccuracies I describe above that apply to any poll taken two months before the election, we are left with a very foggy picture of what will happen on Election Day in a three-candidate race. It is something other pollsters and I go to great efforts attempting to account for, but the simple fact is that polling of independents is inherently unreliable.

Further statistical research firm Ipsos. Using an Ipsos model based off of decades of polling data and electoral returns, we can predict the chance of polling volatility and

²⁹ Lynn Vavreck, *Why Polls Can Sometimes Get Things So Wrong*, The New York Times: The Upshot (July 3, 2014), http://www.nytimes.com/2014/07/04/upshot/why-polls-can-sometimes-get-things-so-wrong.html?_r=1.

³⁰ Steven Schier, *Jesse's Victory*, Washington Monthly (Jan/Feb 1999), <http://www.washingtonmonthly.com/features/1999/9901.schier.ventura.html>.

error excluding serious candidates with the potential for significant appeal from the debates.³¹ The implications of this model are discouraging for non-major party hopefuls and give us a clearer picture of just how insurmountable the 15% obstacle is for these candidates. A candidate receiving 20% of the vote on Election Day, a slightly better performance than that of Ross Perot in 1992, would still have a nearly one out of four (24.32%) chance of being excluded from the debates under the CPD's rule due to the lack of predictive power in polling in third-party races. This is absurd. The volatility/error of three-way polling are too great to ignore, and it is ridiculous to suppose that such a standard – which, because of its lack of predictive power, is little more than arbitrary – should be used to determine something as seminal as participation in the presidential debates.

Dated: New York, NY
September 5, 2014



Douglas Schoen

³¹ See Expert Report of Dr. Clifford Young, *supra* n.13.

Exhibit 12



Independents' Day? Game Rigged Against Third-Party Candidates

BY CHUCK TODD, MARK MURRAY AND CARRIE DANN

Independents' Day?

There's not a better week to look at the state of "independent-based politics" than on Independence Day weekend! And if there was ever a time for an independent, third-party candidacy to gain a following, it should be this year; the public is almost begging for it (as it was in 2010 or 2012). Just a quarter of Americans think the country is headed in the right direction, according to last month's NBC/WSJ poll; 57% want to fire their member of Congress; and the two major political parties have upside-down fav/unfav ratings with the public. But when you survey the 2014 races across the country, there aren't many viable third-party candidates. Yes, there are a handful of races where an independent could play spoiler -- think Eliot Cutler in Maine's gubernatorial race, Larry Pressler in South Dakota's Senate contest, Mufi Hannemann in Hawaii's governor's race, and maybe even Thomas Ravenel in South Carolina's Senate contest. And, yes, it was just two years ago when independent Angus King, Maine's former governor, won a Senate seat in that state (though he caucuses with the Democrats). But the day before Independence Day, it's worth observing that political independents -- both candidates and voters -- have less influence than they should during these anti-Washington times. There isn't a Jesse Ventura-like figure out on the horizon this election season. And political races are increasingly decided by the bases, not independents. See 2012.

A rigged game

So how do you explain why independent candidates are unlikely to play a major role this election season when Washington and the two main political parties are so unpopular? There's a blunt answer: If you're a serious candidate with a solid resume and you are even considering a third-party candidacy, you believe the game is rigged against you. Unless an independent is a Michael Bloomberg or Ross Perot, he or she won't have the campaign money or Super PAC network to compete with the major political parties, especially in today's post-Citizens United world. Third-party

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parties have. So it seems harder than ever for an independent candidate to break through. Then again, with social media and the power of outside groups, there is a potential PATH for a strong third-party candidate. But that's down the road, not now.

A vehicle for protest votes

All of that said, some third-party candidates are going to get protest votes this fall. Strategists have told us that they see evidence these candidates are getting a higher percentage in polling than they ordinarily do, and that's significant because it means that a winning number in November isn't 51% -- it could be 46% or 47%. It's as if these third party candidates are serving as the public's "None of the Above." Don't forget last year's gubernatorial contest in Virginia, where Democrat Terry McAuliffe defeated Republican Ken Cuccinelli, 48%-45%, because Libertarian candidate Robert Sarvis got 6.5% of the vote. Of course, that Sarvis percentage was lower than polls had indicated, but it still made the winning number less than 50%.

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Giving political juice (and relevancy) to a White House that was running on empty

The [Washington Post's Dan Balz](#) makes a point we made earlier this week: Ever since House Republicans announced that they would vote to authorize a lawsuit against President Obama, the president has seem energized. "With immigration reform dead for this year, if not for the remainder of Obama's presidency; with [House Speaker John A. Boehner](#) (R-Ohio) threatening to sue him for alleged misuse of presidential power; and with other important legislation stalled in the House, the president has given voice to his frustrations with a series of partisan blasts." And as we said earlier this week, what the Boehner lawsuit has done is give political juice to a White House that had been running (almost) on empty the past few weeks. Meanwhile, don't miss a few of these critiques of the Boehner lawsuit idea coming from the right (see [here](#) and [here](#)). The main argument with both columns: the U.S. House has power to fight back if they think their power has been usurped, they don't need to go running to the judiciary branch for help -- it actually only makes the House and the legislative branch weaker by doing so.

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Economy adds 288,000 jobs, unemployment rate drops to 6.1%

Speaking of juice, these numbers are bound to give the White House a little more pep in their step before the July 4 holiday: "Hiring over the past five months has been the strongest since the late 1990s tech boom as the economy added 288,000 jobs in June and the unemployment rate fell to 6.1 percent from 6.3 percent," the AP reports. "The Labor Department says those gains follow additions of 217,000 jobs in May and 304,000 in April, figures that were both revised upward." Folks, so much for that negative first-quarter GDP number. The economy looks stronger than at any time since the Great Recession.

Going too far in Mississippi?

Tea Partier Chris McDaniel and his supporters certainly don't think last month's GOP Senate runoff in Mississippi is over. Yesterday, McDaniel issued this fundraising solicitation: "Thanks to illegal voting from liberal Democrats, my opponent stole last week's runoff election, but I'm not going down without a fight." And his supporters [crashed a conference call](#) sponsored by the Thad Cochran campaign, in which one unidentified person talked about "harvesting" cotton and black voters. That conference call should serve as a wakeup call to McDaniel and his team: Their challenge is dividing their party, it's injecting race (either explicitly or implicitly) into a state with a troubled history on that subject, and it's all damaging to Mississippi's





Someone has already died as a direct or indirect consequence of this race. Isn't that enough?

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First published July 3rd 2014, 9:12 am



CHUCK TODD

Chuck Todd is NBC News' chief White House correspondent and political director as well as the host of... Expand Bio

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Exhibit 13

March 23, 2011

Pawlenty Begins Race With 41% GOP Name Recognition

Gallup tracking finds Pawlenty hardly better known than he was in January

by Frank Newport

PRINCETON, NJ -- Former Minnesota Gov. Tim Pawlenty, who this week became the first major Republican to announce the formation of a presidential exploratory committee, has 41% name recognition among Republicans nationwide. He trails a number of other potential GOP presidential candidates on this measure.

Name Recognition of Potential Candidates for 2012 Republican Presidential Nomination Among Republicans and Republican leaners

	Jan 4-5, 2011	Feb 28-Mar 13, 2011	Mar 7-20, 2011
	%	%	%
Sarah Palin	95	96	97
Mike Huckabee	87	87	89
Newt Gingrich	84	85	86
Mitt Romney	84	81	83
Ron Paul	73	76	76
Michele Bachmann	--	52	52
Rick Santorum	40	42	42
Haley Barbour	41	42	42
Tim Pawlenty	39	41	41
Mitch Daniels	26	30	33
Jon Huntsman	21	20	21
Gary Johnson	14	12	11

Question wording: Next, I am going to mention the names of some people in the news. For each one, please tell me if you recognize the name, or not.

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While Pawlenty's announcement this week fell short of an official declaration of his presidential candidacy, it came close. Pawlenty's website is entitled "Pawlenty 2012," and his frequent visits to early primary states of Iowa and New Hampshire make it clear that he is a candidate in all but name.

Pawlenty faces a significant challenge as a result of his overall lack of name recognition among Republicans nationwide. In early January, 39% of Republicans and Republican-leaning independents recognized Pawlenty, virtually the same as the 41% name recognition he has registered in the last two weeks of Gallup's tracking of potential GOP candidates.

Overall, Pawlenty stands in a third tier of Republican candidates, based on name identification. Five potential candidates have greater than 70% name ID -- Sarah Palin, Mike Huckabee, Newt Gingrich, Mitt Romney, and Ron Paul -- likely because they have run prior presidential campaigns or have had prominent roles in Republican national politics.

Minnesota Congresswoman Michele Bachmann sits alone in a second tier with 52% recognition, followed by a group of three possible candidates, including Pawlenty, Mississippi Gov. Haley Barbour, and former Pennsylvania Sen. Rick Santorum, whom 41% to 42% of Republicans recognize.

Three other Republicans Gallup tracks have name recognition scores of less than 35%: Indiana Gov. Mitch Daniels, Former Utah Gov. and current Ambassador to China Jon Huntsman, and former New Mexico Gov. Gary Johnson.

Pawlenty Fares Better in Intensity of Support

Pawlenty's Positive Intensity Score -- the net of strongly favorable views minus strongly unfavorable views -- is now at 16. A number of potential GOP candidates have similar scores, including the much better-known Gingrich and Romney. Huckabee, Bachmann, and Palin generate higher Positive Intensity Scores than Pawlenty at this point.

Positive Intensity Scores, Potential Candidates for 2012 Republican Presidential Nomination

Among Republicans and Republican leaners

	Positive Intensity Score® Feb 28-Mar 13, 2011	Positive Intensity Score® Mar 7-20, 2011
Mike Huckabee	25	25
Michele Bachmann	20	20
Sarah Palin	16	19
Mitt Romney	15	16
Tim Pawlenty	15	16
Newt Gingrich	17	15
Rick Santorum	16	15
Ron Paul	13	14
Mitch Daniels	10	12
Jon Huntsman	14	11
Haley Barbour	11	9
Gary Johnson	5	1

® % with highly favorable opinion minus % with highly unfavorable opinion, based only on those who recognize candidate

* % with highly favorable opinion minus % with highly unfavorable opinion, based only on those who recognize candidate

Question wording: Next, I am going to mention the names of some people in the news. For each one, please tell me if you recognize the name, or not. (Asked of those who recognize each person): Please tell me whether you have a generally favorable or unfavorable impression of _____. Is that a strongly (favorable/unfavorable) opinion or just (a/an) (favorable/unfavorable) opinion?

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Barbour Also in the News This Week

Both *The Washington Post* and *The New York Times* this week carried major profiles of Barbour, who -- like Pawlenty -- is reported to be seriously considering running for president, although he has not yet set up an exploratory committee. Barbour has about the same level of name recognition as Pawlenty, but a considerably lower Positive Intensity Score (9). This suggests that Barbour does not yet generate much enthusiasm from those who are familiar with him.

Implications

Name recognition is a necessary ingredient in a politician's race to win his or her party's nomination for president. The last eight Republicans who won their party's presidential nomination -- John McCain, George W. Bush, Bob Dole, George H.W. Bush, Ronald Reagan, Gerald Ford, Richard Nixon, and Barry Goldwater -- were well-known and well-established politicians. Even George W. Bush, who was a state governor with no national experience in the year before he won the Republican nomination, had a recognition score of over 80% when Gallup first measured him in February 1999, albeit aided in part by his famous last name.

Additionally, Barack Obama, who stands as an example of an individual who came from relative obscurity to national prominence, had a name recognition score of over 75% by March 2007, the year before he gained the Democratic nomination.

Pawlenty and Barbour thus face a serious challenge as they begin their quests to gain their party's nomination. Well under half of their party's rank-and-file members across the country at this point, less than a year before the first primaries and caucuses take place, know who they are. Both Pawlenty and Barbour, as well as other Republicans who are expected to formally announce their candidacies over the next few months, will be crisscrossing the country for the remainder of the year in an effort to make themselves known -- and liked -- by potential GOP primary voters. Gallup's weekly tracking and reporting on the name recognition and Positive Intensity Scores of potential Republican presidential candidates will gauge how successful the candidates are in these endeavors.

Survey Methods

Results are based on telephone interviews conducted as part of Gallup Daily tracking March 7-20, 2011, with random samples of Republicans and Republican-leaning independents, aged 18 and older, living in all 50 U.S. states and the District of Columbia, selected using random-digit-dial sampling. Questions asking about the 12 potential candidates measured in this research were rotated among randomly selected samples of Republicans each night; over the 14-day period, each candidate was rated by a minimum of 1,500 Republicans and Republican-leaning independents.

For the overall ratings of each candidate among Republicans and Republican leaning independents, including recognition scores, one can say with 95% confidence that the maximum margin of sampling error is ± 3 percentage points. For the Positive Intensity Score for each candidate, the maximum margin of sampling error varies depending on the size of the group recognizing the individual.

Interviews are conducted with respondents on landline telephones and cellular phones, with interviews conducted in Spanish for respondents who are primarily Spanish-speaking. Each daily sample includes a minimum quota of 200 cell phone respondents and 800 landline respondents, with additional minimum quotas among landline respondents for gender within region. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted by gender, age, race, Hispanic ethnicity, education, region, adults in the household, cell phone-only status, cell phone-mostly status, and phone lines. Demographic weighting targets are based on the March 2010 Current Population Survey figures for the aged 18 and older non-institutionalized population living in U.S. telephone households. All reported margins of sampling error include the computed design effects for weighting and sample design.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

For more details on Gallup's polling methodology, visit www.gallup.com.

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Exhibit 14

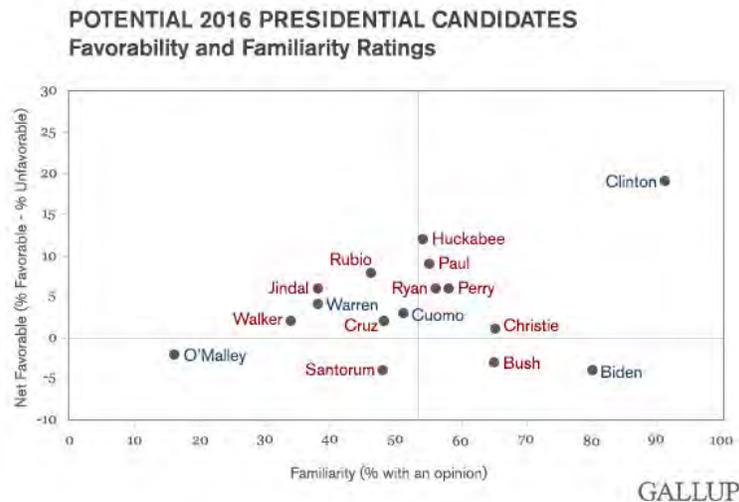
July 17, 2014

Clinton Is Best Known, Best Liked Potential 2016 Candidate

Huckabee's image is slightly better than other GOP contenders

by Jeffrey M. Jones

PRINCETON, NJ -- Hillary Clinton is currently the best known and best liked of 16 potential 2016 presidential candidates tested in a July 7-10 Gallup poll, due to her 91% familiarity score and +19 net favorable rating. The net favorable is based on her 55% favorable and 36% unfavorable ratings.



In the graph seen above, those potential candidates in the upper-right quadrant are viewed more positively than negatively by Americans and have above average familiarity. The further candidates are away from the intersecting lines, the higher their scores are on both dimensions. The graph clearly shows Clinton's strong image positioning relative to other candidates at the moment for the general election. Gallup will report on candidate images among rank-and-file Republicans and Democrats in the coming days to see how the 2016 hopefuls stack up for their respective party's nomination.

Those potential candidates in the other three quadrants have weaknesses in familiarity, favorability, or both. Those in the lower-right quadrant are better known but less well liked, and must work to change people's opinions about them. Those in the upper-left quadrant are better liked but less well known, and their challenge lies more in becoming nationally known figures.

Huckabee May Have Slight Edge in GOP Field for General Election

Former Arkansas governor and current talk show host Mike Huckabee is arguably in a slightly better position image-wise among the national adult population than other potential Republican presidential candidates. His +12 net favorable rating edges out Kentucky Sen. Rand Paul's +9 for the highest among Republican candidates. Huckabee's 54% familiarity score trails those for New Jersey Gov. Chris Christie (65%) and former Florida Gov. Jeb Bush (65%), but is above the 52% average for the 11 Republicans measured in the poll. Christie's and Bush's net favorable ratings are among the lowest.

Familiarity and Favorable Ratings of Potential 2016 Republican Presidential Candidates, Based on National Adults

Ranked by net favorable

	% Familiar (have an opinion)	% With favorable opinion	% With unfavorable opinion	Net favorable (pct. pts.)
Mike Huckabee	54	33	21	+12
Rand Paul	55	32	23	+9
Marco Rubio	46	27	19	+8
Rick Perry	58	32	26	+6
Paul Ryan	56	31	25	+6
Bobby Jindal	38	22	16	+6
Ted Cruz	48	25	23	+2
Scott Walker	34	18	16	+2
Chris Christie	65	33	32	+1
Jeb Bush	65	31	34	-3
Rick Santorum	48	22	26	-4

July 7-10, 2014

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Florida Sen. Marco Rubio has an above average +8 net favorable among national adults, but lags other Republican candidates with 46% familiarity. Texas Gov. Rick Perry and Wisconsin Rep. Paul Ryan are slightly above average in terms of both of favorability and familiarity.

Louisiana Gov. Bobby Jindal has the same +6 net favorability as Perry and Ryan, but is among the least well-known Republicans included in the poll with 38% familiarity. Texas Sen. Ted Cruz, Wisconsin Gov. Scott Walker, and former Pennsylvania Sen. Rick Santorum are below average in both favorability and familiarity, with Santorum viewed more negatively than positively.

Biden Is Well-Known, Not Well-Liked

Two of the five Democrats included in the poll have net negative favorable ratings -- Vice President Joe Biden and Maryland Gov. Martin O'Malley. O'Malley is the least known potential candidate in the survey, with 83% of Americans not having an opinion of him. Biden's net negative favorable rating could be more troubling in terms of his 2016 prospects, as 80% of Americans have an opinion of him, second only to Clinton among the 16 candidates in the poll.

Familiarity and Favorable Ratings of Potential 2016 Democratic Presidential Candidates, Based on National Adults

Ranked by net favorable

	% Familiar (have an opinion)	% With favorable opinion	% With unfavorable opinion	Net favorable (pt. pts.)
Hillary Clinton	91	55	36	+19
Elizabeth Warren	38	21	17	+4
Andrew Cuomo	51	27	24	+3
Martin O'Malley	16	7	9	-2
Joe Biden	80	38	42	-4

July 7-10, 2014

GALLUP

Americans are slightly more likely to have a positive than negative view of Massachusetts Sen. Elizabeth Warren (21% favorable, 17% unfavorable) and New York Gov. Andrew Cuomo (27% favorable, 24% unfavorable). Cuomo is the better known of those two, but still has below average familiarity.

Perry, Christie, Cruz Images Recovering

The candidates with net negative favorable ratings can take some solace in knowing that Americans are quick to forgive -- or perhaps to forget -- when politicians do things that reflect negatively on them. Three of the potential candidates in the current survey -- Perry, Christie, and Cruz -- were rated much more negatively than positively the last time Gallup asked about them, and all are back to at least a slightly more positive than negative favorable rating.

- Perry's recovery may be the most impressive. When Gallup last measured him in December 2011, with his 2012 presidential campaign sputtering due to poor debate performances, he had a net favorable rating of -28 (27% favorable, 55% unfavorable). His familiarity scores are down since then, from 82% to 58%, but those able to rate him are now more positive than negative.
- Christie became a prominent and well-regarded national figure known for taking on the Democratic legislature in New Jersey and for his response to Superstorm Sandy. In June 2013 he had a +32 net favorable rating. The "Bridgegate" scandal last fall sent Christie's image plummeting, to a net -9 favorable rating earlier this year, before improving to +1 in the current poll.
- Cruz, a central figure in the government shutdown last fall, had a net favorable rating of -10 in an October 2013 Gallup poll. Eight months later, his net favorable rating is back to +2.

Biden is the only potential candidate whose image is notably worse than the last time Gallup measured him, with his net favorable rating slipping to -4 from +4 in February.

Implications

The viability of a candidate's chances depends both on voters knowing who the candidate is, but also on voters having a positive impression of the candidate. Candidates usually become better known over the course of a campaign, but those who are better known at the outset have an advantage in that they don't have to work as hard to attract attention to, or raise money for, their campaigns. On the other hand, those who are well-known may have more difficulty improving their image during a campaign.

Although Clinton is the best-liked potential candidate in the poll -- 18 months before the first primaries or caucuses -- her [favorable ratings are lower now](#) than when she was secretary of state. They are, however, better than in July 2006, a year-and-a-half before the 2008 primaries, when she had a +6 net favorable rating (50% favorable, 44% unfavorable), before running a competitive but ultimately unsuccessful bid for the Democratic presidential nomination.

So while Clinton's image has lost some of its luster as she has moved from a less overtly political role as secretary of state to her current role as a book author and potential presidential candidate, she is in an arguably stronger position with the public now than she was before her 2008 presidential campaign.

Survey Methods

Results for this Gallup poll are based on telephone interviews conducted July 7-10, 2014, with a random sample of 1,013 adults, aged 18 and older, living in all 50 U.S. states and the District of Columbia.

For results based on the total sample of national adults, the margin of sampling error is ± 4 percentage points at the 95% confidence level.

Interviews are conducted with respondents on landline telephones and cellular phones, with interviews conducted in Spanish for respondents who are primarily Spanish-speaking. Each sample of national adults includes a minimum quota of 50% cellphone respondents and 50% landline respondents, with additional minimum quotas by time zone within region. Landline and cellular telephone numbers are selected using random-digit-dial methods. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted to correct for unequal selection probability, nonresponse, and double coverage of landline and cell users in the two sampling frames. They are also weighted to match the national demographics of gender, age, race, Hispanic ethnicity, education, region, population density, and phone status (cellphone only/landline only/both, and cellphone mostly). Demographic weighting targets are based on the most recent Current Population Survey figures for the aged 18 and older U.S. population. Phone status targets are based on the most recent National Health Interview Survey. Population density targets are based on the most recent U.S. census. All reported margins of sampling error include the computed design effects for weighting.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

[View survey methodology, complete question responses, and trends.](#)

For more details on Gallup's polling methodology, visit www.gallup.com.

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Exhibit 15

Romney hits 'magic number' for GOP nomination

By Gregory Wallace, CNN

updated 5:34 AM EDT, Wed May 30, 2012

CNN.com

(CNN) -- Mitt Romney hit his party's "magic number" on Tuesday, unofficially clinching the Republican presidential nomination in a race he entered as the front-runner and has had to himself for weeks.

Romney led the pack when he announced his second run for the White House last June, and he has watched his rivals for the nomination slowly trickle out as their own wins looked increasingly unlikely.

The delegates to put him over the 1,144 necessary for the GOP nomination came in Texas, the lone state to vote this week. Romney entered the day 78 delegates away from the magic number, and on Tuesday CNN projected he would win the state's GOP presidential primary, where 152 of the state's 155 delegates were at stake.



Could campaigning with Trump cost votes?



Courting the Latino vote

On Tuesday, Romney said he was humbled to have secured the requisite delegates to become the GOP nominee.



Romney: Big business not the enemy



Saul: Romney learned from his mistakes

"I am honored that Americans across the country have given their support to my candidacy and I am humbled to have won

enough delegates to become the Republican Party's 2012 presidential nominee," Romney wrote. "Our party has come together with the goal of putting the failures of the last 3½ years behind us. I have no illusions about the difficulties of the task before us. But whatever challenges lie ahead, we will settle for nothing less than getting America back on the path to full employment and prosperity. On November 6, I am confident that we will unite as a country and begin the hard work of fulfilling the American promise and restoring our country to greatness."

The chairman of the Republican National Committee, Reince Priebus, congratulated Romney on the milestone, saying Romney would "offer America the new direction we so desperately need."

Priebus' Democratic counterpart, Rep. Debbie Wasserman Schultz, was less enthusiastic.

"Tonight, after six years of trying and millions of dollars spent, and after a year of tepid support against one of the weakest fields in history, Mitt Romney has finally secured enough delegates to become the Republican Party's presidential nominee," wrote Wasserman Schultz, the chairwoman of the Democratic National Committee. "Romney may have finally gained enough delegates to become the nominee, but

what's been truly remarkable about his path to the nomination is how much damage he's left in his wake as he enters the general election."

Romney has been the presumptive nominee for weeks, but will not be the official party nominee until the Republican National Convention, set to be held the week of August 27 in Tampa, Florida.

Romney launched his campaign on a warm day last June, telling his supporters gathered at a New Hampshire farm that "Barack Obama has failed America."

Opinion: How political ads can elect a president

"From my first day in office my No. 1 job will be to see that America once again is No.1 in job creation," he said.

The early primary battleground state would play an important role in his campaign. He initially invested more in New Hampshire than the first-in-the-nation caucus state of Iowa, which he eventually lost by a small margin to former Sen. Rick Santorum of Pennsylvania.

New England voters have long been familiar with Romney, even before his 2008 presidential bid. He served as governor of Massachusetts between 2003 and 2007.

Texas figured into this presidential race long before the first votes cast on Tuesday. One of the three factors in Santorum's April decision to end his presidential bid was a decision by Texas Republicans not to change their proportional delegate model to a winner-take-all system, which -- [if he had stayed in the race](#) and won the state -- could have given him a boost and held back Romney's delegate accumulation.

Opinion: GOP's problem with Latinos - as big as Texas

Two of Romney's rivals in the once-crowded field are from Texas. [Texas Gov. Rick Perry](#) exited the race two days before the mid-January primary in South Carolina after a disappointing fifth-place finish in Iowa and his decision to stop campaigning in the second state to vote, New Hampshire.

Earlier this month, Rep. Ron Paul of Texas said he would no longer actively campaign for the Republican nomination, effectively ending his third run for the Oval Office with 122 delegates.

When Santorum, Paul and others were still in the race, talk of a contested convention swirled and it seemed to some a realistic possibility that Romney might not reach the magic number before the last state voted in June.

Former House Speaker Newt Gingrich vowed to push his bid onward to the convention unless Romney were to clinch the nomination earlier. He told reporters in late March that if Romney "does not have a majority [of delegates], I think you'll then have one of the most interesting, open conventions in American history." He suspended his bid in early May, and on Tuesday was to appear with Romney at a fundraiser in Las Vegas.

The earliest contests weeded out Rep. Michele Bachmann of Minnesota, who won the Iowa straw poll last summer but finished sixth in its January caucuses, and former [Utah Gov. Jon Huntsman](#), who ended his bid before the South Carolina vote after falling short in New Hampshire.

Others dropped out before the voting began. Businessman Herman Cain's once-unlikely rise ended in December amid allegations of sexual misbehavior. Former Minnesota Gov. Tim Pawlenty dropped out

months earlier, in August, after the high stakes Ames, Iowa, straw poll.

Romney, who becomes the first Mormon presidential nominee of a major party, previously sought the GOP presidential nomination in 2008. He dropped out after Super Tuesday, which allocated 1,020 delegates from 21 states. The Texas primary in early March of that year gave **Sen. John McCain** of Arizona the necessary delegates to seal up the GOP nomination.

'Other-ness': What Obama and Romney have in common on religion, race

In his 2008 convention speech, Romney spoke about many of the same themes that are prominent in his campaign this cycle, including a call "to rein in government spending, lower taxes, take a weed wacker to excessive regulation and mandates ... pursue every source of energy security, from new efficiencies to renewables, from coal to non-CO2 producing nuclear and for the immediate drilling for more oil off our shores."

President Barack Obama faced no national competition for the Democratic presidential nomination, and CNN projected he accumulated the 2,778 necessary delegates on April 3.

Exhibit 16

Presidential Pre-Nomination Campaign Disbursements May 31, 2012

	Operating Expenditures Minus Offsets	Fundraising Disbursements Minus Offsets	Legal/Accounting Disbursements Minus Offsets	Other Disbursements	Total	Latest Cash on Hand	Debts Owed by Campaign	Debts Owed to Campaign
Republicans								
Bachmann, Michelle*	\$9,940,432	\$0	\$0	\$5,000	\$12,274,326	\$411,279	\$1,049,567	\$0
Cain, Herman*	\$16,200,278	\$0	\$0	\$30,800	\$16,746,446	\$41,861	\$450,000	\$0
Gingrich, Newt*	\$22,860,546	\$0	\$0	\$0	\$23,190,703	\$735,716	\$4,736,046	\$0
Huntsman, Jon**	\$6,958,631	\$829,539	\$0	\$0	\$7,827,445	\$47,107	\$5,469,145	\$2,280
McCotter, Thaddeus G.**	\$545,508	\$0	\$0	\$1	\$549,675	\$762	\$105,636	\$761
Paul, Ron*	\$37,221,893	\$0	\$0	\$14,123	\$37,565,743	\$3,281,384	\$0	\$0
Pawlenty, Timothy***	\$5,151,016	\$0	\$0	\$102	\$5,965,502	\$0	\$0	\$0
Perry, Rick**	\$19,287,579	\$0	\$0	\$0	\$20,123,845	\$417,207	\$14,464	\$0
Romney, Mitt*	\$103,631,286	\$0	\$0	\$398	\$106,585,325	\$16,999,666	\$0	\$0
Santorum, Rick*	\$21,517,619	\$0	\$0	\$6,500	\$21,752,575	\$696,322	\$1,943,385	\$0
Democrats								
Obama, Barack*	\$145,064,907	\$0	\$0	\$2,255,747	\$153,596,853	\$109,718,115	\$1,207,807	\$0
Others								
Johnson, Gary Earl*	\$945,496	\$51,550	\$28,130	\$0	\$1,025,176	\$732	\$122,301	\$0
Roemer, Charles E. 'Buddy' III***	\$637,296	\$0	\$0	\$0	\$675,835	\$525,753	\$49,600	\$0
Total Republican	\$243,314,787	\$829,539	\$0	\$56,923	\$252,581,586	\$22,631,303	\$13,768,243	\$3,041
Total Democrats	\$145,064,907	\$0	\$0	\$2,255,747	\$153,596,853	\$109,718,115	\$1,207,807	\$0
Toal Others	\$1,582,792	\$51,550	\$28,130	\$0	\$1,701,011	\$526,485	\$171,901	\$0
Grand Total	\$389,962,487	\$881,089	\$28,130	\$2,312,669	\$407,879,450	\$132,875,903	\$15,147,952	\$3,041

* First Financial Report for 2012 Cycle - 2011 Q2

** First Financial Report for 2012 Cycle - 2011 Q3

*** First Financial Report for 2012 Cycle - 2011 Q1

Exhibit 17



NEWS

STYLE

SPORTS

CLASSIFIEDS

MARKETPLACE

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TOP NEWS

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HEALTH

OPINION

WEATHER

Former Ala. Gov. George C. Wallace Dies

▼ Related Items

- Wallace was the subject of a [controversial TV movie](#) last year.

- Columnists [Carl Rowan](#) and [Colman McCarthy](#) wrote about Wallace's about-face on segregation.

- Wallace [retired from politics](#) in 1987.

- 26 Years Ago in The Post: Wallace was [shot](#) at a 1972 rally in Laurel.

By Richard Pearson
Washington Post Staff Writer
Monday, September 14, 1998; Page A1

George C. Wallace, 79, the four-time governor of Alabama and four-time candidate for president of the United States who became known as the embodiment of resistance to the civil rights movement of the 1960s, died last night in Montgomery, Ala. He had battled Parkinson's disease in recent years.

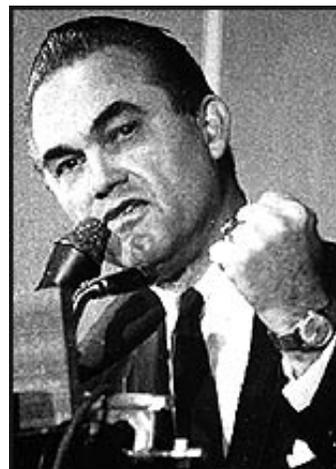
Cut down by a would-be assassin's bullet in Laurel in 1972 while campaigning in Maryland's Democratic presidential primary, he spent the rest of his life in a wheelchair, paralyzed from the waist down. He was in and out of hospitals for treatment of his paralysis and the constant pain caused by the bullet that had injured his spinal cord.

Wallace entered Jackson Hospital on Thursday, suffering from breathing problems and septic shock caused by a severe bacterial infection. He also had been hospitalized this summer with similar problems. Wallace's son, George Wallace Jr., and one of his daughters, Peggy Wallace Kennedy, were at his side when he died.

Wallace was elected governor the first time in 1962, with what was the largest popular vote in state history and with the declaration: "I draw the line in the dust and toss the gauntlet before the feet of tyranny, and I say, segregation now, segregation tomorrow, segregation forever."

For the next 15 years he made a political career, usually on the national stage, as a man who opposed the advancement of rights for blacks, as well as the powers of the federal government. After notable clashes with Washington over school integration in Alabama, he took his campaign to the nation.

In 1964, Wallace was a candidate in several Democratic primaries, scoring what were then surprisingly large vote totals in such states as Maryland and Wisconsin. In 1968, he ran for



George Wallace campaigning in the '60s. (File Photo-The Post)

president on his own American Independent Party ticket, winning nearly 10 million votes, about 13 percent of the total, in a campaign in which he vilified blacks, students and people who called for an end to the war in Vietnam. He carried five Southern states and won 46 electoral votes.



Collection of Ken Rudin

In 1972, he returned to the Democratic Party fold and was a formidable candidate in that year's presidential primaries. As the most forceful national opponent of "forced busing" for school integration, he galvanized supporters who had never supported him before. But his campaign effectively ended in Laurel, when he was struck down by bullets from a gun fired by Arthur Bremer.

Nevertheless, he won primaries in North Carolina, Michigan, Maryland, Florida, Tennessee and Florida. He no longer could be dismissed as a mere regional candidate.

Wallace returned to the presidential trail, for the last time, in 1976. A near-wraith, his roar of defiance was diminished by both physical limitations and time. National racial tension was, arguably, lessening and Vietnam was no longer a burning issue. His battle cry to the voters of "send them a message!" fell on increasingly unreceptive ears.



Collection of Ken Rudin

Wallace ended up endorsing former Georgia governor Jimmy Carter, who went on to defeat Republican Gerald R. Ford for the presidency in 1976.

If Wallace's presidential campaigns all ended in defeat, few really thought he had any serious chance. On the other hand, he strode the Alabama political stage like a colossus for over a quarter-of-a-century.

Forbidden to run by law for re-election as governor in 1966, he saw his first wife, Lurleen, elected governor in his stead. She died in office, of cancer, two years later. In 1970, he defeated her successor and won a second four-year term as governor. In 1974, with state law changed, he was elected governor a third time. He stepped down in 1979.

In 1982, he ran for governor a fourth time. In a watershed moment, he admitted that he had been wrong about "race" all along. He was elected by a coalition represented by blacks, organized labor and forces seeking to advance public education. In that race, he carried all 10 of the state's counties with a majority black population, nine of them by a better than two-to-one margin. He retired four years later, an increasingly remote and physically tormented man.

"We thought [segregation] was in the best interests of all concerned. We were mistaken," he told a black group in 1982. "The Old South is gone," but "the New South is still opposed to government regulation of our lives."

Wallace came to national prominence in 1963 when he kept a campaign pledge to stand "in the schoolhouse door" to block integration of Alabama public schools. On June 11, 1963, he personally barred the path of two black students attempting to register at the University of Alabama. The governor was flanked by armed state troopers. He defied federal Justice Department orders to admit the students, James A. Hood and Vivian J. Malone.

President Kennedy federalized the Alabama National Guard and ordered some of its units to the university campus. Wallace stood aside and the black students were allowed to register for classes.

In September 1963, Wallace ordered state police to Huntsville, Mobile, Tuskegee and Birmingham to prevent public schools from opening, following a federal court order to integrate Alabama schools. Helmeted and heavily armed state police and state National Guard units kept students and faculty from entering schools. Following civil disturbances resulting in at least one death, President Kennedy again nationalized the Guard and saw the schools integrated.

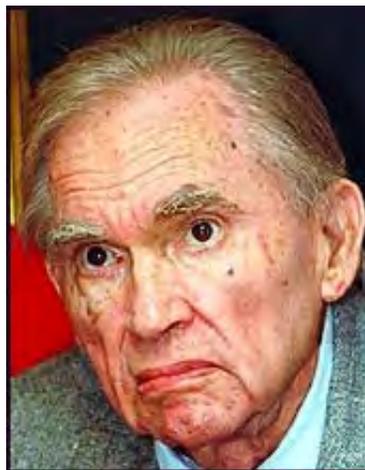
On March 7, 1965, state troopers with dogs, whips and tear gas tangled blacks during a voter registration campaign who were marching from Selma to Montgomery. The violence, which an entire nation witnessed on television, helped mobilize enough support to enable President Johnson to win passage of the landmark 1965 Voting Rights Act.

In 1964, Wallace campaigned as a Democratic candidate for president and attempted to explain himself outside the south. He said he opposed the growing powers of the federal government, especially the courts and the bureaucracy, which he held up to ridicule. He pointed out that federal judges and bureaucrats had been elected by no one and were increasingly usurping powers of the individuals and states. He portrayed them as underworked self-important "pointy-headed" intellectuals who had their heads in the clouds and their lunches in their trademark attache cases.

By 1968, Wallace was a true national figure who had become the leading spokesman of forces opposed to civil rights. As a third party candidate, he opposed Republican Richard M. Nixon and Democrat Hubert H. Humphrey in the general election, maintaining that there was not a "dime's worth of difference" between the two.

George Corley Wallace was born Aug. 25, 1919 in Clio, Ala. He grew up working on the family farm.

In 1958, after serving in World War II, as assistant state attorney general in Alabama and two terms in the state legislature, Wallace ran his first race for governor and was defeated by John Patterson in the Democratic primary by a vote of 314,000 to 250,000. He later attributed this to being "out-segged" by his opponent. He vowed that in any future contest, that he would be the loudest and most impassioned voice calling for racial segregation.



George Wallace in 1995. (AP File Photo)

He won the governorship in 1962. According to a Saturday Evening Post story, he "campaign[ed] like a one-man army at war with the Federal government." If he did not abandon his populist calls for helping the poor through education and health care, those calls became a distant second to his harping on the racial issue.

The sad fact is that from first to last, despite the sound and the fury of Wallace's campaigning, little changed for the good in Alabama with his help. Throughout all his years in office, Alabama rated near the bottom of the states in per capita income, welfare, and spending on schools and pupils.

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Exhibit 18



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John Anderson: The Nice Guy Syndrome

HE'S WASHINGTON'S FAVORITE REPUBLICAN—BRIGHT, INDEPENDENT, ARTICULATE, THOUGHTFUL. THEN WHY DOES NOBODY GIVE HIS CANDIDACY A CHANCE?

By Walter Shapiro

One evening in early November, in the middle of a three-day campaign trip through New Hampshire and Maine with John Anderson, the ten-term congressman from Rockford, Illinois who somehow believes that he can become the first liberal Republican presidential nominee since Wendell Willkie, a reporter overheard a perplexing snatch of conversation between Anderson and his wife, Keke.

The Andersons sat in the front of a rented car, talking softly to other, seemingly oblivious to two reporters in the back seat. They had just left a restaurant reception where a paper salesman had asked Anderson why he was making this race for President. Anderson's answer had been perfectly acceptable: "I think the process of running for President is debilitating and demeaning, but the job would be exciting—charting a course for the nation." The conversation now seemed to trouble Anderson.

In the car, he said to his wife, "I keep hearing the question the guy in the restaurant asked: 'Why are you running for President? It's such a terrible job.' I wish I had a better answer."

Keke Anderson replied, "It's easy, John. You know why you decided you should run. Someone must address our pressing national problems."

"That's no answer," he said. "Jimmy Carter said that last time and look what he's done to reduce confidence in government. Why should they believe me this time?"

"John, stop selling yourself short," she said. "People know who you are and what you've done. Maybe not here in New Hampshire. But there are pockets of support."

Anderson said, almost to himself, "It's a tough question to answer. I just don't know."

There is an artificial quality to this conversation, almost as if it were a little domestic set piece designed to impress visiting reporters. Anderson's words were in perfect harmony with most of his previous actions, and yet, a gnawing feeling persists that no one can be as consistently high-minded and earnest as John Anderson appears to be.

These days, Anderson is Washington's favorite Republican. He has all the qualities that those who lie awake nights worrying over the fate of the republic want in a President. He is bright, articulate, independent, and thoughtful. Over the last decade or so, he has won a series of editorial plaudits for his

courageous 1968 vote in support of open housing, his early criticisms of Richard Nixon over Watergate, his battles on behalf of campaign spending reform, and his current proposal, the centerpiece of his presidential campaign, for a 50-cents-a-gallon gasoline tax to discourage consumption. Anderson appeals to that elitist strain among Washington thinkers which asks the great unwashed of the electorate to send forth statesmen, not grasping, ambitious politicians.

Because of these qualities—or in spite of them—Anderson is as close as the politics of 1980 comes to a sure thing: he will lose his race for the Republican nomination—and he will probably lose badly.

Anderson's appeal is similar to that of his close friend and Democratic House colleague Morris Udall, who narrowly lost so many primaries to Jimmy Carter in 1976 that he became known as "second-place Mo." With little money, and virtually no base in the increasingly conservative Republican party, Anderson may very well come to bear the sobriquet "sixth-place John."

His hapless campaign is evidence to support those who have lamented over the way we choose our Presidents. It is difficult to find a parallel to Anderson—an active candidate for President who has the experience and the ability to serve well, who has the stage presence and the long record of public service to be elected, and yet has little chance of surviving even the early primaries.

Anderson makes little effort to hide his frustration. He displays the manner of a candidate who is banking on a strong personal sense of irony to see him through a difficult few months. In early November, he visited an electronics plant in Manchester, New Hampshire, where the plant manager had on his office wall more than thirty autographed pictures of presidential candidates who had toured the factory in recent years. Anderson dutifully went through the motions of shaking hands with bored workers, who viewed the candidate with all the curiosity that natives of New Guinea extend to the 103rd anthropologist to study them. In the midst of this, Anderson whispered, "Isn't this a ridiculous way to pick the man who will lead the country?"

The following morning, a Friday, he was in Portland, Maine, seated in the audience for a Republican dinner, at which Henry Kissinger was the featured speaker. The crowd was a reminder of the geriatric appeal of the Republican party—half of them seemed old enough to have voted for Alf Landon in 1936. Anderson looked up from his dinner of baked chicken and said, "This is a hellhole. I would sneak out, but I'm afraid they are going to introduce me and someone would notice I was gone."

The Maine dinner was a prelude to another of those Saturday Republican "cattle shows" where all the GOP contenders—except Ronald Reagan, who boycotted them until he formally declared his candidacy—make brief speeches to the assembled throng, who then cast ballots for their favorites in a straw poll. This one was supposedly wired for Senator Howard Baker, who had the support of the newly elected Maine Republican senator, William Cohen. When he was in the House, Cohen was something of a protege of Anderson's, and this breach of loyalty—one of many Anderson has suffered in Congress—rankles.

On Saturday, driving through pouring rain to give his speech to the Republican convocation, Anderson affected a jaunty manner. "I'm approaching this great event with great aplomb," he said. "I know I'm going to lose. And, in the immortal words of Rhett Butler, "Frankly, I don't give damn."

Fifteen minutes later, Anderson was standing on the podium before 1000 Maine Republicans. His

physical appearance was distinctive—a thin but erect fifty-seven-year-old body shadowed by heavy glasses and a crop of totally white hair. David Emery, thirty-one-year-old local Republican congressman and one of Anderson's two active supporters in the House, was supposed to introduce him, but he was nowhere to be found.

Before a large crowd, Anderson can be a fiery speaker, with perfect timing and a voice that rises and falls for emphasis, even though in ordinary conversation he sounds more like Jason Robards than William Jennings Bryan. This time, Anderson pulled out all the rhetorical stops, but it did not quiet the steady undertone of conversation. He carried on gamely even when his voice grew raspy and hoarse midway through the twenty-minute speech.

His words are worth noting since they provided a strong counterpoint to the conservative shibboleths of contemporary Republican politics. A few excerpts help capture both his rhetorical style and the liberal alternative he is trying to offer GOP voters.

On leadership: "It will take more than hortatory expressions about leadership to restore our flagging national fortunes. The next President will not be able, like the legendary King Canute, to stretch out his hands and command economic tides to stand still."

On defense: "About 400 of our warheads could destroy 70 percent of Soviet industry and, in the process, kill 75 million Soviet citizens ... Let us strengthen our commitment to a strong NATO, but let us not be totally overcome with a new missile madness that yields to the mindless renewal of unrestricted competition in building ever new strategic systems."

On energy: "Today, under the present administration, we seem to be very quietly and very submissively paying tribute to the extortionist demands of the OPEC oil ministers. I have suggested that rather than permitting them the privilege ... we should be willing to tax the consumption of gasoline in this country." (This is a reference to what Anderson calls his "50/50 plan"—a 50-cent gas tax to pay for a 50 percent reduction in Social Security taxes. With scant credit to Anderson, the Carter Administration is now seriously considering this proposal.)

There are other issues in Anderson's campaign—some of which he obviously did not want to impress upon a conservative audience. His is a lonely voice among Republican presidential candidates in support of the SALT II treaty and in opposition to the MX missile. He endorses President Carter's call for a windfall profits tax on the oil industry. He has also consciously aligned himself with the feminist movement. He talks about "marching through the streets of Manchester for abortion rights," but worries that the feminists will do little more than "applaud and tell me how courageous I am. I expect more than that. They've got to get busy and do something for *me*. I hope I'm not disappointed."

Despite these liberal positions, Anderson is not in the wrong political party. In 1978, he voted with organized labor less than 40 percent of the time. He believes in the deregulation of natural gas and crude oil prices. He follows most of the standard Republican line on the economy, believing in the therapeutic value of a balanced budget, voting for the Kemp-Roth tax cut bill, and calling for new business tax incentives to encourage capital formation.

Less than an hour after his Maine speech, Anderson was back in his Holiday Inn room, watching the rain cascade down over a grimy section of Portland. He was upset, both with losing his voice for only

the second time in his political career and with the inattention of his audience.

Gesturing angrily, he asked a series of rhetorical questions: "How do you get them to listen? Is this what our politics has come to? Is it wrong to think that they might remember something you said? That's the whole purpose of my campaign."

Later that afternoon, the results of the straw ballot were announced. The big news, which was a lead article in the following day's *New York Times*, was that George Bush had upset the Baker bandwagon. Buried in the story was the fact that John Anderson received exactly six votes—less than 0.5 percent of those cast.

Anderson's frustrations on the campaign trail are mirrored by his recent career in the House of Representatives as a pariah in his own party. Several of his colleagues describe him as "burnt out" after eighteen years in the minority. Anderson himself admits "I think I had contributed everything I could in the House. There really wasn't much left I could do given the growing conservative complexion of Republicans in the House." Morris Udall, who has worked closely with Anderson on campaign reform and environmental issues, put it this way: "I can't see John with his idealism, sticking around here and growing old, year after year, a minority within a minority."

For years conservatives have complained that the candidates they elect grow more and more liberal as they are exposed to the sinister influences of Washington. Anderson's career in the House supports this theory.

The son of an immigrant Swedish grocer, Anderson was an orthodox Republican when he was elected to the House in 1960, from a safe Republican district in northwestern Illinois. He was a thirty-eight-year-old lawyer with an LL.M. degree from Harvard who had been in the Foreign Service in Berlin in the early 1950s and who was at the time of his election, a local district attorney.

Throughout the 1960s, he prospered in the House, winning tangible rewards for his fidelity to Republican principles. In 1964, he was given a coveted seat on the Rules Committee. In 1969, his colleagues elected him chairman of the Republican Conference, the number-three leadership job in the House.

The event that triggered Anderson's current state of apostasy was his decision to switch his vote on the Rules Committee and prevent the gutting of the 1968 civil rights bill outlawing housing discrimination. The vote came in the time of turmoil that followed the assassination of Martin Luther King and the ensuing rioting.

Anderson recalls his "anguish" as he was torn between a belief "in the sacrosanct right of private property" and his late-blooming concern over "the invidious discrimination that was occurring in the sale and leasing of housing." There was, however, nothing halfhearted in the way he decided to cast with the civil rights movement. "I legislate today not out of fear, but out of deep concern for the America I love," he said in a speech on the House floor, which is credited with changing some Republican votes.

Anderson's horror over the Nixon Administration's bombing of Cambodia was the catalyst for a similar change in his foreign policy views. "I still recall it very vividly," he said. "I remember as a member of the leadership being told about it. That was a kind of watershed in my thinking, too. I look back on the

whole Vietnam era with no particular satisfaction. I wish I had been prescient."

These events, and many other dramatic episodes, widened the cleavage between Anderson and his Republican colleagues. One veteran midwestern conservative, with a good deal of personal affection for Anderson, explained the bitterness of the younger conservatives. "If John has one weakness, he said, "it's that he tends to have a thin skin. When some of the conservatives have criticized him, he shot back in kind. He's had some verbal clashes with them. As a result he's developed a chip-on-the-shoulder attitude toward conservatives."

Since 1973, Anderson has had to beat back three right-wing challenges to his House leadership position. He had a serious re-election fight until 1978, when he was challenged in the Republican primary by a fundamentalist minister, Donald Lyon, who described Anderson as a turncoat conservative who now "comes back talking like some god of the East." It was, in Anderson's words, a "blood campaign," revolving around such emotional issues as abortion and prayer in the schools. The Republican establishment—Gerald Ford and Henry Kissinger among them—rallied to Anderson's defense and campaigned for him. Anderson won, but Lyon received 42 percent of the primary vote. The recognition that he no longer had a safe seat was a major factor in his decision to retire from the House and pass up a 1980 Senate race to make this bid for the Republican nomination.

Anderson's problem is that whether he is on the House floor or on the campaign trail, most of the kind words for his presidential ambitions come from Democrats. Udall, who calls Anderson "an exceptional person," said that he "encouraged him to get into the presidential race." In fact, Udall almost wrote a fund-raising letter for Anderson to New England environmentalists, but finally decided it was too much of an affront to traditional party politics. Paul Findley, an Illinois Republican who wears an Anderson button on the House floor, said, "it engenders a lot of favorable comments—especially from Democrats."

Keke, that's why John is running for President, she's a kook," was the assessment of one House Republican. There is a glimmer of truth here. Keke Anderson, the daughter of Greek immigrants, grew up in Boston. She married John twenty-seven years ago, when he was in the Foreign Service and she was working for the passport office in the State Department. They have five children who, as she puts it, "range in age from the sandbox to Sartre." She is not only her husband's most devoted supporter but also the kind of feisty, independent political wife who gives campaign managers apoplexy.

At a dinner stop in Hillsborough, New Hampshire, a local reporter asked her, "Mrs. Anderson, what would you focus on if you were First Lady?" It is the inevitable question for a candidate's wife, and the answers are invariably innocuous—help retarded children, the arts, and so forth. Keke Anderson began, "I would work to turn our nation's psychology away from building more and more bombs. As a mother of five ..." and she went on from there, sounding more like an organizer for the Women's Strike for Peace than the loyal wife of a Republican presidential candidate.

Anderson chimes in, his voice thick with irony, "Careful, Keke, you're sounding like a peacenik. You know America has to arm to the teeth."

The reporter, who had recently interviewed a more traditional political wife, said, "Mrs. Bush doesn't contradict her husband."

"No dull marriage this," responded Mrs. Anderson.

Anderson took a puff on his Tiparillo and said, "It's about time the Republicans had a peace candidate. They had Gene McCarthy. I'm so sick of the people in my party who think in military terms."

The conversation then shifted to political wives in general, and someone volunteered that most of them are spontaneous as Barbie dolls. Anderson took another puff and said, "Well, I'm no Ken."

Despite his sense of humor, there is a stiff, almost priggish, side to Anderson's personality. He acknowledges it, even half apologizes for it. Listen to him explain why he is running. "As self-serving as it sounds, I guess a little bit pretentious, maybe pompous, you feel that you have learned something after twenty years' participation in national affairs."

Some of this self-righteousness may be attributable to his very strict religious upbringing. Anderson, who has a picture of Jesus Christ on the wall his congressional office, belongs to the Evangelical Free Church, a small Protestant denomination started by Scandinavian immigrants in the 1880's, which he describes as "very conservative theology, fundamentalist and all the rest." His religious beliefs are "very important," he said. "Your beliefs in later life have got to be influenced and shaped by the experiences you had as a child."

Anderson, however, bristles at any comparison between his religious orientation and that of Jimmy Carter. I would not [have tried] to convert Park Chung Hee, a Buddhist, to Christianity while riding in a taxicab with him," he said. "I never went on any preaching missions for my church."

In religion, as in politics, Anderson is a loner. He seems to delight in urging fundamentalists to take a more liberal stance on social issues. In 1970, he examined the roots of social conservatism among fundamentalists in a scholarly essay which was his contribution to a collection he edited, *Congress and Conscience*. In an address to the US Association of Evangelicals 1976, Anderson said, "As evangelicals you are concerned about abortion, amnesty and drug abuse as things that are really tearing down the moral fiber of our society, as they are. But too often you forget you must also be interested in other issues that have moral implications—like the more equal treatment of people in our society, and the problems of unemployment, poverty, and hunger."

Anderson acknowledges he has won few converts among Protestant fundamentalists. As he told one of his local coordinators in New Hampshire, "I do very well with Unitarians, much better than with my own fundamentalist church."

Anderson's campaign strategy has a thread of inner logic. It focuses on four early primaries New Hampshire, Massachusetts, Illinois, and Wisconsin. Anderson's professed goal is to finish in the top three in both New England primaries, then go on to make a strong second-place showing against Reagan in Illinois and do well in Wisconsin. His campaign manager, Dan Swillinger, a veteran of the liberal Republican Ripon Society, talks bravely about going into the convention with a bloc of 400 or 500 delegates.

Traditionally, about 20 percent of the 110,000 Republicans who vote in the New Hampshire primary support liberal candidates. If Anderson could capture half of them—a paltry 11,000 votes—the press, for whom he is a sentimental favorite, could give him enough free publicity to carry him on to the later primaries.

His problem is that Baker and Bush, particularly Bush, have corralled most of the moderate wing of the Republican party. There are strong differences between Anderson and Bush/Baker on such issues as SALT, defense spending, and energy, but Anderson has not been successful at exploiting them. Instead, he has grown waspish in his assessment of those Republicans who offer his candidacy kind words but no visible support, among them moderate Republican governors: "I think their nerve has failed. I frankly have become contemptuous of the so-called moderates."

He is also short of campaign cash. As of the end of November, he had raised only \$400,000, about half of which came from Illinois. It is fitting that Anderson, one of the architects of the law providing federal funding of presidential campaigns, is banking on qualifying for matching money by January. If he succeeds, it could mean an additional \$400,000 to pay for a respectable media campaign in New Hampshire and Massachusetts.

Anderson, however, is hedging some bets. He refuses to go into debt to pay for his foray into presidential politics.

As he explains, "I have borrowed money to stay in Congress. I am not going to add to those debts. I put a very high priority on the education of my children. I have two in college and two more to go. I've never been rich, I don't expect to be rich, I don't want to be rich, but I certainly don't want to end up in the poorhouse either."

As the New Hampshire primary nears, John Anderson continues his lonely campaign, preaching to small audiences about the need for a stiff gasoline tax and an end to "missile madness." These are serious issues, more substantive than those raised thus far by other candidates, but they lack the emotional intensity to sustain a noble lost cause. Playing political Don Quixote is for single-issue zealots, not for responsible moderates such as Anderson, even when they are bursting with intelligent ideas.

Ultimately, what is most enigmatic about Anderson is why he is putting himself through this ordeal. There are some reasons—his isolation within Congress, the urgings of his wife, the gamble that he can transmit to the voters those qualities that Washington finds so admirable—but taken together they do not add up to a convincing rationale. Perhaps the best explanation is also the simplest. John Anderson is running for President, and is willing risk looking foolish in the process cause he is convinced, with some justice that he can do a better job than anyone else in the race.

This article available online at:

<http://www.theatlantic.com/magazine/archive/1980/02/john-anderson-the-nice-guy-syndrome/306028/>

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Exhibit 19

Inside the Presidential Debates

THEIR IMPROBABLE PAST
AND PROMISING FUTURE

Newton N. Minow and Craig L. LaMay

The University of Chicago Press Chicago and London

NEWTON N. MINOW, a Chicago lawyer, served as chairman of the Federal Communications Commission by appointment of President John F. Kennedy. Minow has been involved in televised presidential debates since 1960, when he was an aide to Illinois governor Adlai Stevenson. Later he cochaired the presidential debates for the National League of Women Voters, and today he is co-vice chair of the Commission on Presidential Debates.

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The University of Chicago Press, Chicago 60637
The University of Chicago Press, Ltd., London
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Printed in the United States of America

17 16 15 14 13 12 11 10 09 08 1 2 3 4 5

ISBN-13: 978-0-226-53041-3 (cloth)

ISBN-10: 0-226-53041-8 (cloth)

Library of Congress Cataloging-in-Publication Data

Minow, Newton N., 1926-

Inside the presidential debates : their improbable past and promising future /

Newton N. Minow and Craig L. LaMay.

p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-226-53041-3 (cloth : alk paper)

ISBN-10: 0-226-53041-8 (cloth : alk paper)

1. Presidents—United States—Election. 2. Campaign debates—United States.
3. Television in politics—United States. 4. United States—Politics and
government—1945–1989. 5. United States—Politics and government—1989–
I. LaMay, Craig L. II. Title.

JK524.M563 2008

324.7—dc22

2007026792

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didate.”³³ The League announced its new selection criteria at a press conference in New York City on August 10 and found, as the Commission on Presidential Debates would later, that the 15 percent requirement caused both confusion and controversy. Critics said the figure was simply arbitrary, with no historical precedent. Neither of those claims was quite true; after the 1976 debates Congress at one point considered a bill that used the records of third-party candidates from the 1912 (Theodore Roosevelt), 1924 (Robert LaFollette), 1948 (Henry Wallace and Strom Thurmond), and 1968 (George Wallace) presidential elections to set a standard for debate inclusion.³⁴

On August 19, a week after the Democratic Convention made Carter the party's nominee, the League formally invited both Carter and Reagan to meet in a series of three debates. Starting on August 26, the League found itself negotiating with the campaigns' representatives on the entire debate program, including the number of debates and their formats, where they would be held and when. Carter wanted earlier debates and Reagan later ones; Carter wanted more debates, Reagan fewer. But both sides were holding out to see what would happen with Anderson, and on September 9 the League announced that based on poll results Anderson would be invited to the first debate in Baltimore on September 21.³⁵ Anderson and Reagan both accepted the invitations immediately, but Carter refused, saying he would participate in a three-way debate only after a two-way debate with Reagan. There was speculation in the press, completely unfounded, that for the first debate we might put an empty chair on the stage with Jimmy Carter's name on it, and the story got enough play that the White House was extremely upset about it. No one at the League ever seriously considered putting out an empty chair; rather a *Washington Post* reporter had suggested it in an interview with a League official and then reported the negative response, making it seem as though the League was considering the idea. The League held out hope for Carter's participation to the last, going so far as to keep a third podium available should he show up at the last moment, but he did not. The Reagan-Anderson debate took place as scheduled, with a moderator and a panel of journalists asking questions, but without the president of the United States in attendance.³⁶

The negotiators for the Republicans and the Democrats that year were Robert Strauss and Jim Baker, both old political hands, both from Texas. At one meeting in Washington we were at an impasse on one issue with the League, and Baker looked at me and said, "Excuse me, I have to go the men's room." A couple of minutes later Strauss looked at me and said, "Excuse me, I have to go to the men's room."

Exhibit 20

A Polling-Based Forecast of the Republican Primary Field

By NATE SILVER

May 11, 2011 10:05 am

This is the finale of a four-part series (Part I, Part II, Part III) evaluating the utility of early presidential primary polls as forecasting instruments. My contention is that these polls have enough predictive power to be a worthwhile starting point for handicapping a field of candidates. In this article, we'll see what they have to say about the Republican contenders for 2012.

Here is a chart summarizing the 28 scientific polls that have been conducted on the Republican field since the start of the year, covering a total of 23 different candidates or prospective candidates. (For the ground rules used to assemble this data, see Part III).

Name recognition figures are mainly taken from Gallup, and reflect an average of all of Gallup's surveys since the start of the year. The exceptions are a handful of relatively obscure candidates whom Gallup has not yet polled on — in those cases the name recognition figures are estimates, and are indicated in red in the table. (Some of the polls were conducted in multiple versions with varying lists of candidates; that's why the table shows, for example, that Mike Huckabee was included in 26.2 polls out of 28.)

Our first model for translating this polling data into probabilities works as follows.

- First, we divide each candidate's polling average by name recognition. This gives us the percentage of voters who are familiar with the candidate and have him or her as their first choice.
- Next, we use logistic regression analysis based on our data set of past primary polls to translate the candidate's recognition-adjusted polling average into a probability of winning the nomination. (More technically, we use the square root of each candidate's recognition-adjusted polling average to fit the regression curve, which produces slightly better results on the historical data.)
- Finally, we prorate the numbers so that the probabilities sum up to 100 percent. That leaves us with the following:

I'm calling this the **Classical Model**, since it's a little bit more elegant than an alternative method that we'll examine later on. Divide a candidate's polling average by name recognition, and you have a pretty decent benchmark for the candidate's upside.

One thing that stands out is that this method gives the leading candidate, Mitt Romney, is given only about a one-in-four chance of winning (more precisely, a 27 percent chance).

How unusual is that? Have there been other races in the modern (post-1972) primary era that were *more* wide open? Here's how this method would have designated a favorite in past election cycles:

The current Republican race is, by some margin, the most wide-open in the modern era on the G.O.P. side, but there are a couple of comparable examples if you look at the Democrats. The model would have had Scoop Jackson as the nominal favorite to win the Democratic nomination in 1976 — but still would have given him only a 20 percent chance. Michael Dukakis in 1988 (26 percent chance of winning) and John Kerry in 2004 (29 percent) were in the same range as Mr. Romney is now, though for different reasons — their polling wasn't quite as strong as Mr. Romney's, but they were doing it with considerably lower name recognition.

That brings me to the second point. What makes the 2012 Republican race unusual is not that there isn't much of a frontrunner at this point — that's happened before — but rather that both the high-recognition and low-recognition names are underwhelming.

On the one hand, while Mr. Romney's numbers and Mike Huckabee's are considerably better than Sarah Palin's or Newt Gingrich's, they both fail to crack 20 percent in the polling average despite very wide name recognition. Both are also polling lower now than at the end of the 2008 campaign, in which Mr. Romney ultimately wound up with 22 percent of the Republican primary vote and Mr. Huckabee 21 percent.

On the other hand, there's no sign yet of a breakout candidate from the low-recognition group. Tim Pawlenty's name recognition has improved more than any other Republican candidate since the start of the year — it's increased to 49 percent from 39 percent, according to Gallup — but that hasn't translated into any additional support in the horse race polling, where his numbers have been stuck at about 4 percent all year. The same holds for Mitch Daniels — and with Mr. Daniels there's the added complication that he might not run at all.

This method is also not very enamored of Donald Trump, although that is partly because he was not included in many of the polls at the start of the year, and the model scores those as zeroes.

That effect becomes clear if we use the same methodology but exclude the polls conducted before April 1:

That pushes Mr. Trump up considerably. Then again, though, there were reasons why pollsters did not include Mr. Trump in surveys early in the year: it was not clear whether he would run, or take the campaign seriously if he did. And now, indeed, Mr. Trump's rise in the polls seems to be reversing.

There's another method of evaluating the race that is even more dismissive of Mr. Trump's chances. In this version, I break a candidate's polling average into two factors:

- How many polls include his or her name?
- How does the candidate poll when included?

This model treats name recognition as a separate variable, rather than meshing it together with a candidate's polling average. So it fits a three-variable regression model.

It turns out that one of the more potent predictors of success in past primary races was simply how frequently a candidate's name was included in the early polls. Although there have been winning candidates in the modern era, like Bill Clinton, who waited until quite late in the process to *officially* declare that they were running, there haven't been any who were not *laying the groundwork for a run* quite early on, to the point that they were routinely included in the polls. It's not so easy to make up for lost time if you've dawdled rather than hire staff, cultivate elite support, brush up your media skills and so forth. Being included in a poll in the early going is an indication that you are in fact doing those things.

Under this method, which treats inclusion in polls from the start of the year as something close to a prerequisite for winning the nomination, candidates like Mr. Pawlenty and Mr. Daniels do considerably better, while Mr. Trump's chances look considerably worse:

I call this the **Aggressive Model** because it can deviate quite a bit more from the horse race numbers — although it's more in line with how political scientists like Jonathan Bernstein and Brendan Nyhan, who place more emphasis on factors like elite support, think about the race.

Here, then, is the optimistic case for Tim Pawlenty — what the Aggressive Model would say if it spoke in English rather than statistics.

1. Mr. Pawlenty is definitely running, and has been preparing to do so for a long time now — which is true of surprisingly few candidates.
2. His lack of popular support certainly is problematic — and is only partially excused by his relative lack of name recognition. But all of the candidates have their problems, so he looks pretty decent by comparison.

One of the reasons I was skeptical of Mr. Pawlenty early on is that there seemed to be a lot of potential candidates who might fill the same niche, as a "safe" consensus choice acceptable to both moderates and conservatives. But John Thune isn't running; Mike Pence isn't running; Haley Barbour isn't running. There's no sign of Jeb Bush, Rick Perry, or Chris Christie. Mitch Daniels might run — but he doesn't have any more popular support than Mr. Pawlenty, and he is several months, at the very least, behind Mr. Pawlenty in his preparations. Jon Huntsman might run, but he's got a variety of positions that are going to make him unpopular with conservatives — whereas Mr. Pawlenty is positioned pretty close to the center of the Republican primary electorate.

However, while the Aggressive Model does have some theoretical appeal — and while it fits the historical data a tiny bit better than the Classical Model — it presents some potential issues. It really goes all-in on the assumption that a candidate cannot win unless he or she starts making preparations very early on, to the point of being considered viable enough by pollsters to be included in their surveys.

While it is true that no winning candidate in modern times has violated that paradigm, the data is not all that robust — just 15 nominally competitive primary races since 1972, of which only a handful have been as competitive as this one. That probably isn't enough to rule out the possibility that a late entrant could run away with things, and the Aggressive Model may be a bit overfit, meaning that it describes the historical data well but could be sub-par at making predictions.

So I think these two models work best when viewed in tandem.

For that matter, just as we did with the Classical Model, we can also run a version of the Aggressive Model based solely on polling data from April 1 onward:

Let's summarize these models and compare their results with the current betting lines at Intrade, a political futures market that captures the bettors' view of the candidates' current chances.

We can see some differences between our polling-based models and Intrade on several candidates:

- The models like Mr. Romney slightly more than the bettors do, although the difference is not large. Mr. Romney, in my view, has one major asset that is not well reflected in national polls, which is that he is strongly positioned in several early primary states (New Hampshire, Michigan, Nevada). He also has one major liability, the health care legislation enacted in Massachusetts while he was governor.
- All four of the polling models think Mike Huckabee is grossly undervalued by the bettors. I'll be writing more about Mr. Huckabee in the next week or two, so we'll leave it at that observation for now.
- The models also think that Newt Gingrich is undervalued. I've been a skeptic of Mr. Gingrich's chances, and widely known candidates who are getting only about 10 percent off the vote in polls have a very poor past record. At the same time, Mr. Gingrich is definitely running — and he has at least *some* popular support and at least *some* elite support. Even if you don't like a company's business model, there's some point at which its stock price becomes low enough for it to be a good buy; that's more or less how I feel about Mr. Gingrich right now.
- The models think Mr. Daniels is somewhat overvalued by the bettors, and that Mr. Huntsman is grossly so. Mr. Huntsman is the one I feel more confident saying that about. He's positioned pretty far to the left (relative to the Republican field) on a lot of issues, he's getting a late start on his campaign, and he served in President Obama's administration — in a foreign policy capacity, no less, an area where Mr. Obama should get high marks from voters. And Mr. Huntsman is averaging only about 1 percent in the polls so far. That's an awful lot to overcome, no matter how talented the politician.
- Although one version of the model thinks Mr. Trump is undervalued, the others think he's overvalued. Considering that about half of Republican voters have an unfavorable view of Mr. Trump, that he's now moving backward in the polls, that his signature issue was just taken off the table, that some of the policy positions he holds now bear no resemblance to the ones he held earlier in his career, and that he isn't certain to run, I'm not sure why the bettors at Intrade are giving him much of a chance at all. I don't like to rule things out categorically — you'll get burned if you do that too much. But while Mr. Trump's chances of winning the Republican nomination may not be *exactly* zero, they're pretty close.
- The models like Rick Santorum and Ron Paul more than the bettors do. Although Mr. Santorum and Mr. Paul don't share very many policy positions, they are parallel to one another in that both have strong appeal to one particular constituency within the Republican base — the religious right for Mr. Santorum, libertarians for Mr. Paul. But they don't have much breadth of appeal, so their upside is limited. Who knows: perhaps Mr. Santorum and (especially) Mr. Paul will have some impact on the race. But there aren't really any recent cases of candidates like these winning their party's nomination, or even coming particularly close — and the polling models are going to have trouble accounting for that sort of thing.

The value of an approach like this is not that these models are infallible. Instead, they're a pretty rough cut, as revealed by the fact that relatively small changes in methodology can produce large shifts in the chances attributed to candidates like Mr. Trump or Mr. Pawlenty.

My contention, though, is that we'll both do a better job of handicapping and will have more productive conversations about the primaries if we start with the assumption that the polls tell us something rather than nothing.

(Stated far more technically, the polls are useful enough to serve as good Bayesian priors).

You want to argue that Jon Huntsman is a more likely Republican nominee than Mike Huckabee? That's fine. But know that, in the past, candidates who have polling numbers like Mr. Huckabee's have had a pretty good shot at their nominations, while those with Mr. Huntsman's profile have faced much longer odds — not just a little bit longer, but a lot longer. Maybe you can still win the argument, but it raises your burden of proof.

Exhibit 21

Debate Commission Excludes Perot

WASHINGTON (AllPolitics, Sept. 17) -- In welcome news for GOP nominee Bob Dole, the bipartisan Commission on Presidential Debates has decided to exclude Reform Party candidate Ross Perot from this fall's series of presidential debates.

"Our decision," said Paul Kirk, co-chairman of the commission, "was made on the basis that only President Clinton and Senator Dole have a realistic chance, as set forth in our criteria, to be elected the next president of the United States." Both the commission and its advisory committee voted unanimously to exclude Perot. (295K [AIFF](#) or [WAV](#))

Debate On Debates
Letter From The Advisory Committee
CPD Statement
Take A Stand! The Tally
Dialogue
Poll
Voter's Voice
Who's On The CPD?
Clinton's Reaction
Dole's Reaction
Third Party Response
Bill Schneider's Take

The Dole campaign promptly released a statement supporting the ruling. "The inclusion of any other participant in the debate," it read, "would have violated the commission's own standard to include only third-party candidates who have proved they have a 'reasonable' chance to be elected president."



Most expected Perot's participation to hurt Dole, and Clinton campaign manager Peter Knight told The Associated Press, "We regret the decision by the commission. We had assumed all along that Mr. Perot would be in the debates."

Kirk

Kirk explained that several factors worked against Perot. In addition to the Texan's low poll standings, Kirk cited the commission's judgement that Perot's ability to bounce back in the polls is more limited than it was in 1992. "Participation is not extended to candidates because they might prove interesting or entertaining," he told reporters.

Four years ago, Perot had virtually unlimited funds to spend on his self-financed campaign, Kirk noted, but this time around the Texan has limits on his coffers because he chose to accept federal funding. "Without that wherewithal," said Kirk, "his chances of winning an election in the face of the 1992 history is unrealistic." (300K [AIFF](#) or [WAV](#) sound)

"We have been very mindful of the fact that 62 percent of the American people would like to see Mr. Perot in the debate," Kirk said. "But I have to distinguish that from what the mission of the commission is. Because when you look at the same numbers, 74 percent of the people say they wouldn't vote for Ross Perot for president." (264K [AIFF](#) or [WAV](#) sound)

Verney

Russ Verney, Chairman of Perot '96, denounced the decision as a "travesty of justice" and said at an afternoon press conference that the Perot campaign was heading to court. "We will file suit in federal court this week," he said. "We will seek a temporary restraining order against the debates' occurring until we can get a full and

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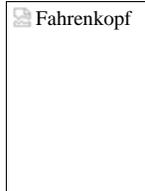
fair hearing." (160K [AIFF](#) or [WAV](#) sound)

The theory behind the lawsuit is that the courts could order the Federal Election Commission to enforce its rules that debate sponsors use objective criteria to determine who gets to debate -- rules that Perot's campaign says the commission violated.

The commission had a list of criteria that each candidate had to meet to be invited to the debates, including being eligible under the Constitution and being on the ballot in enough states to win the 270 electoral votes needed for election.

But the key criterion, as the commission has been saying for weeks, is that each invited candidate have a "realistic, i.e., more than theoretical, chance of being elected the next president of the United States," according to Frank Fahrenkopf, the commission's other co-chairman.

While Perot pulled down 19 percent of the vote in the 1992 presidential election, he failed to carry any states then, and he has been lagging in the mid-single digits for most of the current campaign.



Kirk and Fahrenkopf said that if circumstances change -- say, if Perot were to improve his poll standings -- the commission would consider including him in later debates.

The decision is a welcome one for the Dole campaign, which wanted the opportunity to debate President Bill Clinton one-on-one. "In 1996, only one of two men will be elected President, Bob Dole or Bill Clinton," said the statement from the Dole campaign.

Clinton's campaign, meanwhile, wanted Perot in, guessing that Perot would spend more time criticizing Dole's tax-cut proposal than he would Clinton's record.

Still up in the air is the exact timing and length of the debates. Clinton would like to have a series of three 90-minute sessions later rather than earlier, while Dole has expressed a preference for four 60-minute sessions beginning very soon.

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Exhibit 22

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ELECTION 2000

How Citizens "See" a Presidential Debate



A product of the
Vanishing Voter Project

Boston, Massachusetts
October 3, 2000



Research funded by a Grant
From The Pew Charitable Trusts



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Election 2000: How Viewers “See” a Presidential Debate

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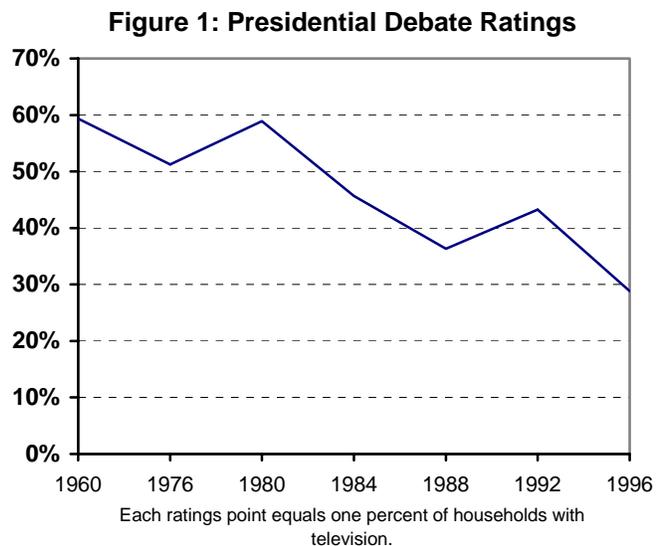
Few televised events have the audience appeal of a presidential debate. The Super Bowl is the only regularly scheduled event that routinely draws a larger minute-to-minute audience. Presidential debates have drawn on average about 75 million viewers, which is roughly the size of the audience for the Academy Awards. By comparison, the typical prime-time program on ABC, NBC, or CBS draws 9 million viewers.

The audience for the televised debates has been shrinking (see Figure 1). The 1992 debates between Clinton, Bush, and Perot were an exception to the trend, but the viewing audience has gradually declined, largely because of the alternative programming available on cable television.

The latest Shorenstein Center weekly national poll indicates that the first general-election debate of the 2000 campaign is unlikely to break the downward trend. Only 28% of the respondents said they expect to watch most of Tuesday’s debate and nearly 40% said they would not watch any of it. These proportions roughly parallel the audience numbers for the first Clinton-Dole debate in 1996.

The debate audience in future elections can be expected to decline further because of generational change. Today’s young adults are measurably less interested in politics than those of even a decade or two ago. Most of them pay little or no attention to the daily news or public affairs programming as a result of the media environment in which they grew up. Unlike the pre-cable generation, they did not as children have regular exposure to television or print news and they did not acquire an interest in it. They do not have a news habit and display only passing interest in public affairs.

In our recent poll, nearly half of young adults (18-29 years of age) said they do not plan to watch any of the debate and an additional 21% claimed they would watch only a little of it. Only 14% said they would watch most of it (see Table 1).



Nevertheless, the debates are still very popular with most Americans. The reasons are obvious enough. Like the Super Bowl and the Oscars, the debates are, as Alan Schroeder observes, “human drama at its rawest.” The stakes are high, and the outcome is uncertain. Debates are staged and ritualized events, but they are not fully scripted or completely predictable, as evidenced by Ronald Reagan’s unexpectedly masterful performance in 1980 and his surprisingly addled performance four years later. Conflict, risk, and suspense are elements of drama, and the debates offer them on a level unmatched by any other scheduled televised political event.¹

If the reasons Americans choose to watch the debates are clear enough, the way in which they watch the debates is less well understood. How do viewers process and evaluate what they see and hear?

Through the Viewers’ Eyes

Journalists tend to look upon debates as decisive encounters that produce a winner and a loser and which can be decided by a single dramatic statement—an artful sound bite or inexplicable blunder. This perspective is not necessarily wrong, but it is decidedly journalistic. Most viewers experience the debate in a different way.

As a debate unfolds, viewers tend to render two judgments. One is whether the candidates seem “big enough” to occupy the presidency. The second is whether one of the candidates is the better choice.

These judgments could affect the outcome of the 2000 campaign. The race is close, and the number of undecided or weakly committed voters is relatively high. Among respondents in our recent poll who say they currently back either Bush or Gore, 17% claimed that it was very or somewhat likely that the debates could change their mind about which candidate to support. Self-identified independents were more likely than either Democrats or Republicans to say that the debates might lead them to switch their vote (see Table 2).

The debates are even more important in the minds of uncommitted voters. Thirty-nine percent of them claim that they are looking toward the debates as a time to make their decision.

Table 3: Are you more interested in seeing George Bush or Al Gore in the debates?

	All	Democrats	Republicans	Independents
Bush	15%	8%	29%	10%
Gore	15%	26%	8%	11%
Both equally	61%	61%	57%	64%

Table 3). Fourteen percent said they planned to watch Bush more closely and 15% said they would focus on Gore. Americans have a lot of unanswered questions about both candidates, and they intend to use the debates as a time to resolve some of them.

Table 1: How much of the October 3 debate do you plan to watch? (by age group)

	All	Under 30	30+
Most of it	27%	14%	33%
Some of it	15%	17%	16%
Only a little	17%	21%	18%
None	37%	48%	38%

Approximately 2% of respondents answered “don’t know” and were omitted from these results.

Table 2: How likely is it that the debates could change your mind? (committed voters only)

	All	Democrats	Republicans	Independents
Very	3%	5%	2%	3%
Somewhat	14%	12%	11%	22%
Not at all	83%	83%	88%	75%

Both candidates will be carefully scrutinized. When our respondents were asked “Are you more interested in seeing how George W. Bush or Al Gore handles himself in the debate, or are you equally interested in the performance of both candidates?” a clear majority—61 percent—claimed they intended to pay equal attention to both candidates (see

¹ Alan Schroeder, *Presidential Debates: Forty Years of High-Risk TV* (New York: Columbia University Press, 2000), 201.

Are the Candidates “Big Enough” to Be President?

It is often said that the outcome of a televised debate rests on “image”—that it rewards the candidate who appears more confident and has the more compelling appearance and delivery. Like many claims about televised politics, this claim is at best a half-truth. Viewers do respond favorably to a poised and artful candidate, but they are looking for something deeper—an indication that a candidate is “big enough” for the presidency.

There is no precise set of standards for this judgment, which is why it is partly a visceral reaction and is colored by partisanship—loyal Democrats and Republicans can usually convince themselves that their party’s nominee meets the test. But it’s a real test nonetheless. Voters expect a presidential candidate to have the characteristics they admire in a president. Does the candidate have the proper temperament, stature, knowledge, and style? Does the candidate appear “presidential?”

It’s a critical test, but it’s also an inexact one, which is a reason why most candidates pass it. If he had been running for president and not vice president in 1988, Dan Quayle would have been among the few to fail. Squaring off against Lloyd Bentsen, Quayle was widely perceived by viewers to lack the intellectual agility required of a president. Ross Perot in 1992 also failed the test, even though his participation in the debates did strengthen his position in the polls. Viewers found in Perot an outlet for their dissatisfaction with the major parties, but they also concluded that Perot was not fully fit for the presidency. He was too blustery, too contentious, too folksy, and too plain. Michael Dukakis in 1988 passed the test narrowly, having failed to persuade viewers that he had the empathy that would enable him to understand their problems fully.

For a candidate who meets the test, the result is enhanced stature and credibility, although not necessarily a surge in the polls. Mondale’s debate performance in 1984 won viewers’ admiration but did not endanger Reagan’s reelection. Most viewers thought Mondale “won” the first debate but continued to believe that Reagan would be the better president.

The favorable response to Mondale was heightened by a pre-debate expectation that he would perform less well than his opponent. For the same reason, George W. Bush will enter Tuesday’s debate with a psychological advantage. In our survey, by a margin of 46% to 30%, respondents felt that Gore is likely to do “a better job” than Bush in the debate (see Table 4).

Past debates suggest, however, that Bush will have to deliver a “presidential” performance to convert his psychological advantage into a real one. A lackluster performance would confirm doubts that some voters harbor about his ability and a Quayle-like effort would likely doom his candidacy. Gore is also at risk. Because he is expected to dominate, he needs to perform at a level equal or higher to Bush, or his weaker performance will be magnified.

Table 4: Which candidate do you think will do better in the debates?

	All	Democrats	Republicans	Independents
Bush	30%	9%	61%	28%
Gore	46%	72%	19%	42%
Both equally	7%	7%	5%	9%

Of greater risk to Gore, however, may be his tendency in debate to attack his opponent. Second-by-second analyses of recent presidential debates reveal that viewers’ most negative reactions occur when a candidate is in attack mode. A candidate can contrast his own views with those of his opponent and can sometimes succeed in attack by using humor to soften the blow. But a debate strategy based on strong and repeated attacks tends to repel viewers. Our research on the 2000 campaign’s primary election debates confirms the generalization: of the dozen debates we studied, the one that viewers liked least by far was the Gore-Bradley encounter in New York City. It was also the most contentious of the debates we examined, and most viewers claimed that the debate had diminished their opinion of Gore. The debating

style that Gore displayed during his New York primary debate and in his NAFTA and vice-presidential debates could work against him if he employs it in Tuesday night's presidential debate. Viewers expect a presidential candidate to act "presidential," which includes proper decorum.

Gore or Bush might fail to reach the viewers' threshold of acceptability for a would-be president in Tuesday's debate, but it's unlikely. The candidates are months-deep into their campaigns, have spent long hours rehearsing for Tuesday's debate, and have been briefed on the do's and don'ts of debating.² Unless one of them gets stage fright or begins to panic under the pressure, viewers' response to the two candidates will hinge largely on how they answer a second question: Which candidate is the better choice?

Which Candidate Is the Better Choice?

Televised debates naturally seem to direct attention to the candidates' images. In the first minutes, viewers are indeed closely attentive to the way the candidates look and act. But as the debate unfolds, issues come to the fore and, in the end, tend to have a greater impact on viewers' response to the candidates.

Second-by-second debate analyses indicate that the audience responds most favorably to the candidates when they are talking about an issue that people care deeply about and are able to frame their position in a way that shows they understand why people are concerned about the issue.³ Even though journalists dismiss most debate issues as old news, most viewers are not highly informed about the issues and rarely have the opportunity to listen at length to what the candidates have to say about the issues.

As a debate unfolds issue by issue, viewers keep something akin to a running tab on what the candidates are saying. After the debate is over, most viewers have difficulty describing in detail what the candidates have said, but they have no difficulty answering the question: "Which candidate came closer to expressing your views on the issues?" Their answers to this question—more than their answers to the question "Who won?"—are closely related to their voting intention.

Both candidates will have numerous opportunities in the debate to discuss issues that are of concern to viewers and that will supply them with new information. In the Shorenstein Center weekly national polls, we have been tracking Americans' awareness of the candidates' positions on a dozen issues and, even though the campaign has been going on for months, most people have only a limited amount of information about many of Bush and Gore's positions. On the typical issue, only 29% were able to accurately identify the candidate's position while 14% guessed wrong and 57% said they didn't know the candidate's stand.

The fact that most people are not highly informed about the issues may work to Gore's advantage. Gore's policy positions are generally closer than Bush's to those of most voters. Indeed, Gore has tended to gain support in the polls when issues are at the forefront of the campaign while Bush has done better during periods where the issues have been less prominent. Our surveys indicate that issues have receded recently in people's minds as the candidates' gaffes have dominated news coverage. Bush has strengthened his position in the polls during this period. The debate offers Gore an opportunity to get people thinking again about issues, just as he did to considerable effect during the Democratic convention.

² In this regard, a reason why Dole did not attack Clinton aggressively in the 1996 debates was the knowledge that it would almost certainly cost him the debate.

³ When one or more of these elements is missing, the viewer's reaction tends to be weaker. That's why, for example, viewers of the second Ford-Carter debate in 1976 took little notice of Ford's remark on Eastern Europe. It was not an issue that viewers cared about. Only after the news media made his remark the focus of its post-debate coverage, and portrayed it as a blunder, did the public attach importance to it.

Can the Debates Be Strengthened?

The televised presidential debates are a success story. At a time when political interest is waning, a debate still has the power to draw tens of millions of viewers to their television sets. A debate also meets the water-cooler test—the next day, millions of people share their impressions of what they saw and heard the night before.

A televised debate is more than an event. It is an act of community. For an hour and a half, millions of Americans involve themselves actively in a collective political experience. These moments do not always have a lasting impact. The 1996 debates failed to revitalize a sagging campaign. But the impact sometimes endures. Polls in September of 1992 revealed an electorate whose interest was fading. Analysts predicted that voter turnout would be no higher than in 1988. But the public's outlook changed with the debates and Perot's reentry into the race. Public interest in and satisfaction with the campaign rose dramatically. And as we know, turnout in 1992 turned sharply upward for the first time in three decades.

Although the debates are now nearly an institutionalized feature of the presidential campaign, there are still open questions about them. The most pressing may well be the test that will be applied to participation by third-party or independent candidates. The Commission on Presidential Debates, which is dominated by the major parties, has decided that the debates should be restricted to candidates who have the support of 15% of likely voters in pre-debate polls. Most Americans think otherwise. In our recent poll, 56% of the respondents said that Pat Buchanan and Ralph Nader should have been allowed to participate in this year's debate. Only 29% would have excluded them. These opinions characterize all partisan groupings—Democrats, Republicans, and Independents (see Table 5).

Table 5: Do you think third-party candidates should be allowed in the debates?

	All	Democrats	Republicans	Independents
Yes	56%	57%	55%	56%
No	29%	27%	31%	30%
Don't Know	14%	15%	14%	13%

There is also the issue of whether broadcast networks should be required to carry the debates. FOX has elected not to cover Tuesday's debate, and NBC has made it optional for its affiliates, bowing to pressure after first announcing that it would carry only a major league baseball playoff game. In our poll, respondents approved of NBC's initial decision by a narrow margin (49% to 45%).

The debates are too important to a presidential election to be dependent on the self-interested decisions of the major parties or the broadcast networks, although reasonable people can disagree on exactly which policies should govern the debates. Moreover, the debates need not be the only major opportunity for presidential candidates to speak directly and at length to the American people. Despite its decades-long leadership in the communication field, the United States has lagged in devising television forums that are designed to serve the needs of candidates and voters. In its "Nine Sundays" proposal a decade ago, the Shorenstein Center recommended the adoption of a series of prime-time candidate-centered broadcasts that would include, but not be limited to, debates. The basic principle underlying the proposed series was that the telecasts should be designed to enable the candidates to speak directly to the American people, yet under conditions where they could be immediately held accountable for their statements. As citizens increasingly drift away from the campaign, and as candidates increasingly show up on programs such as the Oprah Winfrey Show, it may be time to revisit the question of whether additional prime-time forums of the type outlined in the "Nine Sundays" report should be added to the television opportunities available to voters during the presidential general election.

About the Vanishing Voter Project

The Vanishing Voter Project is a study by the Joan Shorenstein Center on the Press, Politics and Public Policy at Harvard University's John F. Kennedy School of Government. Funding for the project is provided by The Pew Charitable Trusts. The project has the goal of strengthening public involvement in the presidential selection process. Through research, the project seeks to understand the factors that affect public involvement and to use this information to propose constructive changes in the election process.

A special feature of the Project is the weekly Voter Involvement Index (*see graph*). The index is based on questions asked in our weekly national poll of approximately 1,000 Americans.

The research also includes substantial multi-method efforts during key moments of the campaign to assess how structural variations (for example, debate formats) affect involvement. The Project's web site contains other timely survey results on election-related topics.

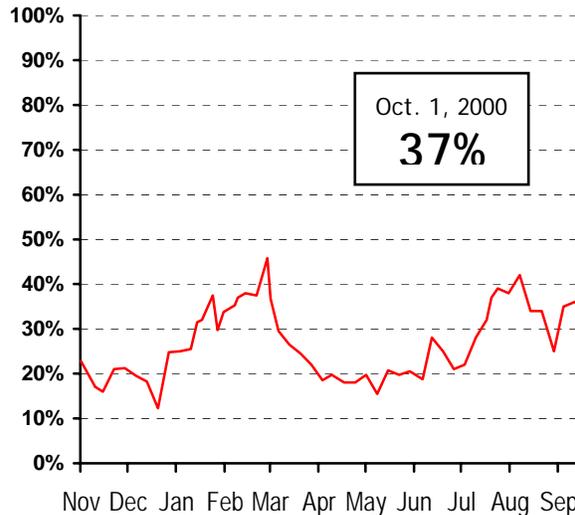
Research Directors

THOMAS E. PATTERSON is the Bradlee Professor of Government and the Press and survey director of the Shorenstein Center. He has conducted several major studies of the media's impact on the presidential selection process. His election books include *The Unseeing Eye* (1976), *The Mass Media Election* (1980), and *Out of Order* (1994). He is also the author of two introductory American Government textbooks: *The American Democracy* and *We the People*.

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Voter Involvement Index



The **VOTER INVOLVEMENT INDEX** is calculated by averaging the responses to four questions— whether people say they are currently paying close attention to the campaign, and whether in the past day they were thinking about the campaign, talking about it, or following it in the news.

The survey results reported here are from the Shorenstein Center's weekly national surveys of approximately 1,000 adults, conducted between November 14, 1999 and October 1, 2000. Each national poll has a sampling error of approximately plus or minus 3%. Additional results from the national surveys are available on the project's web site at <http://www.vanishingvoter.org/>.

Contact the Vanishing Voter

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About the Joan Shorenstein Center on the Press, Politics and Public Policy

The Shorenstein Center is located within Harvard University's John F. Kennedy School of Government. It is dedicated to exploring through research, teaching, and deliberation the intersection of communication, politics, and public policy. The Center was established in 1986 with a gift from the Walter Shorenstein family. The Center's advisory board includes distinguished journalists, scholars, and executives.

Exhibit 23

THIRD PARTIES IN AMERICA

*Citizen Response to
Major Party Failure*

Second edition, revised and expanded

STEVEN J. ROSENSTONE

ROY L. BEHR

EDWARD H. LAZARUS

PRINCETON UNIVERSITY PRESS

PRINCETON, NEW JERSEY

THIRD PARTIES IN AMERICA

Copyright © 1984 by Princeton University Press
Preface and Chapter 9 for the second edition © 1996
by Princeton University Press
Published by Princeton University Press, 41 William Street,
Princeton, New Jersey 08540
In the United Kingdom: Princeton University Press,
Chichester, West Sussex

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Library of Congress Cataloging-in-Publication Data

Rosenstone, Steven J.

Third parties in America : citizen response to major party
failure / Steven J. Rosenstone, Roy L. Behr, Edward H.
Lazarus. — 2nd ed., rev. and expanded.

p. cm.

Includes bibliographical references and index.

ISBN 0-691-02613-0 (pbk. : alk. paper)

1. Third parties (United States politics)—History. 2. Elec-
tions—United States—History. I. Behr, Roy L., 1958—
II. Lazarus, Edward. III. Title.

JK2261.R67 1996

324.273'09—dc20

96-510

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Committee on Production Guidelines for Book Longevity of the
Council on Library Resources

First printing of the expanded edition, 1996

Printed in the United States of America
by Princeton Academic Press

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The reemergence of the slavery issue, however, precipitated the death of the Whig Party. There was simply no way of reconciling the differences between pro-slavery Southerners and anti-slavery Northerners. Pro-slavery forces quickly found the Democrats more to their liking, while anti-extensionists became either Free Soilers or Republicans. Only those Whigs unpolarized by the slavery issue remained in the party. Displaced by the Republicans as a major party, old Whigs carried on for two more elections in the form of the Know-Nothing and Constitutional Union parties.

KNOW-NOTHING (AMERICAN) PARTY

Severe economic adversity in Europe drove record numbers of immigrants to the United States in the late 1840s and early 1850s. The backlash spurred by their arrival was almost immediate: secret nativist societies and clubs sprang up throughout the North, where most immigrants settled. The clubs did not originally intend to enter politics directly, but following the election of Democrat Franklin Pierce in 1852, for which immigrant voters were largely blamed (or credited), the New York-based Order of the Star Spangled Banner began to build a nativist coalition to nominate candidates for public office.

Although the two were not always separable, the party seemed more intense in its hatred of Catholics than foreigners. It welcomed foreign-born Protestants into the order, but "every Know-Nothing firmly believed that Papists should be barred from every office in the national, state, and local governments and, if possible, driven back to the priest-ridden lands from whence they had come" (Billington 1933, p. 386). This antipathy towards Catholics was in fact the party's sole basis for unity; the sectional divisions that plagued the nation as a whole were equally prevalent within the party.

The movement grew quickly. In addition to its anti-Catholic stance, the party's secret rituals and greetings attracted members. Their refusal to divulge any relevant information to outsiders led Horace Greeley to dub them the "Know-Nothing Party." Its candidates were remarkably successful in the 1854

candidates, they reduce the ability of independent challengers to hold the major parties accountable. The more difficult it is for citizens to support third parties, the greater is the major party deterioration required before voters are induced to back an independent. If the costs are too great, of course, the check on the major parties evaporates.

Proposals to raise the costs of third party voting would have severe negative consequences for American democracy. If the major parties closed off the third party route entirely, an important means of political representation would be lost. As long as minorities can threaten to damage both parties by a third party campaign, the major parties are encouraged to compromise with these groups. It is not clear what strategies disgruntled minority factions would pursue if the third party option were unavailable. It is unlikely that they could force the major parties to be more accommodating. Since they would have nowhere else to go, these groups might have to turn to less accepted forms of action.

Because third parties help to hold the major parties accountable to certain minority interests, one way to enhance minority representation in the political arena is to increase the opportunities for third party activity. The less the major parties are able to monopolize control of the government, and the more uncertainty there is over which party will enjoy an Electoral College majority, the greater the incentives for the major parties to tend to the minority concerns they would otherwise ignore. The less the rules of the game permit groups to be written off, the more accountable the major parties have to be. Because the current set of electoral rules reduces the likelihood of a third party significantly affecting election outcomes, the major parties can afford to be relatively unattentive to minority concerns.

THE FUTURE OF THIRD PARTIES IN AMERICA

The marked increase in third party voting since 1964 can be attributed to several factors. Increased intra-party factionalism and the inability of the major parties to realign around more salient concerns have been the two most important forces

Exhibit 24

Politics at the Periphery

*Third Parties in
Two-Party America*

J. David Gillespie

UNIVERSITY OF
SOUTH CAROLINA PRESS

Copyright © 1993 University of South Carolina
Published in Columbia, South Carolina, by the University of South Carolina Press
Manufactured in the United States of America

Library of Congress Cataloging-in-Publication Data

Gillespie, J. David, 1944-

Politics at the periphery : third parties in two-party America /

J. David Gillespie.

p. cm.

Includes bibliographical references and index.

ISBN 0-87249-843-3

1. Third parties (United States politics)—History. I. Title.

JK2261.G55, 1993

324.273'8—dc20

92-43973

They may be effective legislators as well, either in coalition with Democrats or Republicans or on essentially nonpartisan matters; but their numbers are far too small to enact third-party platform commitments without support from many in one or both major parties. Thus, assuming that third-party numbers remain relatively small, numbers are not the most crucial thing determining whether a third party will influence the policy-making process. That influence is more likely when a major party takes for itself an issue position that the third party has advanced previously.

The Usefulness of Third Parties: A Utilitarian Analysis

In dealing with political phenomena, scholars often use a technique called role analysis. They write of roles presidents play: chief executive, head of state, commander in chief. Party specialists also use role analysis. Just about any book on the subject will tell you that the main role of political parties—usually the writer is thinking about the major parties—is to link people with their political system. In doing so, parties discharge related roles or functions: (1) helping organize the political selection process, especially elections; (2) mobilizing citizen participation; (3) contributing to popular understanding of politics; (4) channeling and reducing conflict, thus helping build the consensus that democracy needs; (5) organizing and running the government and/or opposition.

Third parties also play roles. Though a third party may differ from the major parties or from another third party in the manner and impact of its role performance, Rosenstone and his colleagues rightly observe that third parties do play many of the roles also played by the Democrats and Republicans.²¹

Third parties carry out two additional roles that the major parties do not. First, they are a way for the dissident, the disaffected, to “blow off steam.” Thus they serve, often quite unintentionally, to undergird and stabilize the political system, including the pattern of just two major parties. Second, a third party may assist, by the example of its own popular appeal, in correcting the policy stands, even the ideological course, of a major. A third party therefore is, as Leon Epstein sees it, “a functioning element in two-party competition.”²²

There is, however, a severe and inherent limit on the usefulness of such role analysis when applied to third parties. Just think about it. When speaking of role playing one cannot escape thoughts of an assigned part within the already-written script of a play. In this case the play is

Table 1.2—continued

<i>Third-Party Platform(s) and Issues</i>	<i>Indications of Appropriation: Major Party Platform(s)</i>	<i>Subsequent Enactment: Constitutional Amendment or Congressional Statute</i>
Socialist Party (1904-1912)		
Female Suffrage	Democrat (1916); Republican (1916)	19th Amendment (1920)
Initiative and Referendum	---	None. But enacted in many states.
Government Ownership of Railroads	---	---
(Graduated) Income Tax	Democrat (1908)	16th Amendment (1913) and subsequent legislation
Shorter Working Hours	Democrat (1908)— limited application	Wages and Hours Act (1938); earlier laws in many states
Abolition of U.S. Senate	---	---
Abolition of Child Labor	---	Keating-Owen Act (1916) and state statutes
Socialist Party (1928)		
Public Works for the Unemployed	Democrat (1932, 1936)	Statutes passed in 1933
Unemployment Insurance	Democrat (1932, 1936)	Social Security Act (1935)
American Independent Party (1968)		
Toughness on Crime	Republican (1968)	Omnibus Crime Control and Safe Streets Act (1968) and subsequent legislation

Sources: Arthur M. Schlesinger, Jr., ed., *History of U.S. Political Parties*, Vols. II-IV (New York: Chelsea House, 1973); and *National Party Conventions, 1831-1980* (Washington, D.C.: Congressional Quarterly, 1983).

Exhibit 25

Citizen Perot

By Tom Morganthau | 3/13/10 at 9:28 PM

For a guy who said he'd fight this battle fair and square-campaign solely on the issues, talk about what matters to the voters and the country-Ross Perot made a passable attempt at kicking George Bush in the political groin last week. The vehicle was "60 Minutes," that bastion of establishment journalism, and the subject was dirty tricks. Now it can be told: Perot dropped out of the presidential race last July to protect his daughter Carolyn from a nefarious plot to disrupt her wedding. Then there was the plot to defame her with a lewdly doctored photograph, and the plot to tap his office telephone. Proof? Perot had no proof, and he admitted it. He had only the word of a notoriously flaky character named Scott Barnes, and warnings from two unnamed but allegedly well-connected friends in politics. End of subject: how dare you question my integrity?

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This, of course, is the oldest trick in the book-make a red-meat allegation to get the press slaverling for more details, then dance away from it. You want me to prove it? I told you all you need to know, so go find the evidence-I'm trying to run a serious campaign here. There were, however, two small glitches in this familiar scenario. First, Citizen Perot seems not to have learned Rule One of negative campaigning, which is to leave no fingerprints when transmitting nasty rumors to the press. This small omission-an amateur's mistake-led directly to the second problem, which was that the allegations blew up instantly in his face. Perot looked grandiose and paranoid-like something of a kook. His momentum toward quasi-respectability in the national polls, which began with his unlikely re-entry in the race on Oct. 1, suddenly collapsed, probably irreversibly. By NEWSWEEK'S latest national survey, Perot's support dropped from 22 percent to 14 percent between Oct. 23 and Oct. 28, a devastating loss so close to Election Day. More than half of NEWSWEEK'S sample said there had been no Republican plot to smear his daughter, and a large plurality of the voters-48 percent-thought Perot "relies too much on stories that are not backed up by hard evidence."

So this, in all probability, signaled the end of the Perot presidential bubble-one of the more bizarre episodes in modern politics, the story of a surpassingly strange romance between a bigmouth billionaire and a frustrated, disillusioned electorate. Who is this guy, and how did he wind up getting so much attention in a pivotal election year? How has he changed the process, and what is he likely to do next? What does his early success and ultimate failure tell us about Ross Perot, about American politics and ourselves? There can be no Perot came very close to upsetting the rickety apple cart we call the two-party system: possibly-just possibly-he could have gone all the way. Ed Rollins and Hamilton Jordan, the two political pros who briefly enlisted to run the Perot-for-president campaign, certainly thought he could, and no one can say that Rollins and Jordan are dumb.

Newsweek Magazine is Back In Print

Put it another way. At his apogee, in early June, Perot enjoyed the support of about 35 percent of the voting-age population, or about 65 million Americans. True, this support was fragile and highly conditional: roughly three quarters of all those who backed his candidacy said they would switch to another candidate if it appeared Perot could not win. But these numbers by themselves made plain fools of the pundits and analysts who dominate political journalism, and they scared the living daylights out of the Bush and Clinton campaigns-to say nothing of the hundreds of incumbent congresspersons now running for their political lives. The voters were speaking loudly, and they were mad as hell. Perot, part Daddy Warbucks and part John Q. Public, was well positioned to harness that anger and ride it, if he could, all the way to the White House.

The fact is he couldn't-but that is only hindsight, a verdict that rests in part on intuitive suspicions of Perot's rough-as-cob persona and even more on the post-July recognition that he did not really have what it takes to run for president. Shaken by the hard-nosed inquisitions of a national press corps that had finally recognized his potential, Perot pulled the spectacular bugout that left his followers in the lurch. To judge by the whispers from within his down-sized and deprofessionalized organization, he regretted it instantly and almost as quickly began plotting some sort of comeback. What we now see-and arguably could have seen all along-is that this second effort would eventually be undone by Perot's inclination to depict the motives of his rivals in the darkest possible terms. This is intemperate and a sign of questionable judgment. But it is not evidence, in any specific medical sense, that Perot is nuts.

Still, if character is destiny, it was inevitable that Perot would sooner or later give voice to the conspiratorial cast of mind that seems to have governed his adult life. He has always been a driven man--a boat-rocker and a maverick who is determined to prove that he is smarter and more nobly motivated than anyone around him. That is the theme of his short career in the U.S. Navy, his upstart success in the computer-services industry and his much-publicized feud with General Motors. I'm right and they're wrong: the system is not only bloated and inefficient, it is corrupt. That is the theme of his one-man assault on American politics this year: the system is broke, hopelessly compromised by its own shabby accommodations and terminally incapable of producing results. Millions of Americans essentially agree with this diagnosis, if not necessarily with Perot's prescriptions or his claims to high-minded competence. But for a few brief weeks in early summer, Perot looked like the answer to a disgruntled voter's prayer-the gritty, homely personification of the Horatio Alger myth come to politics, a megabucks Mr. Fixit with a Boy Scout sense of ethics and a penchant for putting things right.

This is straight out of "Mr. Smith Goes to Washington," the 1939 Frank Capra classic about the struggle of an ordinary citizen (Jimmy Stewart) to rescue government from a clique of venal politicians. It is a theme that has a long and honorable history in American politics-it was the driving impulse for the Progressive Movement, to cite just one pertinent example-and it is a role that Perot would dearly love to have scripted for himself. But now, with the darker side of his personality emerging, Perot seems less like Jimmy Stewart and more like Hal Phillip Walker, the mysterious third-party presidential candidate in Robert Altman's brooding 1975 film, "Nashville." Hal Phillip Walker is never seen on camera, though his voice is heard proclaiming that "what this country needs is some one-syllable answers." Sound like Ross ("It's just that simple") Perot? "Nashville" is all about the slick illusions of politics; Perot, with his tightly controlled, lavishly bankrolled, pseudo-grass-roots campaign, knows something about illusion making, too. And "Nashville," in the end, evokes the sense of dark forces at work behind the scenes-which is precisely the message that Perot, in his fumbling attempt to stick it to the Republicans last week, is now sending to his followers.

But the notion that Perot's appeal fundamentally depended on Americans' willingness to accept conspiracy theories of politics is elitist nonsense. His poll numbers at their June zenith were simply too high for that. The available demographic data suggest Perot scored best with registered independents with incomes of more than \$50,000 a year and with voters in their 30s and 40s the upper-middle segment of white-collar, suburban America, and people in their most productive years. This is hardly a profile of true-believing zanies-and these are not people who, as some have suggested, can rightly be seen as proto-fascists yearning for a dictator. Further, the decline in Perot's poll numbers after his July 16 withdrawal-he plummeted from 28 percent in mid-July to a mere 9 percent in early October-suggests that the bulk of his support came from swing voters who were searching for a presidential alternative in flexible, pragmatic ways.

What Perot did, in the view of many analysts, was act as a conveyor belt for swing voters and Reagan Democrats who had grown disillusioned with the Republican Party and George Bush. Like Jerry Brown, Perot catalyzed their anger at the special interests and the partisan games in Washington. Like Paul Tsongas, but more forcefully, he articulated the fear that America is in decline. And like no one since Jimmy Stewart's Mr. Smith, he evoked the dream of government without politics. That hope may be naive and even self-contradictory-true governance means making tough choices, and politics is the way democratic societies balance the demands of competing interest groups. But if anti-politics is ultimately illusory, it is a quintessentially American illusion. Perot not only voiced it passionately, he apparently believed it. And the immediate beneficiary was Bill Clinton, who jumped into the lead in this year's presidential race as soon as Perot pulled out.

His larger contribution may well have been to reinvigorate the election-year debate. With his paperback best seller and his twangy one-liners, Perot almost single-handedly forced the twin issues of deficit control and generational fairness onto the national agenda. This was wildly reckless by the prevailing canons of Dr. Feelgood politics, and it may be one reason Perot, with his blunt call for raising taxes on affluent retirees, had relatively lower support among over-65 voters. His concern for the national debt, similarly, may overstated: while most economists agree that the deficit will require firm action in the next year or so, few would go so far as to say that the budget must be balanced at all costs by 1998. But credit where credit is due: there was little or no sign that George Bush and Bill Clinton were prepared to discuss these primal issues before Perot re-entered the race.

Then there is the matter of Perot and the national news media. Most politicians have a love-hate relationship with reporters; Perot's relationship with the press, despite the media's love for good copy, was even less positive than that. Reporters detest a phony, and Perot has a touch of that: his self-deprecating humor and homespun zingers are part of his salesmans repertoire. Underneath, he's

egotistical, imperious and thin-skinned. He could not stand the press corps's skepticism, its relentless search for critics from his business years and, most of all, its interest in his family. He probably never understood that reporters are paid to ask impertinent questions and that somewhere in the hazing process a truer portrait of the candidate can emerge. The newsies, on the other hand, were mostly uninterested in the issues Perot was trying to promote and almost obsessive in their conviction that a major character flaw was lurking somewhere in his past. What they found, for the most part, was a culture clash-the conflict between Perot's straitlaced, military style and their own irreverent disregard for Norman Rockwell pieties.

The latest knock is that Perot, with his pie charts and paid political monologues, is both sloppy with the facts and wedded to an economic program that would punish low-income Americans. Both criticisms are arguably true, and they suggest that Perot, had he not dropped out of the race, might well have seen his positions on the issues carved up by the media and the opposition. Then again, maybe not: Ronald Reagan, who never mastered the details of his own programs and who was assuredly no champion of the poor, ran and won twice on the strength of his promise to straighten out the mess in Washington. The parallel runs further. Like Reagan and Jimmy Carter (though not George Bush), Perot appears to have gotten much of his strength from Middle America's simmering discontent with Beltway politics-its insularity, its arrogance and its failure to offer meaningful solutions to the nation's problems. Those problems-the federal debt, the health-care crisis, the decay of the cities-have only gotten worse through three successive administrations, and most Americans are well aware of that.

The message, which Perot deserves at least some credit for delivering one more time, is do something, even if it's wrong. Act like leaders; act as if the national interest mattered. Most voters know little about the ideological tong wars that have paralyzed Washington for the past 12 years, and only a minority of true believers on either side actually cares about them. Perot, with his hokey, transparently unworkable nonsense about electronic town meetings and restoring government to the people, was just as likely as Bush or Clinton to be stymied by this impasse and perhaps consumed by it. Our chance to find out what he would do, for better or worse, disappeared when he flamed out in last July-and given what we now know about his penchant for seeing political goblins under the national bed, that's probably just as well. But he remains one of the more fascinating and unpredictable figures of a wild election year, and he may well haunt the next president, and Congress, for years. Did Perot change U.S. politics in some important or lasting way? Probably not-but he is a true American original, and he has surely been fun to watch.

Do you think there really was a plot by Republicans
to smear Perot's daughter?

All voters

26% Yes

53% No

Perot Voters

50% Yes

20% No

For this NEWSWEEK Poll, The Gallup Organization telephoned 808
likely voters Oct. 28-29. Margin of error +/- 4 percentage points.

"Don't know" and other responses not shown. The NEWSWEEK Poll
copyright 1992 by NEWSWEEK, Inc.

From all you have learned about Perot, do you think better or worse
of him now than when he first put himself forward for president?

39% Better

42% worse

15% No change

NEWSWEEK Poll, Oct. 28-29, 1992

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Without Ross Perot, There Would Be No Deficit Deal

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August 5, 1993 | By Sandy Grady, Philadelphia Daily News

WASHINGTON — As a confirmed skeptic of Ross Perot, I never thought I would rise to the defense of the Texas bullshooter.

Not easy defending a billionaire who is egotistical, secretive, arrogant and fickle.

It's not fashionable to say a kind word for Perot when the Washington establishment from president to media heavyweights consider zapping Ross to be a blood sport.

The New York Times
COLLEGE STUDENTS, HOW ARE YOU PREPARING FOR THE REAL WORLD?
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And when he goes on television, which seems hourly, Perot can be as over-hyped and underclassd as the New York Mets.

Perot had the worst 30 minutes of his video career Sunday when he fell apart under water-torture by interviewers David Broder of The Washington Post, Al Hunt of The Wall Street Journal and Tim Russert of NBC.

He was flying high, attacking Bill Clinton's budget deal, when the panel grilled Perot about gaps in his own plan. Exactly how would he cut \$141 billion in Medicare and Medicaid?

In effect, Ross said the dog ate his homework.

"If you'd told me you were going to ask that, I'd come in with my charts," Perot said. "I don't have the list with me."

Pressed, Perot snapped, "You've asked me eight

times. You're trying to do a gotcha." Peering directly at the camera, he said, "Don't be scared by this hot air, folks."

Nobody chuckled more gleefully at Perot's televised meltdown than Bill Clinton. "It was wonderful," Clinton told reporters in a telephone hookup Monday. "Nice to see him answering questions for a change."

Clinton suggested sharply that Perot keep his nose out of the budget deal. "He doesn't have a vote in Congress. . . . To keep wallowing around in it won't serve anybody."

Translation: Run your speedboat, Ross, and mind your own business.

Well, forget the Clinton-Perot feud, guaranteed to blaze until the 1996 presidential vote. Never mind that Perot, who has an outsider's luxury of ducking specifics, had his bluff called on the NBC talk show.

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Without Ross Perot, There Would Be No Deficit Deal - Orlando Sentinel

Instead, let's do something contrary to the news media trend (and my own instincts): Give a couple of hurrahs for Perot, Washington's forgotten winner.

Oh, this is a dramatic week, with Clinton's \$496 billion deficit-denting deal facing a razor-thin vote. If it passes even if Al Gore breaks a Senate tie at 3 a.m. the Clinton White House will bust out champagne.

In truth, this should be Perot's week, Perot's triumph, Perot's celebration.

Without Ross Perot, there would be no deficit deal.

Think I'm overstating? As a witness to many Clinton '92 campaign rallies, I heard him rave about investing \$50 billion a year on crowd-pleasing stuff such as high-speed trains, national service so kids could afford college, worker training and 20th-century high-tech.

If Clinton mentioned reducing the deficit, it was tucked far down in a speech and drew faint applause. Never did he ever mention hiking gas taxes or taxes on the elderly.

James Carville would have stuffed a sock in his mouth.

No, it was Perot, a twanging Jeremiah with an eight-buck haircut, who alone harped endlessly about the deficit. After the election was over, he wouldn't shut up. Perot paid for his tube time to warn that \$300 billion-a-year deficits ("a crazy aunt in the basement") were chewing up America's future.

Face it, unless Perot's pesky needling aroused the public obsession, Clinton and the Democrats wouldn't push this tax-raising deal that could be a political death trap.

Perot should have held a rally on Capitol Hill and declared victory. Instead, and not for the first time, he's making a dumb PR move.

Maybe he can't stop talking. Or he's hyping his United We Stand membership. Or he's irked by Clinton's middling success. But Perot's noisily bashing the deficit deal as a "failure" and "Silly Putty stuff" that doesn't really stop the red ink.

OK, Perot's correct. And Clinton admits it.

"You're right. It doesn't do enough," Clinton said to critics. "Unless you do this, you can't go on to the second stage."

In fact, Clinton's deficit-cutting package is eerily similar to 1990's \$500 billion gizmo George Bush called "the biggest deficit reduction deal in history." Oops, another flop.

I suspect Perot, who still prattles of 50-cent gas taxes, is living in a fantasy of the 1992 campaign's "politics of change." Unlike Clinton, Perot hasn't had to wrestle gritty politics.

With the oil-state guys, Black Caucus, tobacco lobby and corporate cats squabbling, with no Republican help, with Dan Rostenkowski in trouble, it's amazing Clinton got even this mediocre deal.

Stop moaning and take a bow, Ross. It ain't perfect. But without your nagging, the 1993 deficit deal would never happen.

If it passes, Clinton will raise a glass of bubbly "to my friend Ross who made it all possible."

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Exhibit 27


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The 15 Percent Barrier

Since 2000, the CPD has required that candidates reach 15 percent in national polls to participate in the presidential debates. The criterion is the greatest obstacle to more inclusive presidential debates. The Seattle Times editorialized, "The 15 percent threshold suits the two parties. It unduly restricts the American people."

The problems with the 15 percent criterion are many:

The criterion disregards the allocation of taxpayer funds and the intent of Congress. Under the Federal Election Campaign Act, a party that receives five percent of the popular vote qualifies for millions of dollars in federal matching funds for the next election. Setting the criteria at 15 percent in pre-debate polls therefore raises the question: How is it that taxpayers can finance a candidate's campaign, and yet not be able to see or hear him? Mario Cuomo, former governor of New York, said, "Simple rule: If you're going to give them taxpayers' money on the theory that they're credible candidates, then you ought to let them participate."

The criterion directly contravenes the wishes of the majority of American voters. Seventy-six percent of registered voters supported Ross Perot's inclusion in the 1996 debates, and 64 percent wanted Ralph Nader and Pat Buchanan included in the 2000 presidential debates. Yet, they were excluded from the debates. The CPD is relying on polling data to reject third-party candidates even when such data often shows that a majority of Americans want particular third-party candidates in the debates. The CPD is posing the wrong polling question. If the CPD is going to rely on polling data, it should simply ask who the public wants in the debates.

The criterion irrationally requires candidates to prove their viability before the general public knows much about them. Congressman Jesse Jackson Jr. said that the 15 percent threshold "excludes non-major party candidates on the basis of polls from a public who has not yet had an opportunity to hear from those candidates." The CPD is essentially predicting, from premature poll numbers, who will not win the election, and excluding those

candidates. But aren't the voters, not the polling sample or the CPD, supposed to determine who will and will not win the election?

The criterion ignores the vast array of structural barriers that confront third party candidates. Non-major party candidates face the most discriminatory ballot access laws of any democracy in the world, a winner-take-all system that often considers them spoilers, massive financial contributions to the major parties, and consistently scant media coverage.

The criterion marginalizes the contributions of losing third-party candidates. Most third parties crumble. But, fleeting third-party movements have made remarkable social and political contributions. Third-party candidates have introduced popular and groundbreaking issues that were eventually co-opted by the major parties, such as: the abolition of slavery, unemployment insurance, social security, child labor laws, public schools, public power, the direct election of senators, the graduated income tax, paid vacation, the 40-hour work week, the formation of labor unions, and democratic tools like the referendum and the recall. Excluded third-party candidates can't break the bipartisan conspiracy of silence on issues where the major parties are at odds with most of the American people.

Richard Marin, pollster for The Washington Post, wrote, "The objection to the 15 percent cut point is exactly right. It's absurdly high." Applied historically, a 15 percent criterion would have excluded every third-party candidate from every televised presidential debate, except for self-financed billionaire Ross Perot. In fact, even a five percent criterion applied to all previous televised presidential debates would have excluded every third-party candidate, except for John Anderson in 1980 and Ross Perot in 1992 and 1996.

In response to any suggestion that the threshold for inclusion be lowered, the CPD's first and foremost line of defense is, according to Executive Director Janet Brown, that "over 200 candidates run for president every four years. We can't let all of them on stage."

Yet, talking about 200 candidates is entirely misleading. Granted, roughly 200 people file presidential candidacy forms with the Federal Election Commission every election, including candidates like Billy Joe Clegg of the Clegg Won't Pull Your Leg Party. But of the roughly 200 third-party candidates that run every four years, how many were on enough state ballots to mathematically have a chance of winning the presidential election? In 1988 only two third-party candidates, in 1992 only three third-party candidates, in 1996 only four third-party candidates, in 2000 only five third-party candidates, in 2004 only four third-party candidates, in 2008 only four third-party candidates, and in 2012 only two third-party candidates.

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Exhibit 28

EXPERT REPORT OF MICHAEL ARNO

1. My name is Michael Arno. I am the founder of Arno Political Consultants (“APC”), a company specializing in managing the qualification of ballot measures and candidates around the country and the world. I first began managing the qualification of ballot measures and candidates to a ballot in 1979, when I founded my company. Over the past 35 years, I have managed the qualification of nearly 700 issues and candidates to the ballot in 41 states and hundreds of cities, towns and counties across the country, and my company has collected more than 120 million signatures to qualify nearly 500 ballot initiatives in twenty states.

2. At the time that I founded APC, there was no real method for managing signature gathering drives, and so I created efficient processes to enhance the chances for success. The majority of the processes we have created at APC are used today by every other company that manages ballot access qualification. APC and I have also been sought out for work abroad. I have worked on signature gathering efforts with Ukrainians as they split from the Soviet Union in 1991 and on signature drives in France and Russia.

3. I have testified on ballot access issues in front of half a dozen state legislatures and have been used as an expert witness in dozens of legal cases. In 1991, I was called on by the European Parliament to help them draft their first attempt at citizen legislating. Later I was brought back to help them establish what is now the European Citizens’ Initiative (“ECI”) and have advised groups considering using the ECI process.

4. My company has been written about in *The New York Times*, *The Hill Newspaper*, *Politico*, *The Daily Beast*, *The Wall Street Journal*, *Forbes Magazine*, *The Los Angeles Times*, *The Chicago Tribune*, and *The Economist*.

BACKGROUND

5. The Commission on Presidential Debates (“CPD”) sponsors presidential debates held in the fall before the general election. The CPD has established three criteria to govern who is included in the debates: 1) the candidate must fulfill the constitutional requirements to be president, 2) the candidate must have ballot access in sufficient states to win a majority of Electoral College votes, and 3) the candidate must average a vote share of at least 15% in five public polls in September of the presidential election year.

6. I have been tasked with evaluating a proposal for a signature drive competition that would be used to select a third participant, other than the Democratic or Republican nominees, for the CPD debates held in the fall of each presidential election year. Under this proposal, a party, nominating process, or candidate other than the nominee of the Democratic or Republican parties (for brevity, this report will refer to a party, nominating process, or candidate as simply a candidate) would have to first meet the threshold of obtaining ballot access in states representing at least 270 Electoral College votes. Any candidate who met that threshold would be eligible to compete for a third spot in the debates. If more than one candidate met that threshold, the candidate that gathered the greatest number of signatures in the ballot access process as of April 30 would be guaranteed an invitation to the presidential debates.

7. In this report, I have drawn on my knowledge of and experience with the ballot access process to evaluate the proposed competition. Based on that knowledge and experience, I conclude that the winner of the proposed competition would be a presidential candidate with the potential to appeal to and ultimately win broad electoral support. What follows is a discussion of my reasons for that conclusion.

**ESTIMATING THE NUMBER OF SIGNATURES
NECESSARY TO WIN THE COMPETITION**

8. Access to the presidential debates is vital to any presidential campaign. The debates are one of, if not the, most watched events of the campaign, and they therefore provide an unparalleled opportunity for a candidate to communicate his or her message. In the history of general election presidential debates, third-party or independent candidates have only had that opportunity in two election cycles, and the last time one such candidate appeared in the debates was more than twenty years ago. Given the importance of participating in the debates and third-party and independent candidates' typical exclusion from them, one would expect non Democratic and Republican candidates to hotly contest the proposed signature competition.

9. One cannot be sure of the number of signatures that the eventual winner of the competition will gather, but it is possible to make an informed estimate. The proposed signature competition is not without parallels. In other contexts, our democracy relies on signature collection as a means of obtaining the right to be placed before the voting public. Chief among these contexts are access to the ballot as a presidential candidate and for citizen-sponsored ballot initiatives or state constitutional amendments. The signature gathering process and experience in these contexts provides a basis for estimating a likely winning number for the competition.

10. It is not easy to gain access to the presidential ballot in all 50 states. Because of past performance, the nominees of the Democratic and Republican parties automatically have universal ballot access. That is not true for third parties or independent candidates.

11. For independent candidates – that is, candidates running without any party affiliation whatsoever – obtaining universal ballot access would require conducting signature

drives. The total number of signatures the independent candidate will need in 2016 for universal ballot access is approximately 1,049,512.¹

12. For minor or third party candidates – that is, candidates running as the nominee of a party other than the Democratic and Republican parties – gaining ballot access is even harder. New and/or minor parties are often required to collect in some cases a sizeable number of signatures to demonstrate popular support.² To qualify for the ballot in all 50 states, a new third-party would have required 1,767,765 signatures in 2012.³

13. Although the competition would not require presidential candidates to gain access in all 50 states, in practice presidential candidates typically attempt to gain ballot access in as many jurisdictions as resources allow. The benefits of that strategy are many, including increasing the candidate’s credibility; increasing his or her ability to compete for Electoral College votes; and increasing his or her ability to obtain sufficient popular votes to qualify for public campaign financing in the next election. Seeking access in as many jurisdictions as possible also minimizes the adverse competitive consequences if a candidate’s efforts to obtain ballot access fail in one state or another.

14. Other relevant data points are the signature requirements to place initiatives and constitutional amendments on state ballots. In most states, the number of signatures required for placing an initiative on the ballot range from 3% to 10% of registered voters. For example,

¹ This number is subject to change somewhat, because in some states the number of signatures required is a function of voter turnout in the prior election, and thus will not be determined until after the 2014 election.

² In certain states, a third party can obtain ballot access for its eventual nominee without obtaining signatures. The most common alternate avenue of access is sufficient popular vote performance in prior elections in the state. The national third parties that typically field candidates for presidential office have access to very few state ballots under these alternative methods.

³ The requisite number for 2016 will be similar, but not identical. In some states, the precise number of signatures required to obtain ballot access as a third party is a function of voter turnout in the prior election or the number of registered voters, and thus changes from cycle to cycle.

constitutional changes in Florida require 8% of votes cast in the last presidential election to reach the ballot – nearly 700,000 net valid signatures; California proponents need 8% of votes cast for governor, or more than 807,000 signatures; and Ohio requires 10% of votes cast for governor and has an additional barrier that the same threshold must be met in 44 of the state’s 88 counties. This works out to more than 500,000 net valid signatures. In all cases, it is advised that ballot issue proponents collect an additional 25-30% of the net valid signatures required in order to make up for signatures from non-registered signers and an insurance pad of signatures since most states only allow a single filing of petitions with no ability to cure deficiencies in order to reach the ballot.

15. The presidential ballot access signature drives and voter initiative signature drives described above draw intense resources and often intense interest and can require more than 1 million signatures. A national contest for access to the presidential debates, the winner of which would share a stage with the Democratic and Republican nominees for president, would certainly drive even greater competition and interest. Based on my experience, I estimate that such a contest could easily produce a winning number of 4 million or more signatures.

THE RESOURCES NECESSARY TO COLLECT SIGNATURES

16. The resources necessary to mount any national signature drive campaign are significant. This is clear from the small number of third-party and independent candidates who qualify for ballot access in states comprising a majority of Electoral College votes. Since 1988, the greatest number of such candidates to meet that threshold in any given election was five (in 2000), and was often three or less. The resources necessary to gather the signatures required to win the proposed competition would be significant.

17. In 2012, I managed the ballot access process for Americans Elect, which sought ballot access in all 50 states as a minor party. A signature drive campaign of that magnitude required significant planning and coordination. Our planning began in August 2010. We began collecting signatures in August 2010 and had reached a level of qualification in 41 states by May 2012, collecting approximately 3,850,000 signatures. That effort required 1500 signature gatherers, and a management and support staff of more than 50 people. The cost of reaching the ballot was more than \$13 million. That cost includes paying the staff that runs the signature campaign, paying for persons to collect signatures, legal costs related to ballot access, and travel and other incidentals as needed.

18. This \$13 million figure for the Americans Elect drive is consistent with other signature campaign drives I have run. My firm recently managed the qualification of constitutional amendments in both California and Illinois. In California, the overall budget to collect 1.2 million signatures was nearly \$5 million. In Illinois, the cost to collect just under 600,000 signatures to reach the ballot was more than \$1.7 million.

19. These experiences provide a useful barometer for estimating the cost of winning the proposed debate signature drive competition. Extrapolating from the data above, the cost of obtaining 4 million signatures could be approximately \$13 million or more. Even if one assumes that the winning campaign could obtain cost savings or greater efficiencies, in my experience, I am confident that the cost of obtaining 4 million signatures could not be less than two-thirds of the \$13 million figure.

**THE WINNING CANDIDATE WOULD HAVE
THE POTENTIAL FOR BROAD ELECTORAL APPEAL**

20. The campaign that won the signature drive competition would be a campaign with the potential for broad electoral appeal. The resources and level of coordination to win a

national competition of this magnitude alone demonstrate the ability to develop and organize an effective campaign apparatus. Obtaining 4 million signatures is also a significant demonstration of popular support.

21. When creating ballot access and state and local initiative rules, legislators have recognized the need for substantial proof of support from citizens for candidates and ballot issues to be placed before the voters. Signatures have long been considered an appropriate measure of popular support. The act of signing requires a voter to go on the public record with a signature attesting that the candidate or initiative deserves to be considered at the polls. Accordingly, more than two dozen states have allowed the collection of signatures to be a standard for expression of support for ballot measures and all but a handful of states use a signature-gathering threshold for candidates and minor parties to reach the ballot.⁴ Moreover, 4 million signatures would be more than 3% of the total turnout in the 2012 presidential election. Achieving support from that proportion of the electorate is similar to the judgment of numerous states for the amount of support necessary to grant initiatives or third parties access to the ballot.

22. Gaining signatures also requires communicating the campaign's message to voters through 1-on-1 voter contact. Any signature drive campaign develops messaging for the signature gatherers to deliver to the public. Signature gatherers are employed with a script to communicate the campaign's message, and must be prepared to respond to voter questions. That is particularly important with candidates or parties that are not well known, as people routinely ask questions about what the candidate or party for which signatures are sought stands for in order to decide whether to sign. Thus, as a campaign collects signatures, it is communicating a

⁴ There is not a single state citizen referendum or ballot access law that allows a referendum proponent or candidate to simply conduct a public opinion poll – or several polls – to demonstrate enough popular support to gain ballot access.

honed message to millions of voters, and in a personal way. And this kind of personal contact is a key to developing lasting political support – numerous studies have shown that one-on-one contact is the most effective way to mobilize supporters.⁵

23. The 4 million signatures will also come from a broad section of the population. The signature gathering will occur in all different types of cities and towns, and different types of locations; the resulting signatures will therefore come from every state, from every demographic group, from every party affiliation and non-affiliation, and from every age group. When gaining ballot access, a candidate or candidate’s representatives will be meeting millions of people – based on response rates from other signature drive efforts, getting 4 million signatures would likely require soliciting at least 6-8 million people for their signature.

24. The success of solicitations will, of course, depend on the candidate’s appeal. In my experience, the conversion rate – the percentage of people solicited who decide to sign – differs based on the candidate’s platform. For example, I managed an attempt by a wealthy individual to qualify for the ballot as a presidential candidate in 1992. His political views were outside the mainstream and, as a result, far fewer people were willing to sign a ballot access petition on his behalf – it was very difficult to convince people to sign. Conversely, in my experience, candidates who hold views that are more in the political mainstream (and thus appealing to more voters) have much higher conversion rates. This in part reflects the random nature of the solicitation process. A signature gatherer does not know the politics of a person he or she stops on the street. Since it is more likely that that person is in the political mainstream

⁵ See *Lessons from Recent GOTV Experiments*, Yale University Institute for Social and Policy Studies, <http://gotv.research.yale.edu/?q=node/10> (last visited Aug. 6, 2014) (“[M]any results suggest that it is the dynamic interaction of authentic person-to-person contact that is most important in determining whether a method will successfully mobilize voters.”).

than at the political fringes, a candidate in the mainstream is more likely to gain that person's support.

25. In light of the number of signatures and voter solicitations needed, the cost of sustaining such an effort, the wide range of demographic groups that will be represented in the millions of signatures collected, and the higher conversion rate for more mainstream candidates, it is my opinion that winning the signature drive competition will constitute a significant demonstration of a candidate's ability to obtain broad electoral support.

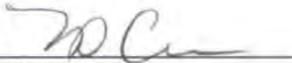
**THE SIGNATURE DRIVE COMPETITION
CAN BE CONDUCTED IN A FAIR AND TIMELY FASHION**

26. A significant virtue of the signature drive competition is that it provides an easily quantifiable metric – determining the winner only requires counting the signatures. A third-party accounting firm could be utilized to count and certify the number of signatures in support of each candidate, and it could implement measures to detect and prevent fraud. In doing so, both candidates and the CPD will have a reliable way to determine who has collected the most signatures. The competition will also ban fraudulent and illegal practices, as well as require candidates to certify that they complied with all the relevant state laws governing ballot access petitions. This will serve as additional deterrents to fraud. Moreover, candidates competing for the spot in the debates will have an incentive to police the activity of their competitors and thus root out any fraud or illegal activity (e.g. paying people to sign). For these reasons, I do not believe there is a significant risk of misconduct affecting the competition.

27. Existing state laws also provide natural start and end dates for the competition. Virtually all states have laws establishing start dates for candidates to begin gathering signatures for ballot access, some as early two years before the collection. Under the competition, a candidate could not begin collecting signatures in a state until the state permits signature

collection to begin for purposes of ballot access.⁶ Deadlines for when signatures must be presented to state agencies vary as well, but April 30 is a sensible cutoff date for various reasons. First, some states will have already had their signature deadlines for third-party qualification at or before that date. Second, even in states with later deadlines, viable candidates plan for and execute signature collection well before the deadlines. And other aspects of the ballot access process in some states, like identifying and certifying presidential electors in connection with the ballot access petition (which some states require), necessarily require advance planning. Third, April 30 also corresponds to when a significant number of major party primary elections will have been held; indeed, in almost all cycles, the two major party's candidates will be decided by April 30, and thus two of the participants in the fall debates will be set. April 30 is thus a natural deadline for the completion of the signature drive competition since it enables identification of the third debate participant to occur roughly contemporaneously. At that point, all three candidates will be on a level playing field six months prior to an election.

Dated: Sacramento, California
September 5, 2014


Michael Arno

⁶ Some states permit collection of signatures at any time. For these states, the competition could begin no earlier than the earliest date provided for under any state's law for collecting signatures.

Exhibit 29



October 7, 1992

THE 1992 CAMPAIGN: Polls; Despite Perot's Re-entry, Clinton Retains Big Lead

Gov. Bill Clinton continues to lead in the Presidential race, according to five nationwide polls taken since the re-entry last Thursday of Ross Perot raised the possibility of changing the dynamics of the race.

When the five polls are averaged, the result is 48 percent for Mr. Clinton, 36 percent for President Bush and 10 percent for Mr. Perot.

A New York Times/CBS News Poll taken over the weekend found Mr. Clinton leading Mr. Bush by eight percentage points. That was virtually unchanged from the Times/CBS Poll taken in mid-September, when Mr. Perot was not an announced candidate, though his name was on the ballot in all 50 states. In the latest poll, 934 registered voters were weighted to reflect a "probable electorate." Support was 46 percent for Mr. Clinton, 38 percent for Mr. Bush and 7 percent for Mr. Perot.

Other polls had similar results. A Newsweek poll placed Mr. Clinton's lead in the three-way race at eight points. In late September Mr. Clinton held a nine-point advantage in the Newsweek poll. The latest poll was taken with 752 registered voters.

A Washington Post/ABC News Poll of 799 likely voters reported an 13-point lead for the Arkansas Governor.

A Harris Poll of 1,015 likely voters had the largest margin for Mr. Clinton, 17 points.

Most polls are conducted over several days, and the resulting random sampling of voters is then weighted to reflect national demographics. But during an election season some organizations conduct "tracking polls," in which a new, smaller sampling of voters is surveyed each day. Usually, the results of several days are then combined.

In a tracking poll for CNN and USA Today, Mr. Clinton leads by 12 points. The three-day survey was conducted with 1,011 registered voters.

The margin of sampling error for The Washington Post-ABC News Poll and the CNN-USA Today Poll was plus or minus four percentage points. The potential error for the other polls was three percentage points.

Chart: "Recent Polls" New York Times/CBS News Oct. 2-4 Bush/Quayle: 38 Clinton/Gore: 46 Perot: 7 Washington Post/ABC News Oct. 2-4 Bush/Quayle: 35 Clinton/Gore: 48 Perot: 9 Gallup for CNN/USA Today Oct. 2-4 Bush/Quayle: 35 Clinton/Gore: 47 Perot: 10 Harris Oct. 1-4 Bush/Quayle: 36 Clinton/Gore: 53 Perot: 9 Gallup for Newsweek Oct. 1-2 Bush/Quayle: 36 Clinton/Gore: 44 Perot: 14

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