

**Questions for the Record  
Mythili Raman  
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U.S. Department of Justice**

**Subcommittee on Crime and Terrorism  
Committee on the Judiciary  
United States Senate**

**“Current Issues in Campaign Finance Law Enforcement”  
April 9, 2013**

**QUESTIONS POSED BY SENATOR CHARLES E. SCHUMER**

- 1. Acting Assistant Attorney General Raman, in your testimony you state, “When the public and law enforcement can see who is making contributions, the Department can better detect, investigate, and prosecute contributions exceeding statutory limits, contributions from banned sources, and bribes.”**

**How should our disclosure laws be changed to help with enforcement?**

**Response:**

The Department’s efforts to enforce our campaign finance laws would be assisted by laws designed to provide reasonable public disclosure of large contributions to 501(c) organizations engaged in significant election-related spending by requiring timely reporting of such contributions to the Federal Election Commission (FEC). The Department would further welcome legislation providing a clear and commonsense definition of illegal coordination. We stand ready to assist Congress in developing such measures.

- 2. In your testimony you state that “enforcement of our campaign finance laws is a top priority.” At the same time, you state, “An individual or entity seeking to skirt existing legal limitations under the campaign finance laws through contributions to a 501(c) may do so free from public disclosure of donors to the FEC, with a lack of any required disclosure to the IRS coincident with the contribution, and with restrictions on prosecutors’ access to any eventual IRS disclosures.”**
  - a. Do our campaign finance laws create a disincentive to filing accurate reports regarding campaign spending? What are options for creating an incentive to filing accurate reports regarding campaign spending?**

**Response:**

Because 501(c) organizations may accept unlimited contributions and need not disclose their donors to the FEC, there may be an incentive for donors to circumvent public disclosure requirements by contributing to 501(c) organizations engaged in significant election-related spending, rather than to entities that must disclose their donors to the FEC. Moreover, the influx of unlimited and undisclosed money to outside organizations, and opaque rules regarding what constitutes coordination, may create an incentive for campaigns to coordinate their activities with these groups. However, such coordination may turn expenditures by outside organizations into contributions to the campaign—contributions that may be prohibited because they exceed the limitations on amounts of contributions or because they come from prohibited sources. This could be addressed by a clear and commonsense definition of illegal coordination, and by requiring timely reporting to the FEC of large contributions to 501(c) organizations engaged in significant election-related spending. The Department recognizes that disclosing the names of donors to 501(c) groups is a complex issue, and is ready to assist the Committee in developing measures that are narrowly tailored to the goal of ensuring that our campaign finance laws are not circumvented.

- b. What changes to current law, regulation and/or practice would permit DOJ prosecutors and the IRS to work together more effectively to ensure enforcement of our campaign finance laws?**

**Response:**

As noted above, a law requiring timely reporting to the FEC of large contributions to 501(c) organizations engaged in significant election-related spending, and a clear and commonsense definition of illegal coordination, would assist the Justice Department's efforts to prosecute violations of our campaign finance laws, where appropriate and consistent with the Principles of Federal Prosecution.

- 3. Foreign citizens, foreign corporations, and foreign labor unions are prohibited from giving or spending money on U.S. elections, but a foreign donor may donate to a U.S. nonprofit. In some cases, the U.S. nonprofit may not know the true source of a donation if a shell corporation or other intermediary is used. The Internet could also be a source of foreign contributions that are hard to trace.**

- a. Does the DOJ have any evidence that foreign money might have been spent on the 2012 elections? If so, please describe the evidence and the amount of money at issue.**

**Response:**

We cannot comment on the existence of uncharged allegations or investigations. However, the Department has charged two cases involving illegal contributions of foreign funds in prior election cycles. One case involved contributions to an unwitting federal candidate in South Carolina from 2006 to 2009. The defendant in that case was convicted by a jury on March 1, 2013. The other case involved a Jordanian national who allegedly made contributions in the names of others in 2007 and 2008 to three

unwitting Presidential campaigns and an unwitting Florida state campaign. The charges against that defendant remain pending.

**b. What is the DOJ doing to prevent foreign money from influencing U.S. elections?**

**Response:**

The Department is responding to the challenge of potential foreign influence over elections at any level of American government by continuing to train its election crime prosecutors and investigators regarding the issue; by working with law enforcement partners to insure that intelligence concerning potential illegal conduct is properly shared with criminal investigators; and, if wrongdoing is detected, by bringing criminal prosecutions, where appropriate and consistent with the Principles of Federal Prosecution, against those funneling foreign money into U.S. elections.

**c. What safeguards exist to ensure that a 501(c) engaging in political activity is not accepting and using donations from foreign sources for political activity? Does DOJ have access to information necessary to enforce the ban on use of foreign donations for political activity? Please elaborate.**

**Response:**

501(c) organizations are required, on an annual basis, to describe their spending and to disclose their donors to the IRS. The IRS may thus be in a position to identify where a 501(c) organization engaged in election-related spending has accepted contributions from foreign sources, unless the 501(c) organization is falsely reporting donor information. That contribution information is not available to the Department's election crime prosecutors and investigators outside the context of a specific investigation.

## QUESTIONS POSED BY SENATOR AMY KLOBUCHAR

4. **Executive Branch Role - Given that legislative solutions may be difficult to enact, what the most important steps that executive branch agencies, including the FEC, IRS, and the FCC, should take in providing oversight of the activities of Super PACs and other related groups?**

**Response:**

Because the FEC, IRS and FCC operate independently of the Department of Justice, the Justice Department is not in a position to comment on what, if any, additional steps those agencies should take in providing oversight of the activities of Super PACs and related groups. The Department, however, stands ready to work with those agencies, where appropriate and consistent with the Principles of Federal Prosecution, to continue to vigorously investigate violations of our campaign finance laws and our anti-corruption laws. We also stand ready to assist Congress in developing legislation that could improve the Executive Branch's oversight capabilities in this area.

5. **Rules on Coordination - Could the IRS or the FEC make stronger rules to curb coordination between outside groups and candidates? What could such rules look like?**

**Response:**

It would not be appropriate for the Department to comment on the independent regulatory efforts of the IRS and the FEC. However, as a general matter, the Department's efforts to enforce our campaign finance laws would be assisted by laws designed to provide reasonable public disclosure of large contributions to 501(c) organizations engaged in significant election-related spending by requiring timely reporting of such contributions to the FEC. The Department's enforcement efforts would also benefit from a clear and commonsense definition of illegal coordination. We stand ready to assist Congress in developing legislation in this area.

6. **Impact of Citizens United - There has been a lot of discussion about what the real world impact of Citizens United has been and will be going forward.**

- a. **Can you describe in general terms what trends or major shifts you have seen in campaign finance since the Citizens United ruling?**

**Response:**

The Department has worked aggressively to combat corruption and the appearance of corruption through rigorous enforcement of the limitations on the amounts and sources of contributions set forth in our campaign finance laws. Those limitations have formed the basis upon which we have brought numerous federal criminal cases, with most involving the use of conduit contributions to disguise the true source and amount of illegal contributions.

The trend since *Citizens United* is that very large sums are now raised and spent by Super PACs and certain 501(c) organizations. These Constitutionally-protected expenditures are not “contributions” to a campaign and, thus, are not subject to the source and amount limitations that have traditionally provided the basis for criminal charges.

**b. What, in your view, has this done to the public’s perception of our elections and our government?**

**Response:**

In the wake of *Citizens United*, the Department is concerned that the lack of a clear and commonsense definition of illegal coordination between campaigns and independent expenditure entities, and the lack of public disclosure of large contributions to 501(c) organizations engaged in significant election-related spending, have increased the opportunities for unseen quid pro quo corruption. Such corruption, where it occurs, undermines the fairness of our elections and the legitimacy of our government.