Charitable fraud and abuse call for attention from regulators and other observers of nonprofits and their work in a special way. There are many reasons why this attention is needed. Charitable fraud has special characteristics, especially for its victims. Commercial fraud is usually based in greed – the victim often hoped and expected to get more than just deserts from the proposed transaction. Charity fraud, in contrast, is based in generosity – the victim expected nothing in return from making the gift, volunteering for the project, lending support to the cause. And got less than nothing, only the rude discovery that the good intentions reflected in the act have been misappropriated by a scoundrel. Because many charitable gifts are small, and most donors are inattentive, a call for some focused protection by government makes intuitive sense and, on close examination, turns out to be good public policy. The challenge discussed here is matching the details of this protection to the changing realities of the world of fundraising.

Consider the impact of the Internet. In less than 25 years, the Internet has become part of the everyday life of millions of households, millions of businesses, millions of nonprofits. By the time the National Association of State Charities Officials met in Charleston, SC, in the year 1999, there were already 180,000 nonprofits with pages on the World Wide Web – many, of course, seeking donations as well as other forms of support for their causes. Recognizing that Internet fundraising altered the landscape, the officials developed “The Charleston Principles” as general guidelines about how regulators might view solicitations taking place via web pages, email blasts, and other emerging communications tools. 1

A decade later, the use of the Internet in these and other ways is now commonplace. In the middle of May 2012, a quick Google search turned up 5.5 million “donate now” pages and 60.1 million pages that include the word “donate”. Of course, many websites include multiple pages that may all show the “donate” button and there are, of course, many other ways that word might be used that don’t involve fundraising in any practical sense of the term.

On the other hand, a Google tally is becoming less and less reliable as a measure of Internet activities. Many of the most talked-about new services do not generate “pages” that Google can “crawl” and add to its comprehensive database. The activities on Kickstarter, the circulation of appeals among circles of “friends” at Google+ or Facebook, instant messaging about disasters (or happier special events), charitable “coupons” and other deals – these sorts of activities, and many more, most likely don’t get collected into any sort of summary measures to help observers, policymakers, or regulators get a sense of it all.

These changes are important for fundraising, and for the regulation of fundraising, for a long list of reasons. Here are two: It is indisputable that the most effective ask for any charitable cause is one that is made from personal conviction by a trusted acquaintance. Social media afford, among other things, opportunities for a vast expansion in the ways individuals can make, and respond to, such asks. Unfortunately, social media also provide many opportunities for related abuses that are often invisible even to direct participants – askers and askees. Further, it is widely

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1 http://www.nasconet.org/wp-content/uploads/2011/05/Charleston-Principles-Final.pdf I gave a talk at the 1999 conference sketching the dimensions of the opportunities the Internet offered for expansion of fundraising, new forms of fraud, and challenges to regulators.
noted that social media are not geographically based. For myself, it is one of the joys of participating in these new forms of connection that I get to see pictures of grandchildren of college chums who live in Hong Kong or Rome and hear personal thoughts on political issues by candidates for local office in towns I haven’t lived in for years.

This lack of geographic connection links fundraising using social media to one of the longest-running areas of contested ground in fundraising: the often bitter rivalry between explicitly place-based drives and a broad array of media-based campaigns directed, and benefiting, causes based elsewhere. This 1910 Library of Congress photo is from the Chicago Daily News archives.\(^2\) It shows a United Charities thermometer displaying the progress of the annual fund drive for that year. It is typical of a movement that grew across urban America in the first half of the 20\(^{th}\) century which saw established health and welfare agencies banding together to raise and allocate funds broadly in the communities they served and, following a 1910 innovation from Elmira, NY, guarantee contributors “immunity” from further appeals from the same causes during the balance of the year.\(^3\)

In contrast, in the White House mailroom in 1938, staffers counted 2.7 million dimes that arrived in mail sack after mail sack in support of research and care to fight the scourge of infantile paralysis (also from the Library of Congress photo archives). This outpouring marked the first annual celebration of President Franklin D. Roosevelt’s birthday by a “March of Dimes” The local organizations had the benefit of a community presence, the support of business leaders and well-organized cadres of volunteers. Increasingly, especially from the 1930s on, they relied heavily on workplace solicitations and payroll deductions to support a list of organizations with household names and ties to both struggling neighborhoods and established elites. These local organizations struggled both to raise and to allocate funds that kept critical local agencies afloat. Their work often included attempts to screen individual applicants for assistance to prevent “double dipping” and other abuses of the limited resources available for relief of the poor and assistance to families with other needs.

The broader national campaigns benefited, in contrast, from professionally managed fundraising departments and access to both technical resources – for development of compelling materials (like this Jewish Relief Campaign poster found on Flickr) and handling of increasingly sophisticated lists of addressees for their appeals – and national media. As with the March of Dimes, their campaigns were often conducted during a designated few weeks simultaneously across the entire country. For better or worse, the funds they raised were managed from afar, whether to support a sanitarium in a suitable climate or fight a sudden outbreak of disease in one community or a natural

\(^2\) I am grateful to my daughter, Lucy G. Barber, for locating these archival images.

disaster in another. During the First World War, a national mobilization in support of America’s war effort resulted in the creation of thousands of “War Chest” campaigns, largely organized in cooperation with, and often by, the same community leaders who had been experimenting with united campaigns in the preceding years. Simultaneously, national appeals were launched for relief of refugees and displaced persons, to support soldiers and their families in the face of the dangers and destruction of warfare, and to respond to the national loyalties of immigrants, the needs of co-religionists, and the distress of civilian populations.

The appeals multiplied. The difficulty of choosing among them — compounded by the many possibilities for waste and a few accounts of outright frauds — overwhelmed the capacity for assessment by donors and local fundraising campaigns. One result was the formation of the National Information Bureau on War Charities at a meeting of organizers of community-based campaigns in Cleveland in 1918. This organization undertook to examine and certify both the effectiveness and the financial probity of the sponsors of national campaigns and the providers of services both at home and abroad.

That task is, it turns out, fraught with its own difficulties. Over the ensuing decades the activities of nonprofit “watchdogs,” standards-setting bodies of lawyers and accountants, state and local regulators, and the IRS have highlighted just how hard it is to distinguish shameful abuse of the public’s generosity from responsible efforts to address difficult problems while drawing on public support. Often the focus of this effort has been on controlling “excessive” costs of fundraising. Sometimes attention has been drawn to genuinely exploitive fundraising tactics such as contracts that guarantee a high fee to a for-profit firm while leaving only a tiny residual to be applied to the cause. Local ordinances were adopted in many communities in response; often they focused on restricting the proportion of a campaign’s proceeds that could be spent on fundraising or denying a license to fundraise in the regulating community to any organization that could not operate within such limits. Such comparisons of fundraising costs were often made with an eye to discrediting the appeals of the national independent organizations by comparison to locally-operated federated campaigns. In the years following the Second World War, strong feelings on both sides led to a protracted and often public rivalry between the local advocates for federated fundraising and the organizers of successful national campaigns that often focused on addressing a particular disease.⁴

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⁴ I’ve explored these themes at greater length in “Regulation of U.S. Charitable Solicitations Since 1954” (forthcoming in Voluntas) and in presentations at several conferences.
In the hope of settling controversies like these, the Lilley Endowment supported an intensive research project led by John R. Seeley, a sociologist from the University of Toronto. The resulting book, *Community Chest: A Case Study in Philanthropy* (1957) offered instead a glimpse of how bitter the rivalry had become. As reported by Carl Milofsky in his introduction to the 1989 reprint of *Community Chest*, Seeley’s report that there were no grounds for strongly preferring one method over another so disturbed the advocates for federated fundraising that their national association organized a successful campaign to discredit the book, causing it to be negatively reviewed in professional publications and, often, removed from library shelves in social work and similar schools.\(^5\)

In the 1980s, the U.S. Supreme Court ruled that restrictions on the cost of or proportion devoted to fundraising violated the First Amendment rights of organizations seeking to raise funds. Since that time, many state and local regulators have focused efforts on collecting and publishing basic financial data for campaigns within their jurisdictions and from contractors assist with key tasks in local fundraising campaigns. Though this form of rivalry has subsided in recent years, concern about “excessive” costs and “bogus” charities continues to this day. And with reason. Two recent headlines demonstrate the endurance of these sad themes:

**Lawmakers to Investigate Disabled Veterans Charity**

The Senate Finance Committee is launching an investigation to determine whether a charity intended to help disabled veterans deserves its tax-exempt status after doling out millions of dollars to a direct-mail company.

- *CNN Special Investigations Unit*, May 23, 2012

**Fugitive Suspected in Vets’ Group Scam Is Arrested in Oregon**

A fugitive accused of running a sham charity that collected $100-million from donors who believed they were helping veterans and their families was apprehended late Monday after a two-year manhunt that crisscrossed the country.


The methods of contacting potential donors and the tools for transferring funds electronically continue to grow in both sophistication and popularity. That millions of people are using the Internet to express hopes, describe concerns, and seek allies or funds to address local, national, and global ills is exciting. I personally took a good deal of satisfaction from joining in a small way in the Seattle Foundation’s second annual Give BIG earlier this month, when $3.6 million was raised online for 904 organizations from approximately 12,500 donors in just 24 hours.\(^6\)

There are, of course, many reasons to be confident about both the list of organizations supported and the handling of the funds received when the operation is organized and promoted by a well-established community foundation. But the success of this sort of campaign, along with the parallel development of services like KickStarter and mobile (text-based) giving, cannot help but inspire imitation – not always by innovators with the public interest at heart.

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\(^6\) [http://www.seattlefoundation.org/news/Pages/FinalGiveBIGResults.aspx](http://www.seattlefoundation.org/news/Pages/FinalGiveBIGResults.aspx)
Some online appeals come from almost undetectable cheats. Some, in the social networking arena, come from people who are victims themselves, conned into spreading a bogus appeal. And of course, the vast majority come from people and organizations that are perfectly honorable, seeking support for perfectly honorable causes. The current tools for identifying abuses and apprehending perpetrators of fundraising fraud are simply not up to the challenge. They are not adapted to finding and prosecuting the tiny number of nimble, opportunistic thieves who work among a myriad of honest causes seeking the advantages of reach and efficiency that online fundraising make possible. No system based on geographically bound jurisdiction and after-the-fact reporting can possibly serve those goals. The costs of successful prosecution in cases of apparent abuse of donors are dauntingly high. Many of the officials charged with responsibility in this arena operate on limited budgets. Often they do not have access to sophisticated tools for investigation, documentation and demonstration to provide the sort of evidence of wrongdoing that can be used successfully in court.

Beginning in the 1980s and continuing to this day, charities regulators across the country have worked to develop cooperative arrangements to strengthen their hands in dealing with frauds while reducing the burdens on complying fundraisers. One result is the multi-state registration system operated under an agreement between the National Association of State Charities Officials and the Association of Direct Response Fundraising Counsel. Experiments with adapting this model to the efficiencies of electronic filing are underway now in several states. They offer the possibility of more complete coverage of fundraising activities and the provision of more timely information to regulators and donors alike.

On the map there are 36 red states, where the unified registration statement is accepted by the regulator, three blue states where registration is required but the unified statement cannot be used, and 11 white states where no specific registration is required to raise money for charitable purposes from residents. Residents of every state are exposed to the risks of deceptive campaigns, though. No matter how diligent the regulators may be, their methods and their resources are no match for the ingenuity of the scam artists who take advantage of Americans’ charitable impulses in increasingly sophisticated ways. It is time for people across the country, in the red, the blue, and the white states – regulators and leaders of charitable organizations alike – to begin a careful examination of what should come along to expand, refine, and improve the Charleston Principles. Only a concerted effort can hope to support honorable fundraising, and narrow the opportunities for abuse, in this time rapid growth and dazzling change in the uses of social media.

Image credits:

7 The Multi-State Filing Project offers details of the registration and reporting requirements of the red and blue states. http://www.multistatefiling.org