FTC / NASCO Give & Take: Consumers, Contributions, and Charity Conference
March 21, 2017
Segment 1
Transcript

[MUSIC PLAYING]

JANICE KOPEC: Conference, Give and take, focusing on consumer contributions and charity. My name is Janice Kopec, and I'm an attorney with the FTC's Division of Marketing Practices. And it's my job to spend just one or two minutes giving you some logistical details about the day.

So before we get started, I wanted to remind everyone of just a couple of things. One, if you're here in the auditorium, I want to remind you that, if you leave the FTC building without an FTC badge, you will be required to go back through security, including going through the full security process. So be mindful of exiting and entering. Restrooms are just outside of the auditorium. Coffee is across and down the hall. And then the cafeteria, if you go out of the auditorium and go to the left, you'll find your way there.

In the event of a fire or an evacuation-- I have to say this-- of the building, please leave in an orderly fashion. Go outside the main gates, or whichever exits you're directed to, and turn left, or head toward C Street. You will have to check in with somebody.

You will notice that the event today is being videotaped, webcast, photographed, and recorded. By participating in this event today, you're agreeing that your image, and anything you say or turn in, may be posted on ftc.gov, or one of the Commission's publicly available social media sites.

We're looking forward to a lively discussion today, and we welcome questions. There are question cards available in the hallway immediately outside of the auditorium on the table with the FTC materials. If you have a question, fill out your card, raise your hand, and someone will come and get it.

For those of you participating by webcast, we welcome you as well. And you can email your question to consumergiving@ftc.gov, or tweet it to #giveandtakeftc. The hashtag has the and written out, a-n-d.

With that, I'd like us to get started, and I'd like to introduce the Acting Director of the FTC's Bureau of Consumer Protection, Tom Pahl, who will kick us off today. Tom.

TOM PAHL: Thank you. Good morning, everyone. Thank you for coming to our first conference addressing consumer protection issues relating to charitable giving. We welcome those who are with us in the room here today, as well as those joining us online through the webcast. We are pleased to co-sponsor this event with the National Association of State Charities Officials, or NASCO, our state colleagues with oversight of charities.

We are a generous nation. Total US giving in 2015 reached $373 billion dollars. Individual Americans contributed the vast majority of those funds, giving a staggering $264 billion. Per capita giving by US adults rose to $1,100, while household giving averaged over $2,100.

Charitable giving is critical to the common good. We must protect charitable giving from those who seek to abuse it. Charity fraud hurts donors, intended recipients, and legitimate charities. Equally important, it tears at the public trust that underlies the American commitment to charitable giving.

The FTC stands strongly with our state partners in protecting Americans from fraud. Last year, the FTC, and all 50 states, shut down four sham nonprofits that told donors they were helping cancer patients. In fact, these sham nonprofits were simply helping themselves. American donors last over $187 million to these sham nonprofits. Legitimate cancer charities lost out on potential donations. And most importantly, cancer patients did not get the help they so sorely needed.

For decades, the FTC has engaged in law enforcement and education to protect consumers from deceptive practices by for profit fundraisers and sham nonprofits. To continue to be effective, we need to understand how technological advances and changing demographics affect our work against charity fraud. With our NASCO partners, we are here today to enrich our understanding, and explore what we should do differently, and what we can do more of. We must protect donors from fraud so their minds can be at ease when they open their hearts and give generously to others.

So how do we do that? First, by maintaining and continuing our efforts to make law enforcement, watchdogs, and charities effective in deterring, detecting, and challenging charitable fraud. Second, by maintaining and continually improving what we do to educate and empower consumers to protect themselves. Through enforcement, education, and empowerment, we can do great good.

This is an exciting time. Marketing and technology are evolving to create novel ways for charities to solicit contributions, and for donors to provide such contributions. Today's donors do not all respond to a direct mail appeal and send in a paper check, although some of us still do. They may be moved by an online video, or contribute through a crowdfunding platform. And afterwards, donors may share their experiences with friends and family through social media platforms.

To help us learn about, and better navigate, the current and future state of charitable giving, today we will hear from an array of panelists offering different perspectives and expertise-- academics, technologists, marketing professionals, members of the charitable sector, state law enforcers, charity watchdogs, and intermediaries. The panelists will discuss a broad range of topics. They include the challenges law enforcers and regulators phase in effectively preventing charity fraud in a time of great change, what data tells us about charitable giving practices, what claims motivate donors to give, what are the evolving ways that charities solicit and that donors give, and, finally, what will the future be like for charitable solicitations.

These topics are all critically important for the FTC, NASCO, and everyone joining us here today. And we can't wait to get started.

Before we do, though, it is my pleasure to introduce Colorado Attorney General Cynthia Coffman. It's very early this morning. Since she took office in January 2015, Attorney General Coffman has been a champion for consumer protection and charity issues. She serves on the NAAG Special Charities Committee, and has done so since it was established in December of 2015.

General Coffman's office has an innovative consumer outreach campaign, including its Stop Fraud Colorado website that provides comprehensive information to help potential donors avoid fraud and deception when they are giving to charity. General Coffman's legal career began more than 25 years ago in the Georgia Attorney General's office. As a courtroom attorney, she defended the state's juvenile justice system and public health department. Later, working as an attorney for the 1996 Centennial Olympic Games in Atlanta, she acted as the primary liaison with the victims and their families following the domestic terror attack in Centennial Olympic Park.

General Coffman began her tenure in the Colorado Department of Law in 2005, when she was appointed Chief Deputy Attorney General. She served in this role for 10 years. While performing as Chief Deputy, Colorado Law Week recognized General Coffman's accomplishments by naming her the Best Public Sector Lawyer in September of 2012.

So without further ado, I am pleased to announce Colorado Attorney General Cynthia Kaufman.

[APPLAUSE]

CYNTHIA COFFMAN: Well, thank you, Tom, for the introduction. Good morning, everyone. Thank you to the Federal Trade Commission and to NASCO for putting together this landmark conference. What a great opportunity it is to really think about what it means for consumers to donate, as well as the new and evolving ways for donating, and how that all fits into the way that government agencies think about charitable enforcement and donor education.

Through my office's partnership with Colorado's AARP Elder Watch, we recently conducted a survey on charitable giving in our state. And I wanted to share some of those details with you all this morning, because I think they're informative for the discussion that you're going to have today.

The survey, entitled Listen With Your Heart, Give With Your Head-- which is almost as good as Give and Take, I think that's a very clever name-- our survey found that four out of five adults in Colorado had donated to a charity, or a cause, with 74% of those respondents saying that they had donated some time within the preceding 12 months. I think that's pretty phenomenal. We're generous in Colorado. Three in five of those people made contributions without asking how much went to the charity, versus a paid fundraiser. And almost half-- 46%-- donated without ever verifying that the charity was legally authorized to raise money in Colorado. Finally, 27%

of the donors admitted that they make spur of the moment decisions to donate, rather than conducting a lot of research before giving. I've never done that.

As many of you sitting in this room know, these results contradict what we advise donors to do--to be generous, but be cautious. To take time to do your homework. Don't give in to high pressure solicitations. Ask questions about how much money goes to professional fundraisers, and so on. All that good advice that we give.

Additionally, part of the survey included a quiz to gauge what respondents knew about keeping themselves safe from fundraising scams. This, too, revealed that consumers don't necessarily know critical information that can help them determine whether a charity is legitimate or fraudulent. For example, 80% of our respondents said that the best way to determine trustworthiness of a charity is to look at its financial performance, which we all know is not really a good indicator. Donors need to look at ethics. They need to look at governance, and the charity's results, to make that determination. Additionally, over a third of the respondents didn't know that high administrative costs, and low spending on charitable programs, could, in fact, be indicators of fraud.

What these results tell me is that we should be doing exactly what we are doing here today--taking a closer look at consumer giving, and thinking about how that could inform a more robust outreach strategy. We need to explore different ways to reach consumers, and how to let them know what information they should be looking at when they research a charity.

What our survey also demonstrated is that we need to heighten awareness of enforcement efforts, both to let donors know where they can go with their concerns about charities, and to let them know that we're out there holding bad actors accountable. Our survey found that 60% of Coloradans were very concerned about fraud or theft of charitable funds or services. But one out of five respondents didn't know where they could go with their concerns about charities. Somewhat troubling to me was the fact that only 13% of those folks knew that they could file a complaint with the attorney general's office. And only 3% knew that they could go to the Secretary of State's office, which also has authority over charities in Colorado.

We do considerable outreach around fraud reporting now, as well as the enforcement efforts that we take against charitable fraud. So these results tell me, again, that we need to be rethinking our approach. The data that we collected in Colorado strongly suggests the need for clear and consistent education about donating to charities, and reporting any concerns.

I think we all know that we turn these numbers around by working together, by coming together just like this to think about how we can better reach the public and raise awareness about our role in ensuring a strong charitable sector. Even though our survey found that most donors still prefer to receive solicitations in a letter or an email, and to send in a check, or give money to a charity in person, as Tom said, the ways for charities to solicit, and donors to give, are rapidly changing. The conversations that we will have today are critical to ensuring that we stay ahead of the curve, that we continue to protect consumers from giving their hard earned dollars to fraudsters, instead of the cause that is near and dear to their hearts.

My office has a long history of successful partnerships with the FTC in enforcement and education, including the historic multi-state enforcement action that Tom mentioned against Cancer Fund of America, and its related so-called charities. I'm so honored to be kicking off yet another example of FTC's strong partnership with the states, and with state attorney generals in protecting consumers.

I, too, can't wait to get started on this agenda, and what promises to be a very interesting and informative day with you.

Thank you all so much. Enjoy learning together. And I appreciate the opportunity to be with you and learn myself. Thank you so much.

[APPLAUSE]

KARIN KUNSTLER GOLDMAN: Good morning, and thank you all for being here, and for watching on the web. My name is Karen Kunstler Goldman. I'm the Deputy Bureau Chief of the Charities Bureau in New York state, and I've been in that job for quite a while, or at least at the attorney general's office for quite a while. And when I was talking with my granddaughter, my 9-year-old granddaughter, Sadie, the other day, she was asking me why I was going to Washington. And I tried to explain to her what we were doing here. And she said, well, how was it in the olden days when you didn't have the internet? And so I realized that, when I started at the attorney general's office in New York, it really was the olden days.

Tomorrow is the 30th anniversary of my arrival at the AG's office. And when I was looking through the material for this conference, I thought about the vocabulary that's being used-- online solicitation, social media giving, millennials, dot com, dot org, crowdfunding, viral giving, mobile giving. That was the only one I recognized, because my memory of mobile giving was when my father would reach into his little bucket of coins when we were in the car, and throw some coins into buckets that were handed to him at stop lights. So that was mobile giving in a different way.

So I couldn't have imagined, when I started at the AG's office, what we would be doing today. And as you heard, Americans are extraordinarily generous. They were extraordinarily generous when I started at the attorney general's office, and they are extraordinarily generous today. And as Alissa Gardenswartz-- and I'll introduce our panelists when they are coming up here-- as Alissa will tell you, AG's offices are still doing what they did when I started work.

They are still addressing fraud, bringing action against people who commit fraud, and, as you heard, and you will hear many times today, there was a historic moment when we brought the 50 state and FTC case against Cancer Fund of America. And that certainly couldn't have happened 35 years ago, because most of the communication was over the internet, and we could not have made 50 calls to gather people together as we did when we had multi-state cases when I started.

But how people are giving is changing. There are many, many ways to give over the internet, to give electronically. There are still those letters that come in the mailbox, and people are still giving with checks. But giving is evolving. And state regulation in the charity sector will continue.

And so I've been asked to talk to you a little bit about a report that was issued by the Urban Institute that I had the good fortune to work on. And Cindy Lott, who's here, spearheaded that report. And what the report looked at was the structure of state charity offices-- how are we organized around the country? What is the oversight authority of state charity regulators? And what tools are used by them to do their regulation?

The study was of the states and the territories, a survey of 47 jurisdictions. We looked at the staffing differences, size, shared oversight with other agencies, registration of charities, and fundraisers or not. Some states do not have registration. And I can't do justice to the report in the few minutes that are assigned to me. And for those of you who are not up here, there are some big red numbers facing us, timing us to make sure we stick to schedule. But I want to give you a flavor of the range of what was found out during this study, and I urge you to take a look at it. I think it's been sent with your materials. If it hasn't, it's easily accessible on the Urban Institute's website.

So one of the slides was just put up. You look at those bubbles, and you'll see that the attorneys general have a lot of jurisdiction in a lot of areas, and they exercise that jurisdiction often alone. And you see the AG only lines. You'll see the shared lines. And you'll see AG and other state participation in enforcement. Enforcement is the responsibility of the attorneys general throughout the country, but we don't always do it alone, and we have shared jurisdiction.

So one thing that was really interesting in the study was that-- you can, oh, I don't have the clicker. We asked about the most common areas of enforcement. And not surprising, if you look at the first one-- fundraising abuses. That is the area that most states enforce, and enforce most vigorously.

But it's interesting that General Coffman mentioned governance. And that's the second most common area of enforcement. And they go hand in hand. If you don't have good governance of an organization, and you don't have oversight, and you don't have internal controls, you're not going to engage in, or exercise, your fiduciary duty, and it's more likely that organizations will commit fraud.

But you can see there are other areas that we're not talking about today, that are within the bailiwick of attorneys general-- trusts, diversion of assets-- not only solicited assets, but assets of foundations and other entities that do not solicit-- and then registration is among those areas of enforcement. And fundraising methods regulated by our offices-- state offices, attorneys general, and their sister agencies that also are involved.

And this slide shows you that the types of solicitation are very broad. The abuses of those forms of solicitation are enforced throughout the states. And we are focusing today on the evolving methods of solicitation, but some states are already addressing those new methods, and I think we're going to talk about how we can more meaningfully, not only enforce the laws-- the fraud-- get rid of the fraud and solicitation, but also work together with the FTC, with other agencies, and work together with the sector, and the people who contribute, to educate them on what they should know about charities before they make their contribution.

So the next slide shows approaches to enforcement. And you can see there's a very wide range of methods that are used by the states. They don't always start with service of a subpoena, or starting of an action, though there are certainly cases in which that's warranted. But most offices reach out to the organizations that are active in their states, reach out to get them into compliance. And the range is quite broad. And I think we're going to discuss some of those ways of enforcement as we go through.

And the last slide I want to show you, and, again, I say this does not do justice to the report. You got to read the whole thing. Right, Cindy? She's nodding, yes. There's inter-office cooperation. We don't always do it by ourself in AG offices. And that you saw with the Cancer Fund case. We worked together with other states, with other agencies within our states, to enforce our laws.

So I'm really excited to hear what people are going to discuss about how we get out of the olden days that Sadie asked me about, and get into where we are today in this technological age. Tracy Thorleifson, of the FTC, who was the lead counsel in the Cancer Fund case, will talk about her agency. And we decided that I wouldn't read the bios, which I think have been distributed to all of you, because those red numbers are going down. So Tracy is going to speak first.

Then, Alissa Gardenswartz, of the Colorado Attorney General's Office, who has been active in the attorney general's office for many years, and was president of NASCO. She now holds the most coveted title in NASCO as former NASCO president. She will speak about cases that have been brought recently by the states.

Lloyd Hitoshi Mayer, who's Professor of Law at Notre Dame, will give you insight to his thoughts about regulation in this new age, whether he thinks we can, or can't, regulate certain activities.

And David Vladeck, who teaches at Georgetown, will talk about First Amendment issues, constitutional challenges to our regulation. So how can the states enforce, but also stay within the constitutional protections offered to charities.

So I think this is a panel to kickoff to talk to you about what we do, what we think we can do, what maybe we can't do. And the rest of the day, we'll figure out how we all work together. And all of you here in the audience, and I'm sure those of you who are watching on the web, represent the charities. They represent academics. You represent other enforcers. You represent the broad spectrum of people involved in the sector, and I think the goal of this conference is to see how we can all work together. I think we all have a common goal.

Thank you. And Tracy.

[APPLAUSE]

TRACY S. THORLEIFSON: Good morning. My name is Tracy Thorleifson. I'm an attorney with the Northwest Region of the Federal Trade Commission. And as Karen explained to you state authority over charities, I'm going to talk to you a little bit about the FTC's authority in the charitable sector, and explain to you why we're here today at the Federal Trade Commission and co-sponsoring a conference with the National Association of State Charities Officials.

The FTC is the nation's consumer protection agency. That means that we want to protect consumers' interests, whether they are paying for a good or service, or making a donation. Our enabling statute, the Federal Trade Commission Act, is very broad, and empowers the FTC to prevent unfair or deceptive act to practices in, or affecting, commerce by persons, partnerships, or corporations.

There is one catch when it comes to charities, however. The FTC Act defines a corporation subject to it as an entity organized for the profit of itself or its members. That pretty much leaves out legitimate charities. It does leave open, however, sham charities, sham nonprofits, and for profit fundraisers. Courts have interpreted organized to mean not just how an entity is organized in paper, but also how it is operated. They look at the company's actual practices, and care whether or not individuals are being paid and profiting, regardless of the status of the corporation.

Similarly, courts have interpreted the word profit to go beyond simply paying money. The word profit has been interpreted to include non-pecuniary compensation. For example, providing loans to officers or directors, employing family or friends of officers or directors, or other actions that benefit the private individuals running the charity.

In addition to the FTC Act, we also enforce the Telemarketing Sales Rule. The TSR, whose jurisdiction is coextensive with that of the FTC Act, covers charitable solicitations made by for profit fundraisers via telephone. The TSR specifically prohibits false and misleading charitable solicitations, and imposes certain calling restrictions on fundraising calls by for profit companies. Fundraising calls are exempt from the National Do Not Call Registry, but other do not call provisions apply to them.

If you get a call from a fundraiser and don't want to hear from that charity again, tell the fundraiser to place you on its internal do not call list. And if they call you a second time, call us, or report it at www.ftc.gov. The TSR also provides state attorneys general with standing to take action in federal court against TSR violations.

Our authority under the FTC Act, the state's authority under their own laws, and both our authority under the TSR, was exemplified perfectly in the recent Cancer Fund case. I didn't realize that there would only be four speakers and we'd already mention Cancer Fund four times. So I will not bore you too much with it, although there are many fun details.

All 50 states, the District of Columbia, and the Federal Trade Commission joined together to alleged that four sham charities, and the individuals who ran them, violated the FTC Act, the TSR, and the laws of every state in the nation. The crux of the case involved the lies that the Cancer Fund defendants and their fundraisers told donors, lies about how donations would be spent, from promises of pain medication for children suffering from cancer, payment for hospice care for dying cancer patients, promises of direct financial aid to indigent cancer patients, claims of providing medical equipment, or even transportation to chemotherapy appointments-- anything to tug at donors' heart strings. But the claims were false, and charities were, we alleged, organized for the profit of the individuals who operated them and their family members, friends, and their fundraisers.

At the end of the day, the sham charities provided virtually none of the specific heart-tugging programs described to the donors. No pain meds, no hospice care, no medical equipment, no transportation to chemotherapy, et cetera, et cetera. Instead, the money was spent on fundraising costs, salaries, and benefits for the family members of the people who ran the charities. Regardless of the qualifications, the entire family was employed at each charity.

While I could keep telling you hair-raising facts about the Cancer Fund defendants, the case has a somewhat happy ending. The case settled. The individuals are banned from ever soliciting charity, or handling charitable funds, and the corporations are in receivership. Their assets have been liquidated. And their very existence will be shortly dissolved. Never again will these individuals, or these companies, steal in the name of charity.

Cancer Fund continued a long tradition of FTC-state cooperation in the fight against charity fraud. We routinely have brought enforcement sweeps targeting charity fraud, ranging from badge-related fraud back in 1997, to telemarketing and other charity fraud throughout the years. We also routinely bring action against for profit fundraisers, as well as action against for profit fundraisers violating do not call provisions of the Telemarketing Sales Rule. And we will continue to do so.

So on the horizon, we will continue to partner with our colleagues in the states. We will bring cases, where appropriate and possible, and we will continue to work to educate consumers to protect themselves against charity fraud. And I look forward to working with all of you today, as we talk about these topics, and in the future.

[APPLAUSE]

ALISSA GARDENSWARTZ: Sorry, folks. I'm going to click through here to find my PowerPoint. Oh, there's some nice animations.

All right, then. Well, I will talk through some-- first of all, my name is Alyssa Gardenswartz, as Karen mentioned. I am in the Colorado Attorney General's Office. I'm the Deputy Attorney General for Consumer Protection. And first, let me say thank you so much to the Federal Trade Commission to working with NASCO to put on this conference today. We very much appreciate this opportunity to get together with our federal partners to talk about these very important issues. I also want to say that the opinions and thoughts that I'll express here today are mine, and mine alone. They do not necessarily represent those of the Office of the Colorado Attorney General, or the Attorney General herself.

So I will try to make this as exciting as possible without my PowerPoint. But I'm going to talk about several cases that state AGs, and other state enforcement authorities, have brought over the past year or so. And they roughly fall into three categories. There are actions that were taken against just a charity. There are actions that were taken just against paid solicitors. And then I'm going to talk about one action that was taken against both a paid solicitor and a charity.

And it's something that I was going to mention at the end of my presentation, but I don't want to be accused of burying the lead, which I think lawyers are sometimes accused of doing. As you will see, these enforcement actions are largely-- well, they're all addressing traditional methods of fundraising, that is, telemarketing or direct mail.

And while we will be spending a lot of time today talking about new methods of fundraising, and how that informs education and enforcement, the traditional modes of fundraising are very much still on the minds of state regulators, because, as General Coffman mentioned, a lot of folks still are solicited through these methods, and prefer to give through more traditional methods. And also, too, I think these methods tend to target some of our more vulnerable populations when it comes to charitable giving.

So the first action I'm going to talk about is an action that the Michigan Attorney General's office took against a charity called VietNow. And when I say they took action against this charity, literally their notice of intended action was filed less than a month ago. And this is an action that arose out of Michigan's investigation of a paid solicitor, Corporations for Character, which I will discuss more in a little bit. They are an Illinois based charity.

And what the Michigan AG's office found was that, when they reviewed the scripts that were being used for soliciting for the charity, there were misrepresentations in those scripts. Namely, in the scripts that were used by Corporations for Character, that the donations were going to be used for the benefit of local Michigan veterans. That is, they said that 12% of the revenues raised after expenses would be used for local veterans. They also were representing that the funds would go to local Michigan veterans who were suffering from PTSD and Gulf War illness.

When questioned by the AG's office, the charity admitted that this was, in fact, not the case. They were not giving money to local Michigan vets. But nevertheless, that's what was said in the scripts that were approved by the president of the charity.

Additionally, the charity used another paid solicitor, Courtesy Call, and, in those scripts, the paid solicitor was representing that the charity was giving money to medical facilities and treatment for veterans, as well as money to help treat those that were suffering from Agent Orange, when, in fact, the charity did not do that. It simply provided information on those issues.

The additional thing that I wanted to note about this particular case is, in the complaint, the Michigan AG's office noted that de minimis amounts were actually going to any sort of charitable program. And this is a-- I think most of us, in fact all of us, in this room probably know that it is not legal, in and of itself, to have large amounts of money go to a paid solicitor and small amounts of money go to the charity. But it was interesting that the Michigan AG's office cited to de minimis, if any amount going to a charitable purpose as evidence of violations of Michigan's charitable fraud statutes.

So the next action I want to talk about-- again, just against a charity-- is the New York AG's action against the National Vietnam Veterans Foundation, or Americans Veterans Support Foundation. Again, this is an action just against the charity, although the settlement that the New York AG's office entered into with the organization, and two of its officers, provided that they would cooperate with ongoing investigations of the professional fundraisers used by the charity. This is a case, again, where the paid solicitors were taking about 88% of the money that was raised through telemarketing campaigns.

And what the New York AG's office said was that the remaining amounts that actually went to the charity were further diminished by fraud and misuse. And specifically, what was happening is that money that was being raised was going primarily to fund the living expenses of the charity's founder, John Burch, who was using the charity's money to fund his life insurance, his medical insurance, parking, housing costs, as well as lavish dinners and expenditures at nightclubs. In addition, the money that was put in the organization's emergency assistance fund, Mr. Burch was using to pay friends and relatives, as well as to make large payments of money on the order of $10,000, $20,000 to women that were not associated with veterans, or Vietnam veterans.

The New York AG's office, in its settlement, provided for dissolution of the charity In its entirety. Mr. Burch, who was himself a veteran, issued a public apology to the veterans community, which I thought was a nice touch, for abusing his position. He also paid a penalty. And another interesting fact about this case is that the settlement provided for both Burch and another officer of the charity to be permanently banned from serving as officers or directors of a charity in all 50 states, not just New York. So very strong relief in this action.

Next, I want to talk about-- I'm sorry-- another veterans charity that Florida brought an action against. The name of the charity is Florida's Veterans Assistance Corps, and VFW VA Assistance Programs. This is the one case that I'll talk about where that charity is domiciled, or incorporated, in the state where the enforcement authority is also a house. So Florida Department of Agriculture, which oversees charities in Florida, brought an action against this charity.

This, based on reading the final judgment, was essentially two guys who got together and put together a boiler room with unregistered, paid solicitors, and called people purporting to raise money for veterans issues, and made all sorts of misrepresentations when they made these solicitations. They said that they were members of the US military. They said that they were going to be providing very specific benefits to veterans that were never provided. And they also misrepresented the tax deductibility of folks' donations.

There is a permanent injunction entered against both the two principles that put together this operation and the organization. A $400,000 penalty was imposed. And the Florida Department of Agriculture also arrested both individuals involved, Daniel Soat and Gul Moryani, for criminal fraudulent activities.

So the final charity-only action that I will talk about is, again, Michigan's action against the Breast Cancer Outreach Foundation, which is a Florida charity. And that action arose out of the Michigan AG's investigation of Courtesy Call, Corporations for Character, other paid solicitors. But what they found was that this organization, in its scripts, was representing that they were raising money for breast cancer research, and to find a vaccine for breast cancer. And in fact, that was not the case.

The AG's office found that the vast majority of funds, again, went to pay for either paid fundraisers, or a gift in kind program that had a tenuous relationship to the charity's mission. They also found that the charity had improperly allocated costs, doing something called joint cost allocation, had improperly allocated about 40% of their fundraising costs as programs services costs. The Michigan AG's office found that that was improper and evidence of fraud.

The ultimate settlement there was that the charity will pay $150,000 to the AG's office, with $125,000 of that actually going to breast cancer research.

I'm told I have minimal time, so I will talk about one action against a paid solicitor, and then the final case I want to talk about, we had actions against both the paid solicitor and the charity.

So Minnesota brought an action in 2016 against Associated Community Services. And it arose out of looking at solicitations for a charity called Foundation for American Veterans. In this particular instance, the Minnesota complaint really details how the paid solicitor used this relatively small charity to churn fundraising dollars that ultimately went to the paid solicitor.

The complaint talks about how the organization very aggressively solicited consumers, both in terms of the frequency of solicitation-- they increased their autodialer capacity in 2015 so they could make more calls to consumers each day, which resulted in, in 2015, 21,971 requests from consumers that they be put on the organization's internal do not call list. That was up from 3,985 requests in 2014.

The ultimate resolution there was that the paid solicitor was barred from soliciting in Minnesota for two years, and also required to pay a $200,000 penalty.

The final case I want to mention is, again, New York AG's office, their case against Quadriga Art and Disabled Veterans National Foundation. This was a case against both a paid solicitor and a charity. And what I'll tell you is, if you read the complaint, what you'll see is that the story the New York AG tells is that of a small, well-meaning charity-- DVNF-- who essentially was captured by these direct mail companies, whereby the direct mail companies, again, used the charity to generate significant fundraising dollars, the vast majority of which went back to the paid solicitor. So much so that, between 2007 and 2013, the organization, through these direct mail companies, raised $116 million, paid $104 million to the direct mail companies, and still owed the charity $13.8 million.

So part of the settlement here was, in addition to a historic monetary payment-- $25 million was what the direct mail companies ultimately paid, with a very large chunk of that going, again, to actual veterans assistance programs-- the New York AG sort of took the approach of, if you can do these businesses right, then you can go ahead and do them.

So they required Quadriga Art, and its related companies, to import significant reforms to their funded model that they use with startup charities to make disclosures to startup charities, to ensure that the process that they engage in was without the conflicts that the New York AG's office found in this case. And the New York AG's office gave the opportunity to the charity to get a new board, create an audit committee, and to try again to have a legitimate charity that raised money that ultimately went to its charitable purpose.

So those are some of the more recent enforcement actions that state AG's have been doing. I will just note, again, emphasis on traditional fundraising models. And also, too, interesting choices about whether or not to enforce against the charity, the paid solicitor, or both, depending on the facts of each case. Thank you so much.

[APPLAUSE]

LLOYD HITOSHI MAYER: Good morning. My thanks to the FTC, NASCO, and especially Tracy and Janice for putting together this great conference. In my few minutes this morning, I want to address the legal challenges that new fundraising techniques already being employed by charities, and individuals wanting to support charities, and perhaps people wanting to support themselves, are already being deployed. A later panel today will deal with some emerging challenges down the road from new technologies.

These new techniques that I want to focus on are social media viral campaigns, crowdfunding, and the emergence of hybrid entities. For each of these, I'll give a few examples, highlight a couple critical legal questions, and give at least my initial thoughts on how these questions might be answered.

So turning first to social media viral campaigns. These are campaigns where a motivated individual, or individuals, try to generate a lot support for an existing charity. They're not compensated for doing this, and they generally don't handle the donated funds themselves. So in some ways, they present perhaps the least risk to charitable giving.

One prominent example-- you're probably all familiar with this-- the ALS Ice Bucket Challenge. This was actually started by a professional golfer, and in eight weeks, it raised $115 million for the ALS Association. That amount's particularly noteworthy, because the ALS Association's annual budget at the time was only $20 million. The ALS Association has now made this an annual event, in case you weren't aware of it. So if you want to dump ice over yourself this August, feel free to do so.

But another prominent example, which you may have heard of, is Movember, which started in 2003 with a bunch of guys in Australia that wanted to bring back the mustache. It has now grown into an international movement, and has raised over $700 million, including some in the US, to support men's health issues. And it's done every November, as the name suggests.

Now, interestingly enough, despite these high profile successes, as far as I could find, there are no notable scandals in this area. And this may be because the very success in this area depends on a high profile, right? Everyone knows about it. And everyone includes the media and regulators. So they're likely to be paying attention to what's going on and whether the funds are truly going to the charity named. And all these sort of campaigns are designed to direct money to an established charity.

Now, one thing I should say, though, is that existing laws that we've already talked about, that Tracy and Karen have mentioned, probably don't reach the individuals in these cases. They're not the charities themselves. They're not getting compensated to raise money, so they're not going to be considered a professional fundraiser. And they're not collecting the funds themselves either. Usually, they're just simply saying, go give to the charity. Sometimes they're just trying to raise awareness about an issue, as well.

The charities that benefit may be reached by these laws, though perhaps not by the laws of every state. For example, you could have a charity that's very local that there's a viral campaign for, and donations flow in from many states, but if the charity hasn't asked for money from those states, there's a question of whether the constitutional minimum contact standard has been met. So they may not be reached by the laws of every state where people are actually responding to this campaign.

Now all that said, I can imagine one scenario-- and this is in the written materials posted with this conference-- one scenario where a problem could arise here. And that's where the benefited charity's relatively small and unsophisticated. The ALS Association was already registered, I think, in every state it was required to register in, and it was already on the radar screen of all the state charity officials that had laws requiring reporting. But if you had a small charity that might not be as sophisticated, it might be overwhelmed by the amount of support coming in.

So to give an example, the GLBT Community Center of Central Florida was the beneficiary of what was more like a crowdfunding campaign, but a beneficiary of a whole bunch of donations in the wake of the Orlando shooting. And it turned out it couldn't quite handle it. It was actually the subject of a Florida enforcement action. So this went beyond the traditional fundraising situation. And example of Florida actually stepping in when there was a non-traditional fundraising scenario. And there were some problems. It hadn't registered as it was supposed to. It hadn't posted some of the disclaimers and given some disclosures as required to. And there was a question about whether some money collected for a particular purpose had actually gone to that purpose, for a particular victim.

Now, it turns out, all that was sorted out once these issues were brought to its attention. So there was no actual harm, I think, at the end of the day. But it's an example of an unsophisticated charity perhaps being subject to unexpected success, and not quite being able to handle it.

The second thing I want to address is crowdfunding. A notable example here, actually coming out of the Orlando shooting as well, was Equality Florida. Equality Florida raised about $9 million, in the wake of the Orlando shooting, to help the victims of that shooting. Correcting something on my slide, about $8 million of that-- not all of it, but about $8 million-- was done through a GoFundMe campaign. And so that was seen as highly successful. Obviously, and the funds, as far as anyone knows, went where they were supposed to go.

There is at least one notable, though moderate in amount, scandal. There was, in the wake of the Boston Marathon bombing, an individual who tried to scam money out of various sources, including by running a GoFundMe campaign. And that campaign raised a little over $9,00. Now, she was caught, and she actually pled guilty eventually. And the amount is relatively modest.

But part of what happens here with crowdfunding campaigns is how quickly they can develop. And they don't have to be for a charity. So for example, it's common to do crowdfunding campaigns to benefit a particular named individual.

So in the wake of the Olathe, Kansas shootings, for example, there were four GoFundMe accounts set up, and within three days, they had raised more than $1 million for the victims of that shooting. Nothing to say that anything was illegitimate there, but it shows how quickly the money can flow in, at least when you have a high profile event.

Do the existing laws reach to these sort of crowdfunding situations? Maybe, maybe not. It depends a lot on what the scope of those existing laws are, and whether the entities are individuals raising the funds or holding the funds themselves. You can imagine individuals raising funds for a charitable cause, or a charity, would likely hold the funds themselves before transferring it hopefully to that benefit. And there is a real serious question of when you're benefiting specifically individuals. It's still charitable, in sort of a general sense, right? But it's not clear that laws that the states already have on the books reach those crowdfunding efforts.

For example, a fair reading of the California law, I think, does reach those sort of efforts. Because California law is aimed at the purpose for which the funds are raised, not the entity for which it's raised. But the Michigan AG, in a guidance that he's issued, has actually said the Michigan law fairly read does not reach individuals raising funds for other designated named individuals. Charitable solicitation laws simply don't reach those situations. Fraud laws would, of course. But not charitable solicitation laws. So it depends on what state you're in whether people are doing fund raising in a crowdfunded way, particularly for named individuals, are going to be reached by the state's laws.

Now, I should also note that this is usually done through a crowdfunding site, like GoFundMe, which I was represented here today. The models vary wildly, though. So it ranges from Kickstarter, which refuses to host any charitable crowdfunding, whether for an entity or named individuals, to GoFundMe, which has established policies, and even a GoFundMe guarantee that, if something goes wrong, they will repay your donation, to some websites that basically say, be careful when you give money to people, and sort of stop there.

I should also note that there's a real open question, and this is something that Alissa's worked on, whether the sites that host these crowdfunding efforts could be held liable for any violations. And that's because of Section 230 of the Communications Decency Act, which protects sites that host other speakers essentially from being held liable for that sort of speech. This would also apply to social media sites that host viral campaigns.

There is one other thing I should note about crowdfunding, which you may have heard of recently. So late last month, there was a lawsuit filed against PayPal, and PayPal charitable Giving Fund, a class action lawsuit. And the allegations, which beyond a very brief, generic response PayPal has yet to respond to, is that the fund redirected donations that came in to charities that weren't officially registered with the PayPal charitable Giving Fund. So while the charitable Giving Fund allegedly-- I'm working from the complaint here-- allegedly listed essentially all eligible charities in the United States, maybe drawn from the IRS master list, only maybe tens of thousands of charities actually registered.

So if you gave money to the PayPal charitable Giving Fund-- again, this is all according to the complaints, this is all alleged-- gave money to the charitable Giving Fund, and it was designed for a charity that wasn't officially registered, the allegation is the Fund would take your money and send it to someone else of their choice, without telling the donor or telling the charity that supposedly the money was given to. We'll have to see how that lawsuit plays out to see whether those allegations are, in fact, true.

The last thing I want to mention is something called hybrid entities. And you may have heard of these. These are benefit corporations, public benefit corporations in California-- flexible-- excuse me, what is it-- social purpose corporations-- so I mean, they changed the name-- and L3Cs, low-profit limited liability companies, among others. There are some prominent examples of these entities which allow for profit entities to have not only a profit-making purpose, but also legally a social-benefiting purpose. Patagonia in California, reformed under the law in California, and Kickstarter in Delaware, reformed under the law in Delaware as a benefit corporation. In total, there are thousands of these hybrid entities out there, though most are small, new ventures.

The questions raised by these entities is a little bit different. They usually aren't soliciting money directly for charities, or charitable causes. Instead, they're using the fact that they have a social-benefiting purpose as a marketing hook. So they're selling to consumers, we will make our goods in environmentally sensitive ways. We will treat our workers better than the law requires. We will use environmentally sensitive materials, or treat our workers better in foreign countries that make these goods, and so forth.

Now, do existing laws reach these entities? That's a good question. About half the states have commercial co-venturer laws that might reach these sort of marketing pitches. And of course, the general fraud laws apply as well. But there has yet to be a notable scandal in this area, whether with the hybrid entities themselves or with sort of social enterprises defined more broadly. They may be formed under traditional for profit forms, but, again, trying to accrue some sort of green, or social benefiting purpose, in their marketing materials, and in their overall corporate mission.

So as this very brief overview has highlighted, it's opening question whether, and how, existing laws relating to charitable solicitation and consumer protection, both at the state level and the federal level, apply to these new developments. And it can very significantly from jurisdiction to jurisdiction, and the facts of a particular situation, whether a viral campaign, crowdfunding, or hybrid entity.

We also have very little information about what's going on in these areas. These are relatively new developments. The dollar amounts, though in some cases very large, are usually small. And because most of these actions may not be covered by existing laws, there's no registration reporting requirement. There's no public database you can go to necessarily to see, well, let's look at all the charitable crowdfunding efforts, particularly ones that benefit individuals, as opposed to named charities, and see how they're doing, and if the money is going to where we think it's going.

So everything I've told you today is very preliminary. Our information's not complete. And certainly, my legal analysis is not complete, and probably some of you think is wrong. Feel free to let me know that, please, before I write the article. But I hope that these examples, and these developments, will stimulate some discussion today as we continue. Thank you for your attention.

[APPLAUSE]

DAVID C. VLADECK: Good morning. I'm David Vladeck. It's great to be back here. Thank you so much, Tracy and Janice, for putting this together. I have, I think, nine minutes to run through 200 years of First Amendment history of solicitation, and so I'm going to try to truncate this as best as I can.

So the first, and most important, message is the court has emphasized repeatedly that the act of charitable solicitation is entitled to full bore First Amendment protection. And part of this is, of course, the court's understanding that the act of solicitation is indivisible from an organization's ability to communicate directly with people who it wants support. And so this notion goes back a long time, but it focused first on charitable solicitation in a case involving Schaumburg, Illinois. And since then, there have been a quartet of cases from the Supreme Court that focused directly on the act of charitable solicitation.

Prior to Schaumburg, most of the cases involved religious organizations that were going door to door seeking adherence. Schaumburg is the first case that really directly involved charities who were going door to door, or seeking money, and the case was an attack on a city regulation that insisted that charities devote at least 75% of the money raised directly for charitable activities. It was followed by three other cases. Munson, a case out of Maryland, which also involved essentially a limit on the amount of funds that could be used for administration, and for fundraising purposes. Followed, again, by Riley, another statute-- this was a Maryland statute-- that also imposed percentage-based restrictions on the fundraising expenses.

All of these cases struck down-- the first three of these cases struck down state regulations on things like limits on expenditures for fundraising, and compel disclosure of the amount spent on fundraising and administrative costs. Why? Because the court found that the act of charitable solicitation is entitled to full bore First Amendment protection. The court rejected quite emphatically the argument that the percentage devoted to fundraising was a proxy-- particularly high percentages-- were proxies for fraud. The court repeated, in the first three cases, that that's not an accurate measure of fraud. And they were worried about state regulation that would burden the rights of charitable organizations to engage in solicitation.

And so one of the take home messages that we've now got from the Supreme Court thrice is that state regulators have to be careful about how they fashion their regulations. There certainly is no constitutional inhibition for requiring registration disclosures, all sorts of things the attorney general mentioned earlier, that states do. But to the extent that there are efforts to compel disclosures of fundraising costs as part and parcel of a charitable solicitation, or to place strict percentage limits on the amount of money that can be spent on administration or on fundraising, those areas seem to be off limits.

Now, that does not mean that states and the Federal Trade Commission cannot aggressively force laws in order to root out fraudulent solicitations. One of the cases that I worked on when I was here, a case that involved the Civic Development Group, was just a horrible case. These were people who were fundraising on behalf of many charities. Almost none of the money went to charities. On the other hand, it lined the pockets of the small groups of individuals who were doing this. When we dissolved the company and seized all their assets, we seized Rembrandts and, you know, expensive wine, houses, Mercedes Benzes, Rolls-Royces. These were people preying on the best instincts of their fellows to support people who needed charitable help.

So what is the sort of constitutional basis for going after fraudulent charities? Well, the Supreme Court, in Madigan, the Illinois case-- which also involved, by the way, the Veterans case, so these guys are still around, apparently-- the court made clear, and the court has always made clear, that fraud has no place in charitable solicitation. You cannot raise money by lying to people. False statements and misrepresentations are actionable.

And the court drew a clear line between the kind of registration requirements it had problems with in Schaumburg, Munson, and Riley, to cases involving the kinds of claims that Tracy talked about earlier, in cancer cures, and in the other enforcement cases that agencies bring all of the time. So Tracy talked about many of the kinds of claims that the cancer cure people made that were false. And the court hones in on these kinds of claims and says, these kinds of claims are actionable. There's no First Amendment protection for false statements. And these are often quite tailored to the kinds of things that enforcement agencies are most concerned about.

So one of the statements the court found unprotected in the Madigan case was that significant amounts of each dollar would go to charitable activities. So where the charity is alleging that, quote, "significant amounts of each dollar actually go to those activities," that's an actionable statement if it isn't true. They also represented that the funds donated would go to the organization's charitable purpose. Again, only a tiny fraction of the funds, in fact, went to the organization's charitable purpose. And the court made quite clear that those kinds of claims, too, are actionable.

I was at the FTC for four years, because of the hard work of Tracy, many of our regional offices-- [INAUDIBLE] requires me to make sure I pump the regional offices-- we did a lot of work like this. And the most recent case that's been reported, there's the most recent decision involving charitable solicitation fraud, is a case that the perilous Michael Tankersley has been working on for what, seven years now, a case called Corporations for Character.

The court basically rejects the defendant's First Amendment argument. The defendant argued that only fraud claims could be pursued against charitable organizations. The court swatted that down and said, look, the court isn't talking about fraud literally, it's talking about misrepresentations and false statements of fact. And the court, of course, allows the FTC's claims that the charity be engaged in false and deceptive and misleading statements to go forward.

So with respect to the key kinds of claims that law enforcement agencies care most about, false and deception, claims that are intended to inflate what the charity is doing and minimize the fact that most of this money is going right into the pockets of the fundraisers. Those kinds of claims are certainly actionable, and there is no First Amendment defense to them.

The one area where I think the court probably sort of missed the boat, or sort of gives mixed signals, are deceptive omission claims. So if you work in this field, one sort of tool that you have is arguing that a statement is misleading because it omits a critical fact.

And the court, in the Madigan case, sort of is of two minds of that. One is they say you can compel a fundraiser to disclose the amount, or the percentage, of money that's raised that goes to fundraising and administration. On the other hand, it does point out that statements that imply a significant amount of money actually go to the charitable activities are actionable.

And so one of the things I've sort of been waiting for, and, you know, I'm preaching to the people here who can make this happen, is to see whether a deceptive omission claim would work in those kinds of spaces. Because that's a very powerful tool, and I think the court has left open at least some daylight for those claims. But certainly, a charity that makes an explicit claim about how funds are allocated. And if you look at the scripts of most of these charities, they do try to explain to prospective donors that they're engaged in active charitable work. Those are the kinds of claims that are sort of the fodder for a good enforcement case.

And the last thing I would say is this. I'm not surprised that the court ruled for Illinois in the Madigan case, and was skeptical in these other cases. If you look at the arc of First Amendment cases, you really want to be as an enforcer going after a bad guy, rather than have just a generic regulation. And so I think that, while the First Amendment is going to be the principle defense of many of these false charities, you're better off in an enforcement posture than I think in defending a regulation.

And I see I'm out of time. Thank you so much.

[APPLAUSE]

KARIN KUNSTLER GOLDMAN: I just want to thank the panelists for giving us background to set the stage for today. But one slide that I neglected to put up, with regard to the Urban Institute Report, was the slide about the size of the state charity offices. And you heard about lots and lots of work that we all do. There are fewer than 400 people around the country who are doing this kind of work, and I think those of you who do the work should pat yourself on the back a bit for your successes. Alissa went through some of them. There are many more out there.

And we're going to hear about how we go forward from here, how we enter the 21st century with regard to donations, with regard to enforcement, with regard to charities in general. And thank you, Tracy and Janice, for organizing this. It's going to be a very exciting day.

[APPLAUSE]

KAREN GANO: Good morning. I'm Karen Gano. I'm Assistant Attorney General on the Charity's Unit at the Connecticut Attorney General's Office. I'm also the President of NASCO for this year and next year. I want to thank Director Pahl and the FTC for hosting and initiating this very important first conference on charitable giving with the FTC. And I want to thank General Coffman for her leadership in raising the profile of charities in society and among the attorneys general in a very important time of transition, when it's critical that we have expanded knowledge among our leaders. Appreciate it very much.

NASCO is also very pleased, and proud, to co-host this conference. NASCO, as most of you know, is made up of all the attorneys general offices in the United States. All have jurisdiction with regard to charities and protecting charitable assets. There are also 20 states that have statutory authority over charities and charitable solicitations through a different office, in addition to the attorney general jurisdiction. About 15 of those are in Secretary of State's offices. The others are in various offices-- in Connecticut, in the Department of Consumer Protection.

We act together as a unit to try to inform and educate ourselves. And we are beginning to work better and more agilely to come together to address 21st century policy issues. As Professor Mayer pointed out, our laws are designed for 20th century, and that doesn't quite work.

We are very honored and privileged to have the two giants in charitable research and and information who are on the platform with me today. Dr. Elizabeth Boris, with the Urban Institute, and Dr. Una Osili, with the Lilly Family School of Philanthropy at Indiana University, are both pioneers and leaders in the world of research and information and data concerning charitable giving and philanthropy. I identify them with two publications that are go-tos for me.

Dr. Osili is an advisor to the Giving USA, the seminal annual reporting of uses of charitable giving in the US. That's a go-to for me on references and so forth. And Dr. Boris is editor and developed the first-- and I think you're on your third iteration-- of Nonprofits and Governance-- Collaboration and Conflict, which is-- what could be more appropriate to why we're gathered here today? And I think it is the third edition was just out this fall, wasn't it? The update on that.

Dr. Boris is Institute Fellow with the Urban Institute, has long been a friend of state regulators. Has been an innovator and a great aid to us in providing educational materials, and bringing us together with federal authorities who are, in fact, our partners in protecting charities. She is also, as of 2015, the Waldemar A. Nielsen Chair in Philanthropy at the McCourt School of Public Policy at Georgetown University.

Before joining the Urban Institute, she was founding director of the Aspen Institute's Nonprofit Research Fund, the first grant making program devoted to supporting research on the nonprofit sector and philanthropy. She has a long illustrious history known to many of us.

Dr. Osili is-- the Giving USA, which I mentioned, is a tiny, tiny piece of what she does. It's almost exhausting to read. Besides being at the Lilly School, where she is Director of Research, she is also a Professor of Economics and Philanthropy Studies at Indiana University-Purdue University in Indianapolis. She does extensive research in behavior of households, foundations, and corporations. Her research is also associated with families, in the work with the Indiana University-Purdue University, and giving behaviors, and saving behaviors. I was pleased to see also that she is the current Chair of Research Committee of the Women's Philanthropy Institute.

I think you can read additional information about both of them, but I think we're very privileged to have both of them here. Are we starting with Dr. Boris? Thank you.

[APPLAUSE]

ELIZABETH TROCOLLI BORIS: Thank you, Karen. And thank you Tracy for organizing this wonderful event today. As Karen said, I've been working with NASCO and NAAG and the IRS on issues of regulation and data, and it's just a great pleasure to be here today. You're very hard to see because of the lights, but I'm hoping that this will work.

So my assignment today is to give you the brief run through of what the charitable sector looks like. First, the nonprofit sector, all the nonprofits. Then, focusing in on what we call operating public charities. We get this information from the Urban Institute through our National Center for Charitable Statistics. There's a new edition of the Nonprofit Almanac, that you can find information on, on the Urban Institute's website.

We do what we can with the information-- excuse me-- that we have from the 990s. Also, using Bureau of Labor Statistics, and any other things we can get our hands on. But as you know, these data are scattered. You have to do a lot of estimations, and you have to work with a lot of your friends to get the data that we're going to give you today.

A word about the Urban Institute. It's a nonpartisan research outfit. I created and headed the Center on Nonprofits and Philanthropy more than 20 years ago and, with it, brought the National Center for Charitable Statistics. So the data that I'm going to be giving you today really comes from those sources.

So about the nonprofit sector. As the folks in this room all know, they do many, many things. So their activities are amazing. A variety, communities, nationally, internationally, from basic feeding of people to very complex research, from one-on-one tutoring and mentoring to online education and engagement. So there are lots of activities.

Getting your hands around this elephant is difficult indeed, especially when you're coming at it from a regulatory perspective. Their roles in society are many. Contributions to individual and community well-being, impact on civic engagement. It is just something that we don't talk about, in my perspective, enough. We also have economic impacts, which we'll go into to the extent that we can. And then, relationships with government and business.

So those of us who study the nonprofit sector like to say, they are the glue-- nonprofits, charities-- are the glue that holds us together, helps us to maintain well-functioning communities. They interact with government and partners and contractors, and more recently, they're involved in complex investments, collaborations, relationships with governments and business, and impact investing and other new forms, which I think Una will probably talk a little bit more about.

What makes it difficult is that the sector is quite diverse. Again, if you look at the elements of the sector, we talk about governance and-- can't see my own notes here. Let's see. So the diversity of the sector-- large and small boards. You have many beneficiaries, or members, or both. Some revenues may be from one or two sources. Other nonprofits may have a whole raft of revenue sources. They may provide specific focused services-- feeding or housing-- or they may have a wide variety of beneficiaries and benefits that they provide, what we call multi-service organizations. They may serve a specific city region, or region, or they may be national or international. When we think about regulation enforcement, and understanding these organizations, we have to take into account, first of all, this diversity.

We talk about nonprofit organizations by type. I'm talking about all nonprofits now, not only the charities. But the charities are the biggest percentage. About 2/3 of the nonprofits in our country-- at least those that report to the IRS-- are charities. As we know, there are lots of organizations out there that are too small to report, that don't provide their information to anybody. So what we're talking about here are the ones that we can count. But we know that there are many others.

We have private foundations at about 6%, and business leagues about 4%. And then, those pesky social welfare organizations that we're all talking about, almost 6% of organizations. A word about social welfare organizations-- we think about them as advocates, but research that I'm doing right now suggests that most of them are not at all advocacy organizations. They are just organizations that haven't got charitable status, because they serve members, or for other reasons.

The big data-- the asterisk is because these are the ones that report us information. There about 1.4 million of them. Their revenues are about $2.26 trillion. Their expenses are about $2.10 trillion. And their assets are about $5.16. Notice the date-- 2013. We don't get all of our information in a timely way. It's very difficult for us to have real time information on these organizations, which is a detriment for those of us who do research, and also for those of us who regulate. Hopefully, digitized forms 990 will help us do a better job of that.

When we talk about the economic impact, according to the new Almanac, about 5.4% of GDP comes from nonprofit sources, and the sector employed about 14.4 million individuals in 2013. This is significant. I started looking at how it compares to the auto industry-- much bigger. The financial industry-- much bigger. But of course, what we're talking about are very large hospitals and very large universities that really have the bulk of the employees. The sector is growing faster than either business or government. So once you can say things like this, it starts putting the sector on the map, both for those of us who want to advance legislation, and for those of us who would like to regulate.

Charities-- we're focusing in here now on operating public charities. Smaller part of the overall nonprofit sector, but, again, the largest part. Their revenues are about $1.73 trillion. Their expenses $1.62 trillion. Their assets about $3.32 trillion. These are not including foundations now. So again, even if you just look at the charities, it's still a significant chunk of the economy.

Now, if we look at the kinds of charities that we have, these are familiar to all of you in this room, I'm sure. But the largest group are human services organizations-- about one third of the charities are human services. It might surprise you to find that international organizations are the smallest group, about 2%. But coming up from the bottom-- education, about 17%, health, about 11%. And we'll talk about that these are the numbers by type.

So you can see, according to the way we think about the sector, human services are the biggest group. And when we think about now the actual expenditures, we have a different story. Most nonprofit charities are very small organizations. Look at the bottom of the chart. Those with less than $100,000 are about 30% of organizations, and their share of the economic pie is quite small.

So when we think about the organizations that we're dealing with in the sector, it's only about 4% that have $10 million or more. And that's where all the attention is really focused. When we talk about going to scale, when we talk about organizations that have significant staff, significant salaries, significant facilities, we get up to those large organizations, which are a small piece of the pie.

Charity sources of revenues-- again, this is probably common knowledge to most of you, but the largest source of revenue, which may be a surprise, is fee-for-service. This has changed over the years, but almost half of the revenues for charities come from fee-for-service. Again, you're talking big organizations, like hospitals and higher Ed. If we took those out of the equation, probably 25% would be coming from contributions. As it is, if we look at the whole charitable sector, it's about 12%. Government grants, about 8%. Investment income, about 5%. And most organizations rely on a mix of these revenues, which means that organizations have different constituencies, and they often have revenues from many of these sources, which means that they require multiple ways of accounting and reporting, which I'll talk about in a minute.

But that puts a real burden on smaller nonprofits, and those that don't have a strong infrastructure. We often tell nonprofits to diversify their revenue sources. Well, you can see what that might mean when you mix up user fees, government grants and contracts, private contributions, investment income, and event income. And then go to the newer forms of online fundraising, crowdsourcing, and whatever. Very complicated revenue streams.

If we talk a little bit about government grants and contracts, the study that we did at the Urban Institute in 2010, and again in 2012, we found that there are nearly 350,000 contracts and grants with nonprofits. And of the 55,000 that had those contracts and grants, they average about six different contracts or grants with government. Again, a very complicated stream of revenue for nonprofits. We found about $137 billion worth of grants and contracts in 2012. The study details the problems nonprofits experience with government funding, as well as potential solutions.

For example, late payments. We started doing this research after we heard many, many nonprofits complaining about, after the recession of 2008 2009, 2007, that they weren't getting paid on time. 90 days late payments from government, 180 days late payments. So we did this nationally representative study to find out what were the issues. How many organizations are involved? And we found significant problems with reporting late payments, complicated accounting requirements. And working with the National Council of Nonprofits, we provided them with our findings. And they started advocating at the state level to fix some of these problems.

And in California, for example, there's now an effort to get full payment. Because one of the really big issues was nonprofits were not being paid adequately for their overhead, or their administrative expenses. We regulators might, or you regulators, might focus on the exorbitant salaries, or administrative expenses, but the real problem in nonprofits is that they're not getting paid for the overhead and the administrative expenses that they do incur in carrying out many of the government grants and contracts, and even foundation funded projects as well.

So there are two sides to that coin. So there are many statewide efforts now to look into these issues, and the OMB directive has required now government to pay reasonable overhead expenses for nonprofits.

We're going to take a quick look through foundations. And I know that Una will talk more about the giving side of the equation here. But we have almost 90,000 foundations, according to the Foundation Center, which is the keeper of the data. And if we look at the data there, they have about $798 billion in assets. Seems like a lot. They give about $55 billion in giving. Remember, they are required to give about 5% of their assets a year. And they received $56.2 billion in gifts received. Many new foundations are being created. They're being created every day.

Remember, though, that most foundations are small. They're unstaffed. They are vehicles for family giving. So when we talk again about the foundation side of the equation, we're really talking about the top 1,000 or 2,000 foundations, maybe 3,000, that have staff, and that have significant giving budgets.

There are many other ways to give, and Una will probably speak about those-- donor advised funds, giving circles, crowdfunding, and online giving becoming more popular, that expand that range of giving possibilities.

Now, talking a little bit about volunteering, we sometimes neglect volunteering, but it's a significant source of revenue for many organizations. In-kind, pro bono, everything from legal assistance to administrative help, fundraising help. 62.8 million people volunteered in 2014. That's about a quarter of the population. We've been concerned that that number seems to be sliding a little bit, but young people seem to be maybe picking up a little bit.

Am I right? Yes. Una has the data on that.

But this 8.7 billion total hours is a significant addition to our civic sector, and to our communities. The value of that volunteering is about $1.79 billion-- very significant indeed.

From Giving USA, this is the chart that we all look at every year. We can see that giving is mostly from individuals, about 71%. And overall giving about $373 billion in 2015. Individuals provided 71% of that, foundations about 16%, and when I talk to international groups, they are stunned to see that foundations are only worth about 16%. Their perception of how things go in the United States is often, foundations do most of the giving. Corporations, about 5%. And research that we're collaborating on now seeks to understand how to raise the percentage of giving from 2% of personal income, where it's hovered for about 50 years, and working with the AFP and other organizations, we're trying to see if there aren't some ways to raise that level.

The distribution of private contributions, according to Giving USA, 32% of giving is to religious organizations, down from about 34.7% in 2008. So we are seeing a slippage there. Education gets about 15%, human services about 12%, gifts to foundations about 11%, health 8%, et cetera. As you can see, gifts to individuals, which is a category that I don't often see on this slide, about 2%. So this is where the giving-- the individual, corporate, and foundation giving-- goes.

Now, I'd like to talk a little bit about civil society trends as I kind of wrap up what I'm talking about. There are many things that are happening in society. They affect the nonprofit and charitable sector, as they do all of us. There's a time of great change in our society. Globalization, greater civil society trends, greater visibility-- we want our charities to be more transparent-- there's a new generation of donors, giving while living, new organizational forms, which Lloyd mentioned-- hybrid forms, social purpose organizations-- that are combining a desire to raise revenue through traditional business ways, but with a social purpose. And creating the legal vehicles that allow for this is changing our environment somewhat.

We have impact investing and impact bonds, and new forms of collaboration between the business, government, and nonprofit sectors. These are very complicated ways of raising capital, which, as we all know, in the nonprofit sector, is severely lacking. How do we get a line on some of the resources of wealthy individuals, of venture philanthropists, venture capitalists, and get them into the charitable sector? Which raises issues, as we've discussed, for regulators. What do we have to look out for? Government involved in these is making it even more complex. We really want to know how organizations perform, and what kinds of results they produce for our communities.

Demands for use of evidence-based practices and performance measurement is something that's not going to go away. It's accelerating, seems to me, daily. It creates a real impact on nonprofits, who have to build the capacity and find the resources to help themselves to measure their performance, and then be ready to be evaluated when they are in these complicated deals, and when funders and government agencies want them to show that they have results. This is the mantra and the bottom line for organizations right now.

These are the big effects on society that also affect nonprofits-- the globalization, as we all know, and political polarization, which is coming to a head right now. When we look at the federal budgets, and the state budgets, which have been in decline, in terms of programs that affect the nonprofit sector and that they are concerned with, those have been in decline for the past 20 years. And I think we're going to see a lot more of that if the budget, as proposed, is passed.

We have environmental degradation, climate change, issues that are affecting many of our environmental organizations, but also community serving organizations in vulnerable parts of the

United States. We have immigration reform very much on the agenda. Affects a lot of nonprofits that deal with immigrants, helping them to get citizenship, helping them to transition to this country. Tax reform-- big issue for the charitable sector. I don't have to talk to this group about that, but in terms of charitable incentives, that can very greatly affect nonprofits and their ability to raise resources. And then, of course, we have health care reform that affects a huge sector of the nonprofit ecosystem. Those will all be affecting our nonprofits going forward.

Changing demographics. We'll see what happens with Medicare and Medicaid, but our population is aging. And those services are going to be even more in demand. So those are the kinds of things that affect nonprofits as we go forward.

When I talk to groups like this I like to say what we need to do, what's the research, we need to have more research on impacts and innovations-- what works, what doesn't work-- more research than even we've been able to do on the relationships with government and business. Donor and volunteer motivations, very important if we want to get that percentage of GDP up. We want to know more about advocacy and social change. Who's doing it? Is it effective? What kinds of populations are being left out? How effective is our advocacy, and where are the gaps? Self-regulation, always a big topic in this sector. What can we do ourselves to help make our charitable sector more transparent, more accountable, and more effective? And then, always kind of left out, is, how do we do all this, while not negatively affecting the civic and social capital building that nonprofits do on a daily basis to bring our communities together?

I think we have a double slide there. There we go.

So just as a coda to the overview that I've given you, what do the forms 990 reveal, and what are the gaps? Well, we know from the 990s-- I don't know if you can read these-- the nonprofit sector is growing in numbers and resources. But those resources are not uniformly distributed, either across the country or across different types of organizations. Sector is diverse by size and type. We can assess the financial indicators that are on the forms 990-- revenues, assets, expenditures. We now have some questions on governance. But we also need to look at other variables.

We can use the form 990 as a sampling frame for surveys, as we did for the government grants and contracts, and for lots of other studies, that we've done at Urban. We can identify outliers, and look up their forms 990 to see what they do, who they serve, what are their finances and their governance processes. When we have the fully digitized forms 990 available to every charitable office, they'll be able to use those forms to see who should we be looking at.

You can look at all 300,000 charities, or all 1.4 million nonprofits. But if you had some indicators, and some programming, you could find out where you should look, and over time it'll become more clear. We can combine form 990 data with other administrative datasets-- labor statistics, census of services-- for a whole variety of different studies. This is the researcher in me speaking. Boy, would we like to get our hands on those. With the advent of the digitized form 990, there's a lot we can do. And I know that GuideStar and the Data Collaborative at the Aspen Institute's really been working very hard to get that information out to all of us.

Continuing on the uses, we will be able to use the digitized information in ways that would have not been possible, to date. For example, you've heard mention of program and fundraising expenses as a percentage of overall expenses. While those of us who study the nonprofit sector don't think that's an adequate identification of fraud, it can be an indicator of things that you need to look into more deeply.

Using a statistics of income sample for 2012, we looked at the percentage of program expenses to total expenses, and we find that, not surprisingly, it increases with the size of the organization. 78.49% of those with less than $100,000 in expenses is the ratio of program administrative expenses to overall program expenses. But when you look at the larger organizations, it's more than 87%.

So we know that smaller organizations spend more, relatively, on their overhead and their administrative expenses. There's economies of scale going on. There are likely to be other factors. Because we find that those organizations with facilities that are religious, or that are small, are the ones that have higher overall expenditures.

So looking at just human services organizations in the statistics of income file, drilling down to specific programming areas, which you'll be able to do when we get those pie-in-the-sky 990s, we find 80% ratio of program administrative expenses to total expenses. 80% for science technology, 91% for food, agriculture, and nutrition. So it shows you, they differ. We have to understand these differences. Organizations have different operating logics, different ways of going about. Some have facilities. Some have more difficult populations to deal with.

When we look at the subcategories, where we can't generalize right now, because the statistics of income samples are so small, but for example, 94.3% averages for philanthropy and voluntary groups, 62.1% percent for veterans and military groups. Huge difference in their administrative expenditures to total program expenditures. So that would be a cue to look into some of those groups to see what the outliers are. You can do that. You can actually drill down to the 990 and look at organizations.

So such statistics can be a starting point for understanding different operating patterns. It's not the end point. Again, when we review the outliers, as I said, religious organizations, public foundations, they have a different operating style, a different financial profile, than other kinds of organizations. So size of organization is a clear factor, and perhaps the age of the organization. Startup organizations are different from long-standing organizations that have grown. So we have to look at those factors as well.

Other intervening variables that I've seen, as I've looked at 990s, retiring CEO who draws down deferred compensation pushes the administrative line way up there. We have to be aware of those kinds of things. A year with a very large gift, followed by a year that's very lean, also something that we have to take into consideration. So statistical analysis will reveal the trends, but we have to be careful to understand them.

So in my conclusions, I would just say that civil society-- by that, I mean the whole philanthropic sector-- is diverse and growing, but our knowledge base is still fairly primitive. We need more research on many aspects of it. Scope and dimensions, we can talk about the numbers, but we'll even disagree about those, because we have different years-- different years that people file their forms and don't file their forms. A lot of estimation has to go into that.

Our management and financial research is growing. Our economic impact information is getting more robust. Performance research is beginning to take off. We have outcomes and specific programs, own communities and populations. We have more evaluations.

But we are lacking in synthesis, and getting our knowledge out there and across communities. Outcomes of specific programs really have to be done more specifically. Civic engagement research is in its infancy. Policy and budget analysis research is limited. Alan Abramson has done a terrific job in the new edition of Nonprofits and Government. There's some information on budgets and legal research, as we saw today. There is a growing legal community that's really concerned with the charitable sector.

But regulatory research that we're talking about today is really in its infancy, and really needs to be done much more broadly. We think that our study of the state attorney generals offices is a start, but it really is only a start.

So to summarize, the nonprofit, philanthropic sector is a critical economic and civic resource for our communities. Not only do people give to, and volunteer, to provide services, they also become involved in it, and the relationships are very critical for our communities' well-being. So thank you very much.

[APPLAUSE]

KAREN GANO: While we switch speakers, I just want to remind you that there are cards out there. Please write your questions down and they'll be collected. And for those of you watching on the webcast, go to ftc.gov, to the event page, and there'll be ways to send in your questions electronically. Dr. Osili.

Who's our slide expert here? We are lacking a slide expert. We need Dr. Osili's slides. Ah! Is this it?

DR. UNA OSILI: Good morning, everyone. I am delighted and honored to be here, and a really big thank you to Tracy for convening us, and also my fellow panelists, especially Dr. Elizabeth Boris, who we've worked together jointly for many years. I think she was on our board of advisors many years ago, board of visitors.

So good morning. My job here is actually a tall order, which is to tell you what's going on in the charitable sector, and do it succinctly-- so be brief. So I'm not going to be able to go over all of the work that we do, but I'll try to give you a snapshot of what philanthropy looks like today, and also where we're heading.

In terms of a quick overview, I am a professor at the Lilly Family School of Philanthropy. It's the world's first school on philanthropy. We house academic programs, research, but also training programs. And I'm happy to share more information about the school as well.

So let's get started. If I had to distill the presentation today, I would say it's what's now? And what's next? So there are really two questions to put on the table. Keep in mind, I would argue, and you may disagree, that we are in an era of disruption, whether it's our economic landscape or political landscape. But also how we give, and how donors support charities, appears to be changing, and our data are starting to show evidence of that. So a little bit about what it looks like today, but also how the field is changing, how the sector is changing.

Now, we have the benefit of doing the research and writing for Giving USA every year. We partner with the Giving USA Foundation. This project is the longest running research project in the charitable sector-- dates back to 1956. And what it allows us to do is actually look at what philanthropy was, or appeared to be in the 1950s, what it looks like today, and how it's different.

So I'll just give you a few snapshots of some of the questions that I have received in the past year, and just to give you a sense of how philanthropy is changing. Some of these we really just don't have data yet, and I'm so pleased that the earlier panel alluded to this. Let's start with the crowdfunding platforms. That's probably the best place to start. So what do we know about them?

It turns out data is extremely difficult, because, in most cases, when a donor sets up a GoFundMe account-- which is actually quite easy to do. You can do it in less than, I would say, three minutes. I've actually done it recently. So it takes really speed of light. You can get the account set up, and the funds can be available to the designated donor. Keep in mind, these are usually flowing to individuals, people like you and me, whether that's for medical reasons or other reasons, which means there isn't any reporting, no IRS that's tracking these donations.

Donor-advised funds has also been on our radar recently. We started to count how many questions we had gotten in the past year. Turned out, donor-advised funds accounted for about 40% of all the questions we were receiving. So certainly, this came to light recently because Fidelity Charitable was the top recipient of charitable dollars in 2015, exceeding the United Way, and other large charities.

Then, we have another game-changer. Mark Zuckerberg and his wife, Priscilla Chan, set up the Chan Zuckerberg Initiative at the end of 2015. And the difference with the Chan Zuckerberg Initiative is it's set up to do three things-- grant making, traditional philanthropy, impact investing, but also advocacy. And so the complexity of this, it's not necessarily new, but certainly the size of the Chan Zuckerberg Initiative continues to attract a lot of attention.

Then, we have social impact bonds, Giving Tuesday, and many other new ways of giving. All of these are interesting and important, but some of them are actually quite difficult to track, from a data perspective, especially the crowdfunding landscape.

Now, let's start with what we can measure, and then we'll go to what is less measurable. And I am reminded of the very popular saying that, not everything that accounts is measurable, and not everything that is measurable counts. So keep that in mind, because there are increasingly aspects of philanthropy that we can measure, and some that perhaps will always be inherently less measurable.

With Giving USA, we have the ability to look at philanthropy today, and how it's changed, where the funds come from and where they go. Elizabeth started to mention this a little bit, and I'm just going to focus on how this charitable pie has changed. So a few key facts-- philanthropy in the US is about $373 billion. To put this in perspective, this is about 2% of GDP. But it's also the size of several African countries put together-- their entire GDP. It's close to the entire GDP of Indonesia, which is one of the large economies in the world. And Norway, a few years ago, was about $373 billion-- it's entire economy. So this is quite significant.

Individuals are still the largest slice of the pie, the big kahuna. And that's no surprise if you study consumption, that really individual giving is the main component. But keep in mind, individual giving was even larger in the 1980s. It was about 85% of all giving.

Foundations have grown. Especially in the 1990s, foundations have grown to account for a larger slice of the pie. Corporations have basically stayed the same at 5%, but that actually masks a lot of underlying changes within corporate giving, where more corporate giving is taking place through cause marketing and other types of partnerships with nonprofits.

In terms of where the funding goes, this picture has changed dramatically. In the 1960s, religion accounted for two thirds of all charitable giving-- essentially, went to religious organizations, basically houses of worship, whether that's a mosque, a church, or a synagogue. And that has dropped dramatically. One simple way to describe it is religion appears to be losing market share. Religious giving is still important. It's the largest slice of the pie, as you can see. But if you look at this over time, you'll see that religion is declining in its share of overall charitable dollars.

Two new areas that we have started to pay a lot of attention to-- the environment and international affairs-- because those were relatively small in terms of charitable dollars, but are becoming increasingly important. Education, I will also say is the second largest slice of the charitable pie. And here, there's also been change taking place with more dollars going to K through 12 initiatives, with even some public schools setting up foundations that receive charitable dollars.

In terms of the trends over time, you'll see that individuals are really driving the trends in charitable giving. They're by far the biggest, and so, if you really want to know what's happening with charitable giving, you really have to look at what's happening with the individual donors.

The point that I made about religious giving declining, I want to be a bit careful here. We all have seen the press around the rise of the nones. Has everyone heard of the nones, the rise of the nones, raise your hands? Yes? OK, so nones are spelled N-O-N-E-S, not N-U-N-S. And so these are basically the rising share of Americans who are not affiliated, or do not consider themselves affiliated. Again, in the 1960s, this was a tiny slice-- less than 5%. Today, that's inching toward 20% of Americans who are not affiliated with a particular tradition.

We also know that Americans are far less likely to attend services, or more of them are tending less frequently. And so that, put together, is the evidence that religious giving is declining. People who aren't attending are also less likely to give-- who aren't attending frequently. But it's not to say that religion is no longer important. It's just, as a share of overall giving, religious giving has been declining.

Now, as we unpack these data trends further, one of the areas that we have looked at very closely as part of our work with Giving USA is looking at how giving is influenced by the underlying economic trends. And what we've noticed, over time, is that certainly the overall economy is by far the biggest driver of charitable giving trends. The yellow bar is-- I think they're yellow on your slides-- are actually the recession years.

And you can see that each recession has been different. The phrase that I always use is, you've seen one recession, you've seen one recession. Because the great recession was, by far, the biggest decline in giving that we've observed in the post-World War II period. And you can see that it has taken quite some time-- seven to eight years-- for giving to recover to its pre-recession highs.

Now, in terms of the challenges for the sector, this is something that I know Jacob Harold here is working very diligently on in a very exciting initiative to grow giving, and Elizabeth alluded to this as well. One of the data points that we have focused a lot of our attention is the share of charitable giving taken in the context of the overall economy. What we've seen is that number has stayed relatively flat, at 2% of the overall economy.

And you can see that, in the 1990s, the share did increase. But during the Great Recession, it dipped back down to below 2%. And we've started to inch back up, what we have a long way to go. I mentioned last week actually that we did a back of the envelope calculation and said, it would take about $75 billion in additional dollars raised to get this to 2.5%, which seemed very daunting. And so at that point, we stopped our calculations and decided to look at this data slightly differently, and that is to look at individual giving as a share of household income.

And what was surprising about this analysis is that it also shows the same pattern, that American giving, as a share of household income, is also stuck at 2%. And we've compared this to trends in other types of consumption in the same period-- how much Americans are spending on technology, on vacations-- and those percentages have been increasing, compared to the trends we're seeing in charitable giving.

So a bit of a challenge for the sector. What would we have to do differently-- and that's donors, as well as nonprofits, and perhaps policymakers, those of you in the room-- to actually move the needle beyond this 2%?

In terms of other drivers of giving, our research on this is the stock market is the most important to actually correlate with overall giving. What we've also determined is that, although the stock market actually is the most important predictor of giving, charitable giving is a bit of a lagging indicator. So the overall economy has to improve first before giving improves. So we tend to see giving lag a lot of economic data.

In terms of the largest fundraising charities in the US, I mentioned the rising role of donor-advised funds, and we see that evident in this list of the largest charities in America, that increasingly, we're seeing the ranks of Fidelity Charitable, Vanguard, Schwab, and many others at the top of that list. This does raise some interesting questions. I think, for many charities, this is not necessarily a concern, because the donor-advised funds may eventually flow to those charities. But it does raise some interesting questions for the sector, and for regulators, as to who is giving, and to what types of causes and organizations.

In terms of how donors are changing, that's probably where we see a lot of evidence that things are actually moving quite rapidly. We have two very important data sources. One is the Philanthropy Panel Study. It tracks the same American families over time. We've been collecting this data now for nearly two decades. But it's part of a larger study, the Panel Study of Income Dynamics of American Families, that dates back to 1968. It started with the Johnson Administration.

What this allows us to do actually for the first time is see how Americans-- the same families-- are giving, and how this is changing, so actually track trends in giving. We've also started the same exercise with high net worth households. It's not a panel, but it's done every two years, where we survey the highest income Americans and look at their overall giving patterns.

So what have we learned? Probably the most distressing finding from the Philanthropy Panel Study is that giving is actually declining. The fraction of Americans that give has fallen over time. And this is a very interesting, and surprising, twist, because, for a long time, I could say quite confidently, giving has stayed relatively stable-- 2/3 of American households give. More Americans give than almost any other civic activity.

But since the Great Recession, we've actually started to see a dip in those overall giving rates, and we've done a lot of work to understand where that dip is taking place, who's less likely to give and why, and so forth. But you can see that religious giving is actually part of the story here, because a smaller fraction of Americans are giving to religious causes.

Secular giving has not seen that same decline. And as we've looked more closely at the data, a lot of the decline that we're seeing is coming from, not the highest income Americans, but more the average and low income households in the dataset. So I can say more about it if we have time.

Another interesting, but also surprising, finding is that younger Americans are less likely to give. So on the surface, you might say, well, younger Americans, Millennials, are at a very different point in their life cycle. Many of them are just starting their economic lives. Of course, they're giving less, and they're less likely to give.

So we actually tortured the data little bit, and we compared the Millennials to the Boomers at the same point in their life cycle. Because we have a panel, we can actually do that. And by bringing in some earlier data on Boomers, and how much they were giving at the same point in their life cycle, adjusting for inflation and income growth, we still find that Millennials are giving less than their counterparts in the Boomer and higher generations.

So this is actually something that I think means perhaps Millennials are giving differently. They're giving through these newer vehicles. They're giving directly. But there's a lot of work to be done to understand why are younger households less likely to give, and also giving less.

And you can see that Gen Xers really get left out. It's really about Boomers and Millennials, and that's because of the size of those cohorts mostly. I would argue that it may be a bit simplistic to divide the nation into these groups, because Millennials, Boomers, Gen Xers are usually part of one family, and there are bonds and linkages across these family members.

By far, the highest giving rates are with the Great and Silent generations. So often, although there is a spotlight on the Millennials, I think it's important when we think about charitable giving to really look at the older Americans, and their giving patterns. And I think for regulators, really paying attention to that group as well.

How do donors determine their impact, the impact of their giving? We noticed, over the last 10 years, that, by far, one of the factors that seem to be changing the most is that donors keep stressing that they want to see the impact of their gifts. And that's a big change, because in 2005, when we first started the High Net Worth Study, the number one reason people cited for giving was to give back to their communities. Today, you can see that impact is usually the number one motive.

And so we asked, in this last round of the Bank of America Study, how do you determine your impact? It turns out, many donors rely on information from nonprofits. So that, to me, suggests that, in terms of thinking about the ecosystem and the landscape, nonprofits have an important role to play, especially on the impact question.

As far as where we see also change, but some stability, taking place. Where do individuals-- and these are high net worth households-- where do they place their confidence? Turns out, individuals-- high net worth households-- have the highest confidence in individuals, followed by nonprofits. Government has a much lower role, as you can see, in terms of overall confidence, in changing society.

So to conclude, I just want to talk about one last area where we're starting to see evidence of disruption and change, and that's how technology is impacting philanthropy. Now, online giving has been part of the landscape for a very long time, so that's not a surprise. But I think we're starting to see even new forms-- it's not just the idea of going online to give, but mobile phones and all kinds of new platforms that individuals can give. I want to stress that online giving is a relatively small piece of the pie even today, but it's growing at a much more rapid rate.

You'll hear, I'm sure, from our colleagues at Blackbaud later on today, but we're seeing double digit growth rates in online giving, compared to overall growth rates in the charitable sector that have been in single digits, for the most part, throughout this past decade. So online giving is

7.2% of overall giving, maybe even as high as 10%. But overall, what we're learning is many donors are using technology to learn about giving, to get familiar with the nonprofits and the causes that they care about.

Finally, crowdfunding is perhaps the newest part of this equation. For some reason the numbers aren't showing up there, but in terms of the size of this industry, it is in the hundreds of billions of dollars. And for the US component, you can see the donations are a small slice of the overall dollar amount. The slide is-- maybe I can make that available to anyone who wants it. It's not coming up.

One area that we have been paying attention to because of our interest in gender differences and philanthropy is how men and women give differently. And it has been interesting that more women are interested in giving through some of these crowdfunding platforms. And this lines up with a lot of the research that shows women are more active on social media, more likely to learn about causes on social media, and so forth.

So to conclude, we don't have all of the data points, in terms of how crowdfunding is changing giving, how technology is changing giving, but what we do know is that the future of philanthropy may be very robust and alive, but will be very different, in some important ways, than what we see today. I just want to emphasize some important ways that we have been paying attention to.

The first is demographic shifts. We're seeing the rise of a more diverse donor base, and that's racial diversity, ethnic diversity, but also household formation, the rise of singles compared to couples. The importance of aging populations in philanthropy. And when we say aging, that may be couples making decisions. What has been interesting, from both the High Net Worth Study and the Philanthropy Panel Study, is that most households make charitable giving decisions jointly.

And so that's an interesting thing to note, but that there is increasing diversity in what a household looks like in the US. We're also very interested in tracking gender differences, particularly because women play a growing role in our economic and political leadership landscape.

One note of optimism to end the presentation is just to ask about, when we think about the future of giving, and that's increasingly complex, given the disruptive factors at work, is that recently, in the 2016 Bank of America High Net Worth Study, we did ask households to project into the next three to five years and tell us what they think their charitable giving will look like. And most households-- three quarters-- said they either plan to increase their giving, or hold steady they're giving. And in terms of what factors would contribute to that change, the thing that really stood out-- the factor that stood out-- was the role of the economy.

So as we try to wrap up and think about what factors drive giving, I would still say the economy is the most important factor. We increasingly have the evidence to support that households give when they have the economic and financial conditions in place to enable them to give. But having good information about the types of causes and organizations they can give to certainly increases their capacity, and having a regulatory environment that's favorable to charitable giving-- you can see the role of tax policy-- can also enhance the overall giving landscape.

So I will stop here and say that I'm happy to answer any questions, or provide any additional information. Thank you.

[APPLAUSE]

KAREN GANO: I'm technologically challenged. I guess this is working. You can hear me, right? Do we have questions? Anyone? Thank you very much.

I can start with a question from a regulator's point of view, from the state regulator's point of view. We are-- it's always a challenge to get 50 sovereign governments, states, to do the same thing. And through NASCO, we are beginning, as I said earlier, to gain some more agility and ability to do that. Fighting charities fraud is something that everyone-- it's universal-- everyone can get behind. So we have that advantage in working together. And with the help of the NAAG Charities Committee, we're doing a great deal more, and through the information and partnerships that have been facilitated by the Urban Institute, and others.

But Dr. Boris, you mentioned the fact that we're getting more data, and we know there are a lot of gaps still, and we're all salivating at the idea that we might eventually someday get all of the 990 raw data. But you talked about synthesis of that data, and how we get that data out there, and that information that we glean from that data out there, in a way that is digestible by not only some of us who will be learning how to look at that in a more sophisticated way, but to the general public, and to get it to an educational level. Do you have thoughts about that?

ELIZABETH TROCOLLI BORIS: Well, there are different levels, I think. Is this on? Can people hear me? So the 990 data, as we use it now, folks can go to a GuideStar website, for example, and get a portrait of an organization, or can ask them for particular runs, or databases. You know, it can create databases for research.

So I think we have to continue along those paths of making sure that, as we get more information, we put it forward in a way that is digestible and accessible to the public. NCCS is really-- the National Center for Charitable Statistics-- at the Urban Institute is really geared more toward the researchers. And actually, the regulators use our data often.

KAREN GANO: Yes, absolutely.

ELIZABETH TROCOLLI BORIS: Because they're more sophisticated users. They want aggregate information. But I think that we can help each other by flagging ways to look at the information for the particular questions that you have.

So I think we need both. We need the accessibility for the donors and for the general public, and we should do some focus groups, et cetera, which probably folks do do, to make sure that the information is accessible to them. But what we want is more complete information so we can answer the more complicated questions for our purposes.

KAREN GANO: Exactly. And looking at a couple of your charts, the top 4% is probably not necessarily where we're going to find the most fraud, other than those high fundraisers who have Bentleys in the garage. But it will be curious to see, when we get real data on fraud, where that's going to fall, and how that integrates.

ELIZABETH TROCOLLI BORIS: I'd like to see a database of the fundraisers.

KAREN GANO: Oh.

ELIZABETH TROCOLLI BORIS: Maybe they exist, but I haven't seen them. Because if we want to look at who they're working with, and their particular-- how they operate, et cetera, we need to know as much about them-- if that's your concern-- as we do about the charities.

KAREN GANO: We are, as you know, beginning to work on a single portal project, as we call it, to consolidate all state registrations. 40 states require state registration. It's different in all 40 states. And they are in standalone databases, or half of them still in paper form. So we're well along. We're actually going to get into development in that this year and launch something.

But we're eager to be able to learn to manipulate that data in those ways, too. And of course, there are some National Center for Statistics, you're all working on that kind of research now. So we're looking to learn from you on how we can do that.

ELIZABETH TROCOLLI BORIS: And I want to emphasize, not from a punitive point of view, but we really want to understand more about the way that fundraising happens. And I know AFP and other organizations of fundraisers, they're vital to the health and welfare of organizations. But it seems to me, we're always looking at the charities for the instances of fraud, and we want to know best practices in both communities.

KAREN GANO: Absolutely. Dr. Osili, you talked, in your statistics, you have two donor-advised funds that are in the top 10 taking in-- Fidelity at the top now, and Charles Schwab is there, too. Do we know how that is going to affect the way charitable dollars are used, especially going forward? I mean, many of those donors are still advising. But we're going to move into a new generation. And we're no longer emphasizing the community foundation or the local giving. Do we have ideas, or data, about how that will affect?

DR. UNA OSILI: Yes, I think it's still quite early in terms of really understanding all that we need to know about how donor-advised funds will affect the charitable sector. Just to put this in perspective, Fidelity's relatively new. Fidelity Charitable was established in 1991. The other two very large national donor-advised funds are even more recent, established in the 2000 period.

And just to also add complexity, when we talk about donor-advised funds, there are really three big buckets. There are the national donor-advised funds, the community foundations that have hosted them since the 1920s, and then single issue charities that include charities across the landscape, whether they're in human services, health, education, that actually host donor-advised funds. I give the example often of Indiana University having its own donor-advised funds. And many staff, students, faculty, even people at the IU Foundation, not realizing that they actually host their sponsoring organization.

To get us closer to what we'd like to know, and what we do know, I think data is really the missing piece. To date, there really hasn't been a place, a portal, where you can go and drill down into each of these donor-advised funds. We are, as part of subproject within Giving USA, launching a really large initiative to look at where those dollars flow to.

And we were surprised that, with all the interests-- policy interest, regulator interest, and even charity interest-- that there wasn't one report that synthesized where are all these funds going to in terms of subsectors. Are they supporting mostly education, the arts, and so forth?

And so we are pulling together all of the 990 information. But it's Schedule I, which is not necessarily publicly available for all the large donor-advised funds. And we're actually pooling this information together to provide this aggregate picture, which, as I said, I was quite surprised to learn that had not been done before. But certainly, given the complexity, now I know why it hasn't been done before. It's very difficult.

KAREN GANO: Thank you both. I think we're out of time.

[APPLAUSE]