

Media & Politics in Prosecuting Financial Fraud

Spencer Graves
Executive Director
effectivedefense.org
spencer.graves@effectivedefense.org

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1

Finance industry (finance, insurance, banks, & other holding co's)

- 1) To avoid losing advertising the commercial media underreport financial crimes (the 100-to-1 rule)¹
- 2) Big business today gets between \$6 and \$220 for each \$1 invested in lobbying & political campaigns,² enforced by (1)
- 3) The 1933 Glass-Steagall Act
 - limited speculation by banks, which helped stabilize the US and international economy
 - was repealed in 1999, giving the finance industry \$200 return for each of the \$500 million invested each year in lobbying and campaign contributions.³

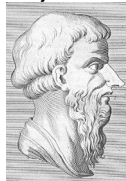
1. Herman & Chomsky (1988) *Manufacturing Consent* (Pantheon)
2. Lawrence Lessig (2011) *Republic, Lost: How Money Corrupts Congress and a Plan to Stop It* (Twelve, p. 117)
3. Wikipedia, "Conflict of Interest"

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4

Anacharsis (6th century BC)

"Laws are spider webs,
which catch the little flies,
but cannot hold the big
ones."



David Graeber: *Debt: The First 5000 Years*

- The wealthy write the laws to benefit them and impoverish everyone else.
- This trend has been upset only by peasant rebellions.



Source: Wikipedia: "Anacharsis", "David Graeber", "Debt: The First 5000 Years"

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2

The Current National Foreclosure Crisis¹

- Is expect to continue through 2015
- 2.7 million American families, 785,000 in CA lost their homes between Oct. 2007 and Feb. 2011
 - 7.8 per work day per million population (19 in CA)
- Has declined slightly recently; in Santa Clara County²
 - 15 families lost their homes each day in July 2011
 - 6.2 " " " " " " " " " " 2012

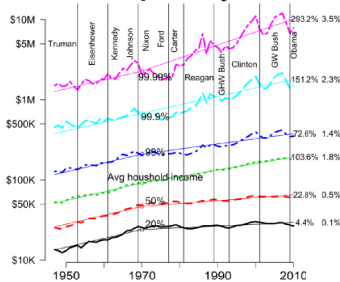
1. Center for Responsible Lending.
2. Pete Carey, "Bay Area foreclosures Jump in July", San José Mercury News, 14 Aug. 2012 (http://www.mercurynews.com/real-estate/ci_21312142/bay-area-foreclosures-jump-july)

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5

Growth in Income Inequality

- The economy grows as people develop ways to do more with less.
- From 1947-1970, everyone benefited equally from these improvements.
- Since 1970
 - US average annual income has doubled.
 - Most of the benefits have gone to the 0.1%.
 - This unequal sharing amounts to \$39,000 per year, **\$100 per day** in lost income for the median American family



US Census Bureau, "Table F-1 All Races: Income Limits for Each Fifth and Top 5 Percent of Families" (<http://www.census.gov/hhes/www/income/data/historical/inequality/index.html>)
Piketty and Saez, "Income Inequality in the United States, 1913-1998", Quarterly Journal of Economics, 118(1), 2003, 1-39 (Longer updated version published in A.B. Atkinson and T. Piketty eds., Oxford University Press, 2007; <http://elsa.berkeley.edu/~saez/>)
Louis Johnston and Samuel H. Williamson, "What Was the U.S. GDP Then?" MeasuringWorth, 2011 (<http://measuringworth.com/m/datasets/usgdp/>)

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3

S&L Crisis (20-25 years ago)¹

- Leading finance executives got politicians to suppress criminal referrals until many S&Ls collapsed
- After the scandal got too big for the media to cover up, regulators (Office of the Comptroller of the Currency, OCC, & Office of Thrift Supervision, OTS) filed thousands of criminal referrals
- that produced over 1,000 felony convictions

1. William K. Black (2005) *The Best Way to Rob a Bank Is to Own One* (U. of Texas Pr.)

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6

Today

- The current crisis is 70 times larger than S&L.¹
- Between 2007 and 2010, OCC and OTS made **zero** criminal referrals.²
- As of April 16, 2012, there had been NO convictions of controlling officers of the large nonprime lenders.
 - A few convictions of smaller lenders.³

1. Paul Jay interview with William K. Black regarding "get tough on banks" claims in Obama's State of the Union message. *The Real News Network*, c. 9 March 2012 (http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=7926)
 2. Bill Black (Dec. 28, 2010) "2011 Will Bring More De facto Decriminalization of Elite Financial Fraud", *Next New Deal: Blog of the Roosevelt Institute* (<http://www.nextnewdeal.net/2011-will-bring-more-de-facto-decriminalization-elite-financial-fraud>)
 3. John T. Burke, Jr. (Apr. 16, 2012) "Another Slap On the Wrists", *TheCenterLane.Com* (<http://www.thecenterlane.com/?tag=savings-and-loan-crisis>)

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7

How to Confront this Crisis?

"[T]he weak, meek, and ignorant are always good targets." Charles Keating¹

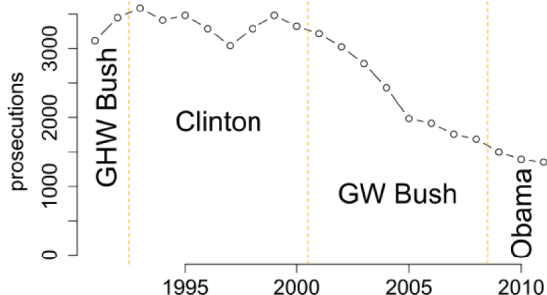
- Don't be ignorant:
 - Trust the broadcast media to flinch with reports that might concern advertisers.
 - Invest in substantive investigative journalism² and quality research to clarify issues and options.³
- Don't be meek:
 - Engage your friends and neighbors in vigorous but amiable political discourse.
- Don't be weak:
 - Organize.

1. "Charles H. Keating, Jr.", *New York Times*, Aug. 13, 2012 (http://topics.nytimes.com/topics/reference/timestopics/people/k/charles_h_keating_jr/index.html)
 2. The Investigative News Network (INN, <http://www.investigativenetwork.org>) is a consortium of over 60 non-profit investigative journalism organizations that deserve much wider audiences and support. Some solicit volunteer labor.
 3. We need more focus on the runaway inflation in corporate welfare. The Center for Responsive Politics ([opensecrets.org](http://www.opensecrets.org)) manages databases on campaign contributions. Public Citizen ([citizen.org](http://www.citizen.org)) and Common Cause ([commoncause.org](http://www.commoncause.org)) focus on issues.

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10

Financial Fraud Prosecutions



- Prosecutions under Bush II and Obama have been declining. Bush I and Clinton prosecuted.¹
- **Many prosecutions are "negotiated".**

1. Transactional Records Access Clearinghouse, Syracuse U., "Criminal Prosecutions for Financial Institution Fraud Continue to Fall" (<http://trac.syr.edu/tracreports/crim/267/>)

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8

Organizing to Fight Foreclosures

- Organize to find people in financial distress.
- Convince them to seek help.
- Start with financial counseling with peer support.
- Screen for people who could use legal support. **Where appropriate:**
 - Organize to collect the needed evidence
 - Organize the information needed to support loan modification applications, civil suits & criminal referrals
 - The support organization pays the attorney & helps manage the clients
- Organize supportive political action

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11

Prosecuting Financial Fraud

- The combined market capitalization of Bank of America, Wells Fargo and Chase is ~ \$400 billion
 - combined income Santa Clara County for 4.5 years
 - Their senior executives will likely spend every penny if needed to protect their prerogatives.
- Attorneys General and District Attorneys
 - rely on regulators to file criminal referrals
 - may have neither the resources nor the support from the media to confront the legal challenges that would come from attempts to prosecute CEOs of such companies
 - might have trouble getting reelected if they did.

Sep 17, 2012

9

Organize to pressure politicians (incumbents & candidates, local, state & national) to:

- Require regulatory agencies to look for violations, provide information to victims and file criminal referrals,
- Support citizens doing their own research, and
- Fund independent reviews like the San Francisco Foreclosure Audit¹ but
 - Start early in the process, at least with Notices of Default
 - Make evidence of crimes available to victims
 - File criminal referrals.
- Avoid "negotiated settlements" where feasible

1. Aequitas, *Foreclosure in California: A Crisis of Compliance: Report to Assessor-Recorder Phil Ting*, Feb. 2012 (<http://www.sfassessor.org/Modules/ShowDocument.aspx?documentid=1018>)

Sep 17, 2012

12