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Implications of the Demise of “Fact” in Political Discourse¹

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In 2004, an aide to then-President George W. Bush smugly informed journalist Ron Suskind that the “reality based” community and the reporters within it had been rendered largely irrelevant by those like the informant who create their “own reality.” And “while you’re studying that reality,” the aide added, “we’ll act again, creating other new realities, which you can study too, and that’s how things will sort out. We’re history’s actors . . . and you, all of you, will be left to just study what we do.”² What follows is a tentative exploration of the implications of the sort of reality-creation the Bush aide touts. My focus on past fabrications assumes that understanding the conjurers’ wiles is an essential step in undercutting them. Two stratagems recur in the four cases I will outline: (1) transforming palatable deceptions into presumably powerful ads and (2) drowning any corrections offered by opponents or expert knowledge-certifying communities in a wash of manipulative messaging. These means of controlling the communication environment increase the likelihood that the so-called reality creators will be able to hijack the issue agenda, manipulate the contours of legislation, foreclose desirable policy options, and thwart the public will.

1 Read on 27 April 2013 at the Spring General Meeting of the American Philosophical Society.

2 Ron Suskind, “Faith, Certainty and the Presidency of George W. Bush.” *The New York Times* (2014 October 17). Accessed at http://www.nytimes.com/2004/10/17/magazine/17BUSH.html?_r=0

THE NEED FOR INSTITUTIONS THAT CERTIFY AND ARE CUSTODIANS OF THE KNOWABLE

As theorists from Sextus Empiricus³ to Wittgenstein⁴ have observed, arguments are grounded in presupposed premises that serve as the foundation or point of departure for the case being made. To thwart that process, one need only dispute a primal premise or challenge the integrity of offered evidence. Lacking the time, the inclination, and the expertise to do otherwise, audiences license some statements to ground arguments not because they understand their empirical basis but because they trust the integrity and impartiality of a certifying institution. As Dewey noted, traditionally, such institutions have not been responsible for framing and executing policies; rather, their mission is making known the facts on which the policies depend.⁵

When the public accepts the knowledge-certifying role of institutions such as the Government Accountability Office (GAO), the Centers for Disease Control and Prevention, the Department of Labor Statistics, and the National Academy of Sciences, these entities are able to serve as custodians of “the knowable,” guarantors of the building blocks on which policy decisions can be constructed. Bolstering the credibility of such knowledge-certifying institutions is the public’s confidence that the conclusions offered are produced using transparent methods and are subject to rigorous forms of review within a community whose norms protect its integrity (Figure 1).

Because two of journalism’s key functions are (1) holding those who wield power accountable and (2) translating key findings of the knowledge custodians for the citizenry, the press, in this model, is responsible for not only conveying what expert communities know, but also exposing instances in which knowledge custodians fail to live up to their ideals and uncovering cases in which policymakers or others misrepresent their findings. Politifact, a Pulitzer Prize winning project of the *Tampa Bay Times*, performed this accountability function when it contextualized a presidential candidate’s declaration that “[t]he

3 Cf. Sextus Empiricus, *Outlines of Pyrrhonism*, Book I, 6, trans. Sanford Etheridge, in *Sextus Empiricus: Selections from the Major Writings on Scepticism, Man, and God*, ed. Phillip Hallie (Indianapolis: Hackett, 1985).

4 To borrow from Wittgenstein, “[a]t the foundation of well-founded belief lies belief that is not founded” (Ludwig Wittgenstein, *On Certainty*, trans. Denis Paul and G. E. M. Anscombe [Oxford: Basil Blackwell, 1969]: 33e) and that “[t]he language-game is only possible if one trusts something . . .” (509). Each language-game is different, but each one contains a foundation of stand-fast statements that are taken on trust and not placed under scrutiny.

5 This insight (p. 109) is drawn from Michael Schudson’s valuable chapter “The Trouble with Experts—and Why Democracies Need Them,” in *Why Democracies Need An Unlovable Press* (Cambridge: Polity Press, 2006): 108–25.

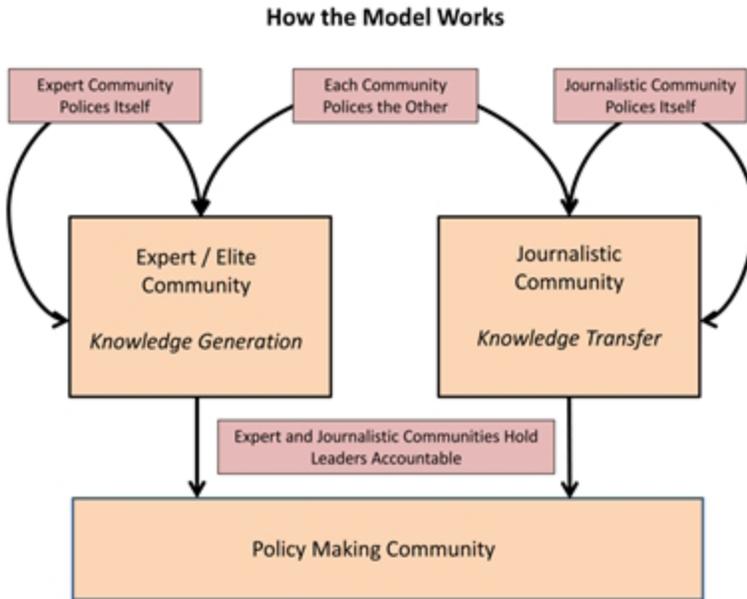


FIGURE 1.

weight of the evidence [on climate change] is that most of it, maybe all of it, is because of natural causes There’s lots of layers to it. But at least as to any potential man-made contribution to it, it’s fair to say the science is in dispute.” Instead, Politifact reported:

A 2010 study published in the *Proceedings of the National Academy of Sciences*—the official publication of the United States National Academy of Sciences—found that out of 1,372 climate researchers surveyed, approximately 97 to 98 percent of those actively publishing in the field said they believe human beings are causing the climate change

An earlier survey published in the 2009 issue of *Eos*—a publication of the American Geophysical Union—surveyed scientists from a wide range of disciplines (approximately 3,146) and asked: “Do you think human activity is a significant contributing factor in changing mean global temperatures?” Approximately 82 percent of the surveyed scientists answered yes to this question. Of those climate change specialists surveyed, 97.4 percent answered yes to this question.⁶

⁶ “Do Scientists Disagree About Global Warming?” *Politifact*. Last modified 2011 August 11. Accessed at <http://www.politifact.com/truth-o-meter/statements/2011/aug/14/tim-pawlenty/do-scientists-disagree-about-global-warming/>

Because they serve as custodians of the knowable, certifying institutions, including the press, as Schudson notes, are able to “clarify the grounds of public debate and so improve the capacity of both legislators and the general public to engage effectively in democratic decision making.”⁷

PARTISAN ATTACKS ON KNOWLEDGE-CERTIFYING INSTITUTIONS

As I argue at greater length elsewhere,⁸ the model in which the journalist acts as a custodian and translator of the best available knowledge and holds partisans in the policy arena accountable for distortions is fractured in a media environment in which ideologues create and partisan media relay compelling but misleading constructions to the like-minded.

One tactic used to undermine the authority of knowledge-certifying institutions vests ideologically driven hirelings with forms of institutional self-identification that mimic those of established scientific organizations. Another move impugns the knowledge custodians’ motives with charges that their dispassionate language and technical invocation of esoteric methods camouflage corruptive ideological biases. Replete with detailed footnotes and elaborately constructed charts, these pseudo-scientific organization’s reports can then be pitted by partisans against those of legitimate groups. So, for example, a conservative advocate invokes the findings of an entity titling itself the American College of Pediatricians to blunt the *Meet the Press* host’s citation of a conclusion of the American Academy of Pediatrics. The exchange took place between former Christian Coalition Director Ralph Reed and NBC’s David Gregory on 24 March 2013:

RALPH REED:

. . . The issue before the country is: Do we have a compelling interest in strengthening and supporting the durable, enduring, and uniquely complementary and procreative union of a man and a woman? And—

DAVID GREGORY:

You look at divorce rates; I don’t know if “durable—”

RALPH REED:

Well, no, the answer—that would be an argument for why we ought to strengthen it, not why we ought to throw—

7 Schudson, *Why Democracies Need an Unlovable Press* (2008), 118.

8 K. H. Jamieson, and B. Hardy, “Leveraging Scientific Credibility about Arctic Sea Ice Trends in a Polarized Political Environment.” *Proceedings of the National Academy of Sciences* 11, no. 4 (2014): 13598–13605.

DAVID GREGORY:

Let me get E. J.'s reaction—

(OVERTALK)

RALPH REED:

—the reason why is because it's better for children, and all the social science shows that.

DAVID GREGORY:

Although the American—

HILARY ROSEN:

Academy of Pediatrics.

DAVID GREGORY:

—Academy of Pediatrics disagrees. They think it's good—

RALPH REED:

And the American College of Pediatricians came out the other way.⁹

The ways in which pseudo authority is used to counterbalance the preponderance of evidence are illustrated as well by conservative media treatment of the two spring 2014 consensus documents: the UN Intergovernmental Panel on Climate Change's (IPCC) findings, and a creation that its sponsor, the "free market think tank" Heartland Institute, called the Nongovernmental International Panel on Climate Change (NIPCC). Because the latter was in the mix, *The Wall Street Journal* bent to its ideological bias and counter-balanced its account of the IPCC report's finding that climate change is harming the earth's systems with NIPCC's alternative construction of reality:

Not everyone agreed with the [IPCC] report. A body known as the Nongovernmental International Panel on Climate Change on Monday released a 1,062-page report citing studies done in the peer-reviewed literature and came to different conclusions.

Its analysis found that higher carbon dioxide concentrations and rising temperatures are causing "no net harm to the global environment or to human health and often finds the opposite: net benefits to plants, including important food crops, and to animals and human health."¹⁰

⁹ *Meet the Press*, 24 March 2013. Accessed at http://www.nbcnews.com/id/51308323/ns/meet_the_press-transcripts/t/march-michael-bloomberg-wayne-lapierre-david-boies-richard-engel-ralph-reed-hilary-rosen-ej-dionne-david-brooks/#.VGpWwMkQfAk

¹⁰ G. Naik, "Panel Reports Threat of Climate Change." *The Wall Street Journal* (1 April 2014), A8.

Whereas *The Wall Street Journal* incorporated NIPCC claims into an article on the IPCC report, FoxNews.com devoted a standalone piece to the NIPCC findings. Headlined “UN Finding on Climate Change is Just a Bunch of Hot Air, New Report Claims,” that Fox News piece included a two-paragraph attack on the knowledge-certifying capacity of the IPCC:

... The IPCC’s report also states that climate change is forcing terrestrial, freshwater and marine species to shift their geographical ranges and migration patterns.

But the Heartland Institute says the scientific community is under tremendous financial and peer pressure to reach the conclusion that global industry is damaging the environment.

“Ethical standards have been lowered, peer review has been corrupted, and we can’t trust peers in our most prestigious journals anymore,” Joe Bast, President and CEO of Heartland Institute, told Fox News.¹¹

This dismissal is one version of the undermining tactic alleging that the knowledge-certifying institutions have been corrupted by peer pressure, ideological bias, and self-interest. Employing an allied move, conservative talk radio host Rush Limbaugh characterized some climate science conclusions as “designed to scare people into supporting Big Government. It’s designed to make people feel guilty for destroying the planet, so they’ll accept higher taxes and more punitive government proposals and regulations, all for absolution of sin for destroying the planet.”¹²

Meanwhile, in the heat of the fall 2012 presidential campaign, former CEO of General Electric Jack Welch proclaimed without evidence that the Obama campaign had manipulated the September 2012 Bureau of Labor Statistics job numbers.¹³ During the same election cycle, Republican presidential-aspirant and former Speaker of the House Newt Gingrich characterized the Congressional Budget Office as a “reactionary Socialist institution.”¹⁴ In none of these cases did the

11 M. Tobin, “UN Finding on Climate Change is Just a Bunch of Hot Air, New Report Claims.” *FoxNews.com* (9 April 2014). Accessed at <http://www.foxnews.com/science/2014/04/09/new-report-claims-un-findings-on-climate-change-is-just-bunch-hot-air/>.

12 R. Limbaugh, “How We Saved a Biracial Tree—and Other Global Warming News.” *The Rush Limbaugh Show* (18 March 2014). Accessed at http://www.rushlimbaugh.com/daily/2014/03/18/quick_hits_page

13 T. Catts, “GE Ex-CEO Takes on White House via Twitter Over Jobs Data.” *Bloomberg* (5 October 2012). Accessed at <http://www.bloomberg.com/news/2012-10-05/former-ge-ceo-jack-welch-says-white-house-manipulates-jobs-data.html>

14 C. Riley, “Gingrich: CBO a ‘Reactionary Socialist Institution.’” *CNN Money* (22 November 2011). Accessed at http://money.cnn.com/2011/11/21/news/economy/gingrich_cbo_socialism/

attacker offer the evidence needed to warrant the conclusion that the expert institution had violated its standards.

In a similar vein, consultants on both the left and the right question the impartiality of fact-checking journalists who expose their duplicities, an ironic assault because these same campaigners routinely re-circulate fact-checking articles documenting flaws in their opponents' assertions of fact.^{15,16} Such efforts to undermine journalists' verification and accountability functions occur in an environment in which both conservatives and liberals are able to enwrap themselves in forms of media that selectively marshal evidence for their preferred side.

One result is the emergence of "knowledge enclaves," whose inhabitants subscribe to not only their own opinions but also their own facts. So, for example, regular consumers of the progressive media differ from followers of Fox News, Rush Limbaugh, and the editorial pages of *The Wall Street Journal* not only in what they believe but also in what they know about the political world. In the presence of controls for education and ideology, those in either the liberal or conservative enclave are more likely than consumers of traditional legacy media to embrace the deceptions trafficked by their respective ideological sides. Indeed, as my colleague Joseph Cappella and I showed in *Echo Chamber* (2008), individuals who rely on either conservative or liberal media differ not only in their susceptibility to the deceptions of their preferred candidates but also in their report of such phenomena, as those favoring Democratic Party nominee John Kerry in 2004 were more likely to report that the unemployment rate was higher than were those supporting incumbent George W. Bush.¹⁷

Erosion of the credibility of knowledge-certifying institutions makes it more difficult to ground policy debates in the best of what we can know about past practice and future probability. In place of common ground, we are left with the assertions and counter assertions of ideologues and the prospect that one or both sides in a debate will engage in uncorrected misrepresentation backed by waves of duplicitous advertising. The effects can be consequential. When the messaging balance tilts toward one side rather than the other, political advertising is able to affect voters and, in close contests, election

15 G. Sargent, "Factchecking for Thee, but Not for Me." *Washington Post* (28 August 2012). Accessed at http://www.washingtonpost.com/blogs/plum-line/post/fact-checking-for-thee-but-not-for-me/2012/08/28/cccd6036-f11d-11e1-892d-bc92fee603a7_blog.html

16 J. Gottfried, et al. "Did Fact Checking Matter in the 2012 Presidential Campaign?" *American Behavioral Scientist* 57, no. 11 (2013): 1558–67.

17 K. H. Jamieson, and J. Cappella. *Echo Chamber: Rush Limbaugh and the Conservative Media Establishment* (New York: Oxford University Press, 2008), 191–214.

outcomes as well.¹⁸ The same principle applies to messaging backing passage or defeat of Congressional legislation, as Deborah Beck and I showed in our study of the contest over the 1998 McCain amendment that would have increased the regulatory authority of the U.S. Food and Drug Administration over tobacco products. In that instance, in the presence of controls, public exposure to unrebutted tobacco industry advertising predicted belief in the tobacco industry’s ads’ key deceptions.¹⁹ Importantly, as in the instances explored in the current essay, the cigarette manufacturers got their way; the legislation they opposed stalled in Congress.

HOW DUPLICITOUS ADVERTISING CAN UNDERMINE GOVERNANCE

The four cases that I will briefly explore test the argument that policy debate can be corrupted and the public good sidetracked when distortive messages drown out the other side and sabotage the ability of knowledge-certifying institutions to anchor audience presuppositions and arbitrate competing claims. In each of these instances, actual or threatened imbalances in campaign advertising perverted the governing process by altering the policy agenda, thus affecting the contours of legislation, stalling desirable policy options, or thwarting the public will. My examples span the policy spectrum, from prison furloughs and tobacco control to welfare policy and gun show reporting requirements.

Case 1—Affect Policy Agenda: The Case of Furloughs

In early October 1988, the presidential campaign of Republican Party nominee George H. W. Bush launched a stark black-and-white ad that opened with prison scenes and then cut to a procession of supposed convicts passing through a revolving turnstile. By carefully associating words with images, the ad invited the false inferences that 268 first-degree murderers not eligible for parole had been furloughed by Democratic nominee Michael Dukakis, and while on the lam, many had committed horrific crimes. “His revolving door prison policy gave weekend furloughs to first-degree murderers not eligible for parole,” intoned the ad’s announcer. “While out many [“268 escaped” appears

18 R. Johnston, M. Hagen, and K. H. Jamieson. *The 2000 Election and the Foundations of Party Politics* (Cambridge: Cambridge University Press, 2004).

19 D. Beck, and K. H. Jamieson. “Do Issue Ads Work? If So, When?” in *Everything You Know About Politics...And Why You’re Wrong*, ed. K. H. Jamieson (New York: Basic Books, 2000), 125–40.

on the screen] committed crimes like kidnapping and rape. And many are still at large.”²⁰ Lost in the ineffectual responses of the Dukakis campaign and the press was the fact that the Massachusetts furlough policy that the Democratic nominee inherited from his Republican predecessor only applied to those eligible for parole. Moreover, after “jumping furlough” in Massachusetts, only one (not 268) named William Horton had kidnapped and raped. The evocative nature of the furlough narrative was amplified by a second ad by an independent group that falsely alleged that Horton had been originally convicted of repeatedly stabbing a 17-year-old boy, a conclusion unsupported by the trial record, which suggested instead that while the murder was taking place, Horton (who was convicted as an accomplice to a felony murder) was in the getaway car.

The same ad implied that Bush would have prevented the tragedy because unlike Dukakis, he favored the death penalty. The implied distinction was bogus on two counts. First, the federal system over which Reagan and Bush had presided for nearly 8 years had a furlough program of its own, and second, a Supreme Court ruling had earlier prohibited executing those convicted as accomplices to a felony murder. Because Horton’s mug shot was prominently featured in that ad, race-based fear played a role in the narrative as well. Horton is black, and his victims, white.

After recounting their nightmarish experience with Horton, in a third independent expenditure ad, the woman raped and the man assaulted by the furloughed convict urged a vote against liberal Dukakis. Probable audience response to this combination of messages was predictable. Because dramatic visualized narratives are cognitively accessible, the availability heuristic leads us to over-generalize the likelihood of such recounted events. Taken together, these ads invited viewers to see furlough programs as a vehicle for propelling murderers, kidnappers, and rapists into our homes. Lost in the evocative, inaccurate narrative were two simple policy-relevant facts: (1) very few escape while furloughed and (2) furloughs were a mainstay of both the state and federal penal systems because they reduce recidivism.^{21, 22}

20 K. H. Jamieson, *Packaging the Presidency: A History and Criticism of Presidential Campaign Advertising* (New York: Oxford University Press, 1996), 471.

21 K. H. Jamieson, *Dirty Politics: Deception, Distraction and Democracy* (New York: Oxford University Press, 1993), 15–42.

22 M. Harer, “Recidivism among Federal Prison Releases in 1987: A Preliminary Report.” *Federal Bureau of Prisons* (11 March 1994). Accessed at <https://www.ncjrs.gov/pdffiles1/156549NCJRS.pdf>

Nonetheless, in the short term, the ads reduced Dukakis’s prospect of winning the presidency.²³

But that is not the effect that interests me here. After the Horton narrative entered public consciousness, a national survey found that a number of states decided to restrict furloughs.²⁴ Among them was Texas. “The chairman of the board of the Texas Department of Corrections acknowledged the political influence on prison policy,” noted David C. Anderson in *Crime and the Politics of Hysteria* (1995). “‘We really hadn’t had problems,’ Charles Terrell said of the furlough program. ‘What caused all this was the Willie Horton thing during the presidential campaign.’”²⁵ The changes, reports Anderson, “barring more serious offenders and allowing furloughs only for those within 6 months of parole eligibility, reduced the number of Texas inmates going out on furloughs by more than half.” The effects were not limited to Texas. The 1995 Census of State and Federal Correctional Facilities reported that “[t]he number of regularly scheduled inmate furloughs fell 59% from 28,849 during the year preceding the 1990 census to 11,776 in the year leading up to the 1995 census.”²⁶

The Horton ads had another afterlife as well. In statewide judicial elections throughout the country, ads about individuals whose sentences were commuted or who were set free began to appear. Lost in these evocative tales was the fact that, in many of these instances, the outcome attributed to a judge had been decided by a jury or was required by law. With the caution that correlation does not establish causation, let me posit one possible effect. After correlating judicial decisions in 3,000 criminal cases in 32 states from 2008 through 2013 with the presence of higher levels of advertising in judicial races in those states, a recent study found that as the number of television ads in state Supreme Court races increased, so too did the probability that the court would rule against a criminal defendant.²⁷

23 K. H. Jamieson, *Packaging the Presidency: A History and Criticism of Presidential Campaign Advertising* (New York: Oxford University Press, 1996), 459–84.

24 See S. P. Davis, “Number of Furloughs Increasing—Success Rates High.” *Corrections Compendium* 16 (1991): 10–21. See also W. Bagdon, and J. Ryan, “Intensive Supervision of Offenders on Pre-release Furlough: An Evaluation of the Vermont Experience.” *Forum on Corrections Research* 2 (1993): 29–3; and L. Chelotis, “Before the Next Storm: Some Evidence-Based Reminders about Temporary Release.” *International Journal of Offender Therapy and Comparative Criminology* 53, no. 4 (2009): 420–32.

25 D. C. Anderson, *Crime and the Politics of Hysteria: How the Willie Horton Story Changed American Justice* (New York: Random House, 1995), 248.

26 Bureau of Justice Statistics, “Census of State and Federal Correctional Facilities, 1995” (August 1997). Accessed at <http://www.prisonpolicy.org/scans/bjs/csfc95.pdf>

27 J. Shepherd, and M. Kang, “*Citizens United*, Television Advertising and State Supreme Court Justices’ Decisions in Criminal Case.” Last modified 1 October 2014. Accessed at <http://skewedjustice.org/>

Case 2—Affect Legislation: The Clinton Health Insurance Reform Effort

Whereas the 1988 furlough ads may have affected state-level penal policy, the impact on pending legislation produced by the Health Insurance Association of America's (HIAA's) 1993–4 “Harry and Louise” campaign occurred inside a key committee in the House of Representatives. Unlike the Horton ads, which were funded by those supporting a presidential contender, the sponsor of the Harry and Louise ads was a trade group made up of small and mid-sized insurers who in 1993–4 provided health coverage for between one-quarter and one-third of the market. During the fight over the Clinton initiative, that trade organization's initial \$14 million cable buy dwarfed spending by other interested players. For the HIAA's members, the stakes were high. Had the mandatory purchasing alliances at the core of the Clinton health insurance reform effort survived, these insurers probably would have abandoned the health coverage market or gone under.

Begun in September 1993 and continued intermittently into early August 1994, the HIAA campaign starred a yuppie couple troubled not only by those alliances but also by the Clinton bill's premium caps, community ratings, and possible tax on high-end insurance plans. To secure elimination of these provisions, the ads advanced the misleading notions that the proposed legislation would limit the amount of health care, create a government monopoly, and, unlike the status quo, reduce the choices available to consumers and “ration” health care. In fact, even as the ads were airing, the managed-care revolution was in the process of circumscribing consumer treatment options within plans.

Unless potential voters were CNN junkies or lived in the hometown of a pivotal member of Congress on a health committee, however, they were not subjected to the travails of “Harry and Louise” firsthand. Nonetheless, those who paid regular attention to the news would have known who they were. For journalists, “Harry and Louise” were household names, appearing more than 700 times in 11 months of newspaper stories. The norms dictating the newsworthiness of “Harry and Louise” were clear. Not only did the worried couple star in the first anti-reform ads aired, but by eliciting counterattacks from the White House and its allies, their allegations also fed reporters' hunger for narratives driven by conflict.

As a side note, let me point out that the HIAA ads drew their power not from an actual effect on public opinion but rather from imputations of effectiveness by both supporters of the Clinton effort and the media. Rather than attributing waning public support for his plan to his own declining popularity; or to weaknesses in the complex plan; or

to its rejection by the Business Roundtable, Chamber of Commerce, and National Association of Manufacturers; or to the Congressional Budget Office for finding that it would increase the deficit short term, the incumbent president and his allies magnified the role played by “Harry and Louise” in “misinforming” the public. “Clearly, Harry and Louise have been effective in misleading people,” said Democratic National Chairman David Wilhelm. Reporters also credited “Harry and Louise” with changing the health care debate. “The fictional TV critics of Clinton’s health-care plan” wrote *Time*, “legitimized the frustration many Americans feel when they try to make sense of the debate over the intricacies of health care.” The *National Journal’s* Congressional Daily of July 7 credited the spots with “hinder[ing] the administration’s efforts to pass health care reform.”²⁸

However, contrary to press reports, the available indicators of effectiveness suggest that the ads had a negligible impact on prospective voters. Not only were “Harry and Louise’s” messages not aired nationally (one-third of the nation’s households lacked cable at the time), but local airing was also limited to New York and Washington DC, as well as a scattering of legislative districts. So, for example, the two ads shown between June 20 and July 24 focused on the District of Columbia and New York City, Montana, North Dakota, Georgia, Tennessee, Oklahoma, California, Missouri, New Mexico, and Louisiana.

Indeed, when questioned an hour or so after viewing the ads, the minority in an Annenberg Public Policy Center study with any memory of them at all recalled an appeal to call Congress, not the HIAA—about what, they were not sure—or a plea to reject government involvement in health reform or reform altogether, a conclusion at odds with the HIAA’s goal of “support[ing] a system which would cover all Americans either through employer-provided or government-subsidized health insurance.” When asked to rank the ads on effectiveness, Annenberg focus group respondents placed the HIAA’s eighth and ninth out of 11 health care reform ads aired by major national organizations in the 1993–4 debate.

However, as sophists since Machiavelli have preached, appearance counts. It was the presumption of effect—the illusion of power—that gave the HIAA the wherewithal to gain concessions from House Ways and Means Committee Chair Dan Rostenkowski. Believing that “Harry and Louise” could jeopardize the re-election of those he saw as swing votes in the Ways and Means committee, the Illinois Congressman cut

28 K. H. Jamieson, “‘Harry and Louise’ Ads Given More Credit Than Deserved.” *The Morning Call* (17 August 1994). Accessed at http://articles.mcall.com/1994-08-17/news/2991487_1_harry-and-louise-health-coverage-insurance-association

a deal with the trade organization. In return for concessions from the powerful chairman, the HIAA agreed not to air the “Harry and Louise” ads in key districts during the mark-up of the bill. The quid pro quo was not a closely kept secret. At an Annenberg Public Policy Center conference held in summer 1994, one of the HIAA leaders bragged, “Obviously our ads had an effect on the process. And in negotiating and discussing issues with some members of Congress, they agreed to be helpful on key issues, make changes that we felt were important . . . if we would hold our power. . . .” The deal broke down only with Rostenkowski’s indictment on fraud and obstruction of justice charges and his resulting loss of the chairmanship.

Case 3—Close Policy Options: Gut Welfare Reform

Duplicitous attacks can also derail desirable policy experimentation. A case-in-point occurred when deceptive campaign ads subverted attempts to grant governors permission they had sought to explore ways to increase employment among welfare recipients. In this instance, the assaults thwarted the ability of state governments to do what they do best: test alternative ways of reaching a desirable policy goal at the local level. Indeed, state-driven innovation was a prime force propelling the 1996 passage of federal welfare reform to begin with.

In the story I will recount here, the Republican political philosophy, which dictates that problems are often better handled at local and state levels rather than federal one, was undermined by a Republican presidential campaign’s attack on waivers designed to increase state level flexibility under the Temporary Assistance for Needy Families (TANF) program passed with Republican support in Congress and signed into law by Democratic president Bill Clinton. To incentivize the transition of welfare recipients into the workforce, TANF gave states block grants, limited the length of time families could receive benefits, and mandated that one-half of those beneficiaries be involved in work activities. In the years that followed its implementation, state level officials sought ways to improve it. Arguing that they could increase the numbers of recipients in the workforce, in 2005, then-Massachusetts Governor Mitt Romney and 28 other Republican governors asked Congress for the flexibility “to seek new and innovative solutions to help welfare recipients achieve independence.” The requested authorization would have included “[i]ncreased waiver authority, allowable work activities, availability of partial work credit, and the ability to coordinate state programs are all important aspects of moving recipients from welfare to work.” Romney was not the only

prominent Republican signatory. Among the other petitioning governors were future Republican presidential aspirants Tim Pawlenty of Minnesota, Rick Perry of Texas, Mitch Daniels of Indiana, Jeb Bush of Florida, Haley Barbour of Mississippi, Mike Huckabee of Arkansas, and Jon Huntsman of Utah.

After the waiver idea had percolated in policy discussions for more than a decade, in summer 2012, Federal officials announced that “states could apply for greater flexibility under . . . TANF . . . in exchange for moving more welfare recipients into jobs.” They did so in response to active requests from state leaders, who argued, as the Utah Department of Workforce Services did, that “[i]n times of reduced funding, waivers may be the best method to allow states to find effective and efficient approaches to assist the unemployed to find and keep work”²⁹.

Because he had sought them as governor, one may have expected Republican nominee Mitt Romney to applaud the administration decision. Instead, recognizing that the action created a political vulnerability for the incumbent, the Republican reality creators in his service ran more than \$10 million in attack ads recasting the new flexibility as an end to the work requirements that “gutted” the welfare reform program itself. The accusation was unsupported by the facts. As Health and Human Services Secretary Kathleen Sebelius noted in a letter to Congress, “to qualify for a waiver, governors must show how they will move at least 20 percent more people from welfare to work. States must also show clear progress toward that goal within a year.”³⁰

In this case, ironies abound. Republican governors who had sought the waivers quickly realized that clips from the Romney attacks on Obama could be repurposed to argue that they favored “gutting welfare reform.” The results were unsurprising. Not a single state applied for a waiver. Faced with a pending vote in the Republican-controlled House of Representatives barring the administration from “waiving the work requirements,” the Obama administration withdrew its offer. The withdrawal observed the following:

With respect to the provision in H.R. 890 to limit State flexibility to strengthen the Temporary Assistance to Needy Families (TANF) program, the Administration notes that this flexibility was requested by Governors on both sides of the aisle to allow States to test new,

29 E. Kiely, and R. Moss, “Does Obama’s Plan ‘Gut Welfare Reform?’” *Factcheck.org* (2012 August 9). Accessed at <http://www.factcheck.org/2012/08/does-obamas-plan-gut-welfare-reform/>

30 S. Ohlemacher, “House to Vote on Bill Preventing Welfare Waivers.” *Huffington Post* (2013 March 13). Accessed at http://www.huffingtonpost.com/2013/03/13/welfare-waivers_n_2866830.html

more effective ways to place more people on a path to self-sufficiency. Ultimately, no States formally applied for State waivers, deterred in part by inaccurate claims about what the policy involves; therefore, the limiting provision would have no practical effect on any pending application.”³¹

Case 4—Thwart Public Will: Background Checks

In one important way, the last story I will recount is not akin to the furlough, welfare waiver, and health insurance reform instances because in this final example, very little money was actually spent on deceptive content. However, like the health care and welfare instances, the prospect of future spending proved powerful.

In the circumstances outlined here, a legislative initiative supported by 90% of the public went down to defeat after opponents aired carefully targeted distortions. The bill in question followed Adam Lanza’s December 2012 use of an assault weapon to massacre 20 first graders and six adults at Sandy Hook Elementary School in Newtown, Connecticut. White House response to the tragedy was swift. After meeting with stakeholders, including the National Rifle Association, and the victims of gun violence, the vice president recommended (1) a ban on some military style assault rifles, (2) a limit on the size of magazine clips, and (3) increased background checks. Because all gun sales by a federally licensed dealer were already subject to background checks, this proposed change built on existing practice. In thirteen speeches across the country (including the one given at the Newtown memorial service), and in his second inaugural and 2013 state of the Union addresses, the incumbent Democratic president championed legislative action to protect the nation’s children from another Sandy Hook.

Introduced by Senators Joe Manchin (D., West Virginia) and Pat Toomey (R., Pennsylvania), this legislation included the Public Safety and Second Amendment Rights Protection Act, designed to prohibit unlicensed persons from selling guns at gun shows or over the Internet. If enacted, the bill would have required that a licensed dealer run a background check before gun-show or Internet buyers could acquire a weapon. Specifically exempted were transfers between family members,

³¹ Executive Office of the President, “Statement of Administration Policy – H.R. 890 – Preserving Work Requirements for Welfare Programs Act of 2013” (2013 March 12). Accessed at http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/113/saphr890r_20130312.pdf

with “family” broadly defined to include spouses; parents; children, siblings, grandparents, aunts, uncles, and their spouses; and first cousins as long as “the transferor does not know or have reasonable cause to believe that the transferee is prohibited from receiving or possessing a firearm under Federal, State, or local law.”³²

Public support seemed to guarantee the closing of the gun show loophole. “The idea of requiring background checks on all gun purchases, which would eliminate a provision that allows about 40 percent of guns to be sold by unlicensed sellers without checks, was overwhelmingly popular,” noted the *New York Times*. “Nine in 10 Americans in a January 2013 *New York Times/CBS News* poll said they would favor such a law, the poll found — including 9 in 10 of the respondents who said that there was a gun in their household, and 85 percent whose households include National Rifle Association members.”³³ The *New York Times/CBS News* survey data were consistent with that from Gallup, which found support among 91%.³⁴

It is worth pausing here to note how seldom 90% of the public agrees on anything. In May 2011, only 80% told pollsters for the *Wall Street Journal* and *NBC* that they believed it was the right decision to kill Osama bin Laden rather than capture him. In June 2002, 91% of Americans favored an absolute policy that would banish from the priesthood any individual proven to have sexually abused minors.

To subvert the bill, gun rights groups falsely asserted that the police opposed Manchin-Toomey, inaccurately alleged that it would criminalize private transfers of weapons within families, and fabricated the fantasy that the bill established a national gun registry, a prophecy cast as “federal confiscation of weapons.” Each was aggressively debunked by the three major national journalistic fact-checking organizations—Politifact, The FactChecker of the *Washington Post*, and FactCheck.org, a project of the policy center that I direct. Queries by the *Washington Post* quickly uncovered the fact that evidence of supposed police officer opposition came from an *opt-in, non-probability Internet survey conducted by a firm whose vice president characterized*

32 Public Safety and Second Amendment Rights Protection Act. Available at: http://www.manchin.senate.gov/public/index.cfm/files/serve?File_id=8134649f-6d23-4ef2-882f-6a4555ff4889&SK=BDEA0DD2B0F4D93F905B5BC8DF6F76B6

33 M. Cooper. and D. Sussman, “Massacre at School Sways Public in Way Earlier Shootings Didn’t.” *New York Times* (2013 January 17). Accessed at http://www.nytimes.com/2013/01/18/us/poll-shows-school-shooting-sways-views-on-guns.html?_r=0

34 L. Saad, “Americans Back Obama’s Proposals to Address Gun Violence.” *Gallup* (2013 January 23). Accessed at <http://www.gallup.com/poll/160085/americans-back-obama-proposals-address-gun-violence.aspx>

*the study as “not scientific by definition.”*³⁵ The other claims were bogus as well. However, despite the fact that current law barred a national registry and Manchin’s amendment mandated a 15-year felony sentence for anyone who retained the names of those undergoing background checks, ads averred that the West Virginia Democrat was “beating the drum to herd gun owners into a federal registration system.” Not only did the National Rifle Association spend \$500,000 on ads attacking the bill on the day of the vote, but it also “told senators in an April 10 letter that the Manchin-Toomey measure would ‘criminalize the private transfer of firearms by honest citizens, requiring friends, neighbors and many family members to get government permission.’”^{36, 37}

With 60 votes needed to avoid a filibuster, the proposal failed on 2013 April 17 on a 54–46 Senate vote on the amendment that would have closed “the gun show loophole.” The defeat of this limited expansion of background checks revealed that passage of the underlying bill was not in the cards.³⁸ Responding to Manchin-Toomey’s demise, President Barack Obama declared that “the gun lobby and its allies willfully lied about the bill.” My explanation of its defeat is consistent with his: “It came down to politics,” noted Obama, “—the worry that that vocal minority of gun owners would come after them in future elections. They worried that the gun lobby would spend a lot of money and paint them as anti-Second Amendment. And obviously a lot of Republicans had that fear too. And so they caved to the pressure”³⁹

The threat that the NRA would outspend its adversaries in future elections was not an idle one. The Center for Responsive Politics’ OpenSecrets.org reported that “[in] each of the years 2011 and 2012, that pro-gun organization spent nearly \$3 million on federal-level

35 G. Kessler, “NRA Ad Claims That Poll Data Reflect Views of ‘America’s Police.’” *Washington Post* (2013 April 4). Accessed at http://www.washingtonpost.com/blogs/fact-checker/post/nra-ad-claims-that-poll-data-reflects-views-of-americas-police/2013/04/17/f32b82f6-a7ae-11e2-8302-3c7e0ea97057_blog.html

36 J. Weisman, “Senate Blocks Drive for Gun Control.” *New York Times* (2013 April 17). Accessed at http://www.nytimes.com/2013/04/18/us/politics/senate-obama-gun-control.html?pagewanted=all&_r=0

37 “Manchin Can No Longer Rely on Backing of NRA.” *CBS DC* (2013 April 22). Accessed at <http://washington.cbslocal.com/2013/04/22/manchin-can-no-longer-rely-on-backing-of-nra/>

38 J. Weisman, “Senate Blocks Drive for Gun Control.” *New York Times* (2013 April 17). Accessed at http://www.nytimes.com/2013/04/18/us/politics/senate-obama-gun-control.html?pagewanted=all&_r=0

39 “Statement by the President” (2013 April 17). Accessed at <http://www.whitehouse.gov/the-press-office/2013/04/17/statement-president>

lobbying efforts. During the 2012 election cycle, the group laid out more than \$25 million on ads⁴⁰.

CONCLUSION

Had the Bush aide been incorrect in his assessment of the relative powers of what he cast as the “reality based” and “reality creating” communities, states’ furlough policies in the post-Horton years would have been shaped by evidence, not atypical example; the provisions in the pending 1993–4 Clinton health care reform bill would have been determined on merit, not by threats to the electoral prospects of those on a key committee; states would now be experimenting with ways to increase the employability of those on welfare; and the gun show loophole would be a thing of the past.

The country’s founders could not have foreseen the ways in which governance could be corrupted by deep-pocketed deceivers. However, two passages penned by one who was also an early member of the American Philosophical Society do remind us of the elements required to right the situation. Writing in “Federalist No. 10,” James Madison noted that in a republic, government is delegated to citizens elected by the rest in the hope that those honored with office will “refine and enlarge the public views” and “discern the true interest of their country.” Madison’s hope was that the “patriotism and love of justice” of this chosen body of citizens would “be least likely to sacrifice it to temporary or partial considerations” and that as a result, “the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.”⁴¹ Speaking about the need for a general system of education in a letter to W. T. Barry in August 1822, the nation’s fourth president also observed that “a popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.”⁴² If our system of government were working as Madison hoped,

40 OpenSecrets.org Center for Responsive Politics. “National Rifle Association,” Last modified 2014 October 25. Accessed at <http://www.opensecrets.org/orgs/summary.php?id=D000000082>

41 James Madison, “The Federalist No. 10 - The Utility of the Union as a Safeguard against Domestic Faction and Insurrection (continued).” *Daily Advertiser* (1787 November 22). Accessed at <http://www.constitution.org/fed/federa10.htm>

42 “James Madison to W. T. Barry, Writings 9: 103–9” (1822 August 4). Accessed at <http://press-pubs.uchicago.edu/founders/documents/v1ch18s35.html>

the artfully cast “temporary or partial considerations” advocated by deep-pocketed sophistic consultants would be dispatched by a powerful combination of forces: a public armed “with the power which knowledge gives” and elected representatives disposed to see past the machinations of the moment to “discern the true interest of their country.” As members of an organization dedicated to promoting useful knowledge, turning such aspirations into reality should be our task.