

# Responsive Philanthropy

## IN THIS EDITION

**Banning the Juvenile Death Penalty** 1  
Success through Funding of Nonprofit Advocacy and Coalition Work

**OPINION** 2  
**The Duke's Demise**  
Philanthropic Maneuvers  
Don't Excuse Questionable Defense Contracts

**National Heritage Foundation: Pushing Tax Laws to the Limit** 5

**The Story of Saipan** 8  
DeLay's Petri Dish and Another Abramoff Gold Mine



## Banning the Juvenile Death Penalty

### Success through Funding of Nonprofit Advocacy and Coalition Work

By Adam Conner and Betsy Williams

Last year, America stood alone in the world as the only country that still executed minors. Only six other countries had executed minors in the 1990s, and by 2005 all had either abolished the practice or publicly disavowed the execution of minors.

It was not until March 1, 2005, that the U.S. Supreme Court ended juvenile executions in America with its 5-4 decision in the *Roper v. Simmons* case. As Justice Kennedy would write in the majority decision, "In sum, it is fair to say that the United States now stands alone in a world that has turned its face against the juvenile death penalty."

The *Simmons* decision was the culmination of a campaign begun years before that illustrated the power of strategic general operating funding from foundations and effective coalition building among nonprofits.

General operating grants over the last decade gave nonprofits the autonomy to coordinate their efforts and build expertise. From "Banning the Juvenile Death Penalty" continued on page 12.



**Responsive Philanthropy**  
The quarterly journal of the  
National Committee for  
Responsive Philanthropy  
2005, Issue No. 3

2001 S Street, NW, Ste. 620  
Washington, DC 20009  
Phone 202.387.9177  
Fax 202.332.5084  
E-mail: info@ncrp.org  
Web: www.ncrp.org  
Yearly subscription: \$25  
(free to members)  
ISBN: 1065-0008

#### NCRP Staff

**Rick Cohen**  
Executive Director

**Jeff Krehely**  
Deputy Director

**Andrea M. DeArment**  
Finance Director

**Naomi Tacuyan**  
Communications Associate

**Omolara Fatiregun**  
Research Associate

**Rusty Ince**  
Development Associate

**Yann Doignon**  
Communications Assistant

**Marissa Guananja**  
Research Assistant

**Elly Kugler**  
Research Assistant

**Betty Feng**  
Research Assistant

**Betsy Williams**  
Research Assistant

**Adam Conner**  
Development and  
Communications Intern

© 2005 National Committee  
for Responsive Philanthropy

## OPINION

# The Duke's Demise

*Philanthropic Maneuvers Don't Excuse Questionable Defense Contracts*

By Rick Cohen

It's time for the nonprofit sector to call a halt to the "charity defense" for admitted and prospective felons. You know—it's when crooks facing the scrutiny of a grand jury investigation or a federal congressional inquiry announce and promote their philanthropy as evidence of good character, of repentance, sometimes even of almost innocence.

California's Republican Congressman Randall "Duke" Cunningham is the latest, and not even the most egregious, player of this get-out-of-jail card in the game of deficient corporate or political ethics. Unfortunately, America's charities seem generally unwilling to question, much less spurn, such ethically questionable money. Nonprofits lining up to play the patsies for corporate and political crooks is unseemly and pathetic, and it's time they stop.

The case of Duke Cunningham has been headline news since it was revealed that he profited from some beneficial real estate transactions by a defense contractor, MZM Inc. The president of the firm, Mitchell Wade, purchased Cunningham's Del Mar Heights house for \$700,000 more than its estimated market value—in other words, giving the congressman a virtual gift of \$700,000 on top of the \$975,000 that the property attracted on resale, and allowed Cunningham to live, when in Washington, D.C., on Wade's 42-foot yacht (named "Duke Stir"), berthed at the Capital Yacht Club, for a nominal rent of \$500 a month.

In return for these perks, plus some generous contributions to Cunningham's political campaigns and his American Prosperity PAC, MZM appears to have benefited by its relationship with Cunningham in his role as a member of the House Defense Appropriations Subcommittee. Thanks in part to its Pentagon contracts—it received \$41 million worth of contracts in 2003 and \$65 million in 2004—MZM tripled its revenues in 2004, elevating the relatively young defense contractor to No. 100 on *Washington Technology* magazine's list of top federal contractors. Cunningham wasn't the only MZM benefactor in Congress; press reports link House member Virgil Goode (R-Va.) in particular to sponsoring



Rick Cohen.

legislation that led to contracts for MZM. Cunningham's willingness to partake in sweetheart real estate deals makes him a candidate for an ethics investigation. Cunningham, sensing he had been hit by the fire from enemy watchdogs, maneuvered a bit with press releases

of moderate contrition and innocence, and finally announced that he would not run for re-election in 2006.

How does charity figure into the Duke Cunningham story? Like so many before him, the congressman has announced his willingness to donate part of his take—in this case, the proceeds from the sale of his home—to charity.

Cunningham joins a long line of felonious philanthropists making tax-deductible donations to charities as part of a strategy of touching up a sullied public image or clearing one's name. Tyco's Dennis Kozlowski used corporate funds to make ostensibly personal charitable donations to burnish his dubious reputation. Enron's Ken Lay emphasized his philanthropic and religious persona while his firm made a mockery of corporate ethics and accountability. Nearly everyone's favorite had to be fugitive felon Marc Rich, who accumulated boatloads of famous people to testify to his philanthropic good heartedness in order to justify his request for a pardon from President Bill Clinton.

Cunningham's dip into charitable resume building is of a much more pedestrian variety. He has pledged to donate the proceeds from the sale of his new \$2.5 million home, which he purchased soon after selling his home to MZM's Wade, to three local San Diego area charities: Saint Claire's Home for Abused & Battered Women in Escondido, Bishop McKinney's

School for At Risk Children, and Father Joe Carroll's homeless shelter network (Father Joe's Villages). Carroll made the appropriate statement of gratitude, as quoted in the *North County Times*: "I'm not surprised he picked three of his favorite people. ... He [Cunningham] was probably saying to the whole community, 'I wasn't in this for the money. Whatever money is made on this house will be donated to charity.'"

Even as an effort to make a down payment on a less corrupt image, Cunningham's promised donations aren't simply statements of concern for battered women, at-risk children, and the homeless, none having been major emphases of Cunningham's nine-term congressional record.

While running a network of well-outfitted homeless shelters primarily in the San Diego area, but branching out into other parts of the west, Father Carroll (actually Monsignor Carroll) has a strong track record of endorsing Republicans for political office—including a current Republican mayoral candidate, Steve Francis, whose Internet ads flash alternating pictures of Francis and Carroll—and working with national Republicans, including President George W. Bush, who rewarded Carroll's Village Training Institute with a generous Compassion Capital Fund faith-based grant from the Department of Health and Human Services.

Carroll is also a stand-up guy for politicians in political or legal trouble. In 2003, the *San Diego Union-Tribune* detailed Carroll's recent history of allegiance for local politicians dancing along the edge of the law—or falling over the edge—including speaking in support of a businessman serving as a port authority commissioner who was convicted of felony misuse (conflict of interest) of his public office; supporting and then hiring a city councilwoman convicted of violating state political campaign laws;

and offering his St. Vincent's shelter as a site for a former mayor's community service after his conviction for conspiracy and perjury. As Carroll said about the port authority felon, "Will I stop taking his calls? No. Will I stop taking his money? No."

A December 2004 press release promoting his most recent book describes Bishop George Dallas McKinney as "spiritual advisory to presidents, kings, and business leaders." The founder of St. Stephen's Church of God in Christ (COGIC), McKinney endorsed Bush for re-election, despite the denomination's national opposition to the U.S. invasion of Iraq and his own role as a board member of the liberal faith-based Pacific Institute for Community Organization (PICO) network, based in part on their shared opposition to women's reproductive choice and the rights of gays and lesbians to marry. One of McKinney's more distinctive political comments was to blame abortion for the problems of the Social Security system: "Part of the problem that we're seeing now with Social Security has to do with the fact that 40 to 50 million people who have been killed through abortions have not taken their role (*sic*) as productive citizens."

Cunningham's connection to McKinney may be in part connected to their less than salutary attitude toward gays and lesbians. McKinney couches his LGBT attitudes in a strict interpretation of the Bible, a strategy that the Bush administration used in its re-election campaign to woo support and endorsements from black church leaders. Unlike the bishop, Cunningham chose to express his homophobic attitudes a bit more crudely, describing his prostate cancer treatments as "just not normal, unless you're Barney Frank." In his response to Cunningham, who on the House floor has referred to gays as "homos" and contended that gays in the military would "degrade national security," Frank merely said, "[Cunningham] does

**Cunningham joins a long line of felonious philanthropists making tax-deductible donations to charities as part of a strategy of touching up a sullied public image or clearing one's name.**

**Left:** Cunningham's Del Mar Heights home, which he reportedly sold to defense contractor MZM's head, Mitchell Wade, for \$1.675 million. Wade sold it for a paltry \$975,000, effectively losing \$700,000, but purportedly gaining defense contracts worth more than \$100 million for MZM from 2003 to 2004. (photo: Dan Anderson)  
**Center:** Congressman Randy "Duke" Cunningham. **Right:** Cunningham's new home in exclusive Rancho Santa Fe, bought after his Del Mar Heights home was sold, cost him \$2.5 million, and was raided by the FBI early in July 2005, along with Wade's yacht in Washington, D.C., for evidence of dealings with defense contractor MZM. (photo: rawstory.com)



**Samuel Johnson once defined patriotism as “the last refuge of scoundrels,” and Ambrose Bierce corrected him that it was the first. Unfortunately, corporate and political rogues, including Marc Rich, Ken Lay, Dennis Kozlowski, and Jack Abramoff, have labored to make charity, like patriotism, yet another safe harbor for scoundrels.**

not have a high reputation for the thoughtful, analytical content of his remarks.”

The connections among these charities with some of the political allies of Congressman Cunningham take an odd turn when one spots Monsignor Carroll on the board of directors of the San Diego Padres Major League Baseball team. Presumably, Carroll is aware of Padres owner John Moores’ \$400,000 in contributions, tops among donors, to Ward Connerly’s American Civil Rights Coalition 2003 campaign (Proposition 54) to ban the state of California from collecting racial data (Connerly’s organization had sponsored Proposition 209 some years before affirmative action programs were effectively ended in California).

The charity whitewash of Cunningham doesn’t end with the promise of donating the proceeds of his home sale to the charities of his political allies Carroll and McKinney. The congressman, MZM, and Wade have another connection with questionable dynamics. Defense contractor MZM contributes to the Sure Foundation, overseen by a board that includes Mitchell Wade as treasurer and his wife, Christiane, as “president emeritus” and a four-person advisory council, including Cunningham’s wife, Nancy, and daughter, April.

The mission of the Sure Foundation is a nice touch for a charity supported by a military contractor. According to the foundation’s Web site, the mission originally focused on meeting “the urgent and wholistic (*sic*) needs of children who have been victims of civil unrest, war or who are living in a state of poverty, suffering, turmoil or instability,” though in 2005 the foundation’s mission reportedly expanded to helping children in poverty. According to its 2003 990-PF, the Sure Foundation apparently makes small grants of \$3,000 to \$30,000 to missionary-oriented health, school, and recreation programs in China, Afghanistan, Serbia and Montenegro, Haiti, Guatemala, Kenya, and other nations.

While one might question a corporation’s donations to a 501(c)(3) charity whose officers include the founder and owner of said corporation and whose advisory board includes family members of a member of Congress who has benefited from the corporation’s political contributions, there’s nothing inherently wrong about a foundation’s faith-based services to refugee children around the world. However, Cunningham’s congressional powers emerged to benefit the Sure Foundation much like they appear to have worked for MZM’s burgeoning Pentagon contracting business. In 2004, the House Appropriations Committee’s District of Columbia subcommittee authorized a \$100,000

grant to the Sure Foundation, whose broadened mission beyond refugee children enabled it to serve children in the nation’s capital. Cunningham’s specific connection? He was vice-chair of the subcommittee at the time.

The federal grant to Wade’s philanthropic venture almost equals the foundation’s reported annual revenues in 2001, 2002, and 2003, according to Sure’s 990-PF filings, giving Wade a charitable foothold visible to his congressional and Pentagon clients. Wade has made it clear he wants the Sure Foundation “to make inroads in the District’s poverty-stricken communities” and, to do so, it recruited the ex-wife of former mayor Marion Barry at \$10,000 a month to help the foundation use its \$100,000 federal grant to establish an arts-enrichment program for children in elementary schools. Other than Cunningham’s potential influence, it is impossible to discern how the foundation’s grants to overseas refugee assistance projects qualify it for a federal grant for federally funded arts-enrichment programs for kids in Washington, D.C.

At roughly the same time as the press exposed his dealings with MZM, Congressman Cunningham was lauded as “an honorable man ... a war hero ... [and] the first Top Gun” by ethically challenged House Majority Leader Tom DeLay (for whose legal defense fund Cunningham had contributed \$5,000 of his own campaign funds) and succeeded in getting the House to pass a bill he sponsored giving Congress the power to ban the desecration of the American flag.

Samuel Johnson once defined patriotism as “the last refuge of scoundrels,” and Ambrose Bierce corrected him that it was the first. Unfortunately, corporate and political rogues, including Marc Rich, Ken Lay, Dennis Kozlowski, and Jack Abramoff, have labored to make charity, like patriotism, yet another safe harbor for scoundrels. Like Father Carroll’s homeless shelters and Bishop McKinney’s schools, the nonprofit sector needs charitable contributions—but not from felonious philanthropists, whose donations reek of priorities little connected to the values of the nonprofit sector. ○

*Rick Cohen is executive director of the National Committee for Responsive Philanthropy (NCRP). Since 1976, NCRP has advocated for the philanthropic community to provide non-profit organizations with essential resources and opportunities to work toward social and economic justice for disadvantaged and disenfranchised populations and communities.*

# National Heritage Foundation: Pushing Tax Laws to the Limit

By Jeff Krehely

**The Web site points out that because NHF is technically a public charity and not a private foundation, it does not have to obey foundation self-dealing laws, allowing donors to, among other things, “Volunteer at local nonprofit organizations and be paid a taxable income from the funds in your foundation.”**

A careful study of the National Heritage Foundation’s Web site at [www.nhf.org](http://www.nhf.org) should be required of members of Congress and leaders of the nonprofit and philanthropic sectors who question the need for additional and tougher government oversight of nonprofit organizations and foundations. After just a few clicks through the site, it becomes clear how easy it is to use the nonprofit sector for personal enrichment and benefit under current laws and regulations.

Established in 1968 by John T. Houk, National Heritage Foundation (NHF) currently collects, invests, and manages millions of dollars for nearly 9,000 individuals, ostensibly for charitable purposes. Claiming that private foundations are too expensive and onerous to establish and operate, Houk and his staff persuade people to make charitable donations to NHF that are then invested for present-day or future “grantmaking” to a wide range of organizations and activities. The Web site points out that because NHF is technically a public charity and not a private foundation, it does not have to obey foundation self-dealing laws, allowing donors to, among other things, “Volunteer at local nonprofit organizations and be paid a taxable income from the funds in your foundation.”

Similarly, in the testimonial section of the NHF Web site, a financial planner states that “one plan I use is to set up a foundation for my clients’ children. The client makes deductible contributions. Other relatives and friends may make contributions also. The child may then, with the approval and supervision of the NHF, do charitable work in the college community. They will be paid taxable income for approved work, with which they can pay their own college expenses.” In other words, citizens of this country are losing out on tax revenue so the child of someone who has retained investment services can be paid to do volunteer work while in college. Sign me up!

NHF’s corporate model also allows its investors to avoid many government reporting requirements that foundations face (the theory behind such disclosure requirements is that if individuals take a huge tax break by setting up a foundation, they are obligated to let the public know what, exactly, is being done with the tax-exempt dollars). NHF is

proud that it helps people shirk these responsibilities, stating that “individuals and corporations that set up foundations at NHF are provided with a specific means to impact areas of charitable interest, without the hassles of bookkeeping, federal and state reporting, and other time consuming and expensive aspects of administration.”

The 1968 Tax Act—which created new rules and regulations for private foundations—served as the impetus for Houk to establish NHF. Despite statistics that demonstrate the explosive growth of private foundations from the 1970s through today, Houk claims that government oversight of private foundations “killed their growth” and has “shrunk” their economic impact. In 1975, there were 22,000 foundations with assets of \$30 billion; in 2002, there were 65,000 with assets of \$435 billion. In 2004 alone, the average foundation portfolio increased in value by 11.4 percent, nearly four times larger than that year’s inflation rate of about 3 percent. Perhaps Houk was taught foundation history by the same person who taught him geography, considering his claim that “our Foundations currently have projects in many countries including Peru, India, Africa [sic] and Tibet.”

Equally amusing is Houk’s breathtakingly sophisticated analysis that “we cannot solve the serious problems of society by depending on the government.” In fact, one of the goals of NHF is “replacing tax dollars with charitable dollars, thus *lessening the burdens of government*” (emphasis NHF’s). Never mind that federal discretionary spending was about \$420 billion in 2003 and that foundations made just over \$30 billion in grants that year. Houk doesn’t seem to have time or energy to deal with such minor, pesky, and inconvenient details.

The financial planners that bring in the organization’s “charitable” investors presumably take a big cut of the investment returns, considering that investors are charged only a \$285 application fee when they establish a foundation at NHF, and that in 2003 NHF reported nearly \$55 million in total revenue and \$157 million in assets. Grants and donations that year totaled about \$15 million.

According to the testimonials section of NHF’s



Despite the folksy, casual language that dominates NHF's Web site, it's a slick organization that knows how to push nonprofit tax law to the limit, while generating hundreds of thousands of dollars in profits for the Houk family and the cadre of "investors" involved with the organization.

Web site, financial planners are thrilled with the organization's services and the connections it helps them make and profit from. One person states that by referring people to NHF, "I gave them the structure to bring their dreams and passions to life in their community and allowed them to soar as heroes in their community. NOW I HAVE A CAPTIVE AUDIENCE TO TALK WITH THEM ABOUT THEIR PERSONAL FINANCIAL AND ESTATE PLANNING" (enthusiastic emphasis is NHF's). Another financial planner states that "recently on a business trip I met a man who mentioned a \$5.5 million dollar Federal Tax he and his wife would be facing soon. Because of the ideas I have been exposed to with NHF over the last few years, I now have a new \$11 Million dollar client [sic]."

The Houks also market their services to a ripe, growing, vulnerable market of new multimillionaire athletes. A section of NHF's Web site is entitled "An Athlete Needs a Foundation at the National Heritage Foundation [referred to as FANHF's]! Desperately!" and explains that athletes could benefit from NHF's services in a variety of ways. For example, the Web site mentions an athlete's "image," stating, "... doesn't today's athlete need to pay attention to 'image'. [sic] Too often these days the good things done in the community go unnoticed, while 'wife beating', 'drinking', 'extra marital activity', and the like make the headlines. A foundation at the National Heritage Foundation can make certain that the right things hit the headlines."

Even after an athlete retires from the field, court, or diamond, NHF can still help: "The professional life of an athlete may be meteoric. But it is also woefully short. What will the athlete do in retirement—in the off season—why he or she would work for the FANHF [sic]. He or she can

then really be the role model that Charles Barkley eschews, speaking at Churches, Schools and Community and National Organizations, taking his fee from his FANHF according to the hourly compensation ok'd by NHF."

But it's not only professional athletes and financial planners who benefit from NHF. The Houk Family itself also does rather well. Houk family members in 2003 earned nearly \$300,000 in salary and other benefits from NHF. Marian M. Houk also owns office space that NHF rents from her for \$1,000 per month. Another employee—who doesn't seem to be related to the Houks—owns an accounting company that provides services to NHF for nearly \$140,000 per year.

The 2003 grants list that NHF provided to the Internal Revenue Service (IRS) did not note a purpose for any of the grants, and many of the entries are fascinating. In addition to thousands of dollars given to individuals, the following donations were made:

- T. Bergeron Construction in Minnesota received a \$500 grant.
- Maryland Settlement Services received two grants, one for \$3,060 and another for \$4,797.
- A payment of \$956 was made to "Maryland Child Support Account."
- GMAC Mortgage in North Carolina received a \$1,297.18 grant.
- Cosmopolitan Real Estate Settlements (no address given) received a \$6,500 grant.
- University Test Preparation Services, which is on the University of Pennsylvania's campus, received four grants of \$45 each.
- Pitt County Memorial Hospital in North Carolina received a grant for \$1,475.01 (the list contains many "grants" to hospitals and doctors' offices for similar strange amounts).
- Washington Gas in Washington, D.C., received a \$695.38 grant.
- Sprint phone company in Florida received a \$120 grant, while Sprint in California received \$106.96.
- Nationwide Mutual Insurance in Pennsylvania received three grants of \$718.01, \$720.58, and \$715.43 (similar to "grants" to hospitals and doctors' offices, insurance companies received many donations from NHF).
- PECO Energy in Pennsylvania was given a \$923.35 grant.
- Comfort Suites, a hotel chain, received a \$276 grant (no address was disclosed).
- The Car Store in Minnesota received two grants of \$139.75 and \$349.98.
- Bruns Motors in Maryland received a \$1,375 grant.

- The Van Man in Maryland received an \$808 grant.
- BB&T Bankcard Corp. in North Carolina received a \$1,260 grant, sent to the same address (a P.O. box) listed on BB&T's Web site to which credit card holders are to send payments.
- County Propane, LLC in Pennsylvania received a \$499.89 grant.

NHF is no stranger to criticism or scrutiny. Several of its investment schemes were mentioned in J.J. McNabb's testimony in 2004 before the Senate Finance Committee on nonprofit and foundation accountability. In 2000, columnist Molly Ivins and the *Wall Street Journal* both wrote about one of NHF's most duplicitous come-ons to potential donors: getting a tax break for donating to NHF and setting up a "foundation," then using the donation to pay yourself to run the "foundation." The Internal Revenue Service investigated Houk in the past for a similar endeavor, which he was running while working at Jerry Falwell's Liberty University (Falwell himself is another of the charitable sector's best and brightest). Houk and the organization were charged with two counts of

mismanagement by the IRS, resulting in Houk's termination. In 1987, however, a judge in the case ruled in Houk's favor, and the charges were dropped. NHF was "reborn" (in his words) shortly after the ruling.

Despite the folksy, casual language that dominates NHF's Web site, it's a slick organization that knows how to push nonprofit tax law to the limit, while generating hundreds of thousands of dollars in profits for the Houk family and the cadre of "investors" involved with the organization. Because the organization is offering substantial tax breaks to its donors and investors for its "charitable" work, all of society is footing the bill for this barefaced profiteering. What's worse, NHF is thriving right under the nose of the IRS and state regulatory agencies, trumpeting its ability to take advantage of loopholes in the tax code—all in the name of charity and doing good. If this organization's activities are still legal or being ignored by government agencies at the end of the Senate Finance Committee's current efforts to reform nonprofit and philanthropic accountability, then the entire process will all be for naught. ☹

*Jeff Krehely is deputy director of NCRP.*

# www.ncrp.org A NEW LOOK THAT'S AS SHARP AS OUR COMMENTARY

As you may have already noticed, NCRP recently expanded its Web site and significantly improved access to its current and previous philanthropic research, the latest legislative developments, and NCRP news and updates.

## PUBLICATIONS

[www.ncrp.org/publications/index.asp](http://www.ncrp.org/publications/index.asp)

All NCRP publications have now been reorganized under recognizable themes and issue areas, including but not limited to: conservative philanthropy, core operating support, local research, and social justice philanthropy. Also our secure Verisign-powered store catalogue makes ordering publications easy and worry free.

## RESPONSIVE PHILANTHROPY

[www.ncrp.org/rparticles.asp](http://www.ncrp.org/rparticles.asp)

Selected RP articles are now available on [ncrp.org](http://ncrp.org). The articles cover topics such as philanthropy in the wake of 9/11, corporate philanthropic abuse, political misuse of philanthropy, affirmative action, and GLBT advocacy.

## BILLS ON THE HILL

[www.ncrp.org/legislation.asp](http://www.ncrp.org/legislation.asp)

An overview of current legislation in the 109th Congress that have the potential to affect philanthropy and charitable giving. This comprehensive matrix includes NCRP's analysis of these bills.

## TELL US WHAT YOU THINK!

Please email [info@ncrp.org](mailto:info@ncrp.org) for any questions, concerns or feedback about [www.ncrp.org](http://www.ncrp.org).

## The Story of Saipan

*DeLay's Petri Dish and Another Abramoff Gold Mine*

By Naomi T. Tacuyan

NCRP's ongoing investigations into the charitable activities of powerful Beltway figureheads such as Tom DeLay, Bill Frist, and Jack Abramoff have never ceased to uncover more and more questionable financial dealings. The Senate Finance Committee investigation on uberlobbyist Jack Abramoff and his Capital Athletic Foundation this past spring, the Indian Affairs Committee hearing earlier this summer on his Indian lobbying activities, and an ongoing House Ethics Committee investigation into House Majority Leader Tom DeLay's relationship with Abramoff all bring into renewed focus a Justice Department investigation into the sweatshops of the Northern Marianas Islands and Abramoff's role in preserving the substandard labor conditions of the garment industry there. Covered before in NCRP articles on Abramoff<sup>1</sup> and Nike's sweatshops,<sup>2</sup> the Marianas represents yet another strand in Abramoff's unethical weaving of politics, business, and charity.



*A protester burns a GAP shirt in front of a GAP store on November 28, 1999, in downtown Seattle to protest alleged sweatshop conditions and low wages on the island of Saipan. Protesters from Global Trade Organization activists rallied in the downtown shopping area. (Photo: John G. Mabanglo/AFP/Getty Images)*

"Made in the U.S.A." labels are not supposed to conjure up images of migrant laborers working 90-hour weeks, living in subpar conditions, and making \$3.05 an hour. This was exactly the situation on an island that House Majority Leader Tom DeLay once laughingly referred to as his "perfect petri dish of capitalism." How did horrid labor conditions like these—in a U.S. protectorate nonetheless—flourish well into the 1990s, and what did Jack Abramoff have to do with it?

Saipan, the island capital of the U.S. Commonwealth of the Northern Marianas Islands (CNMI) in the western Pacific, and its sweatshops, were indeed the perfect petri dish in paradise. Under their 1986 charter, the CNMI mandates its own immigration and labor regulations. As a result, the CNMI had a workforce that was 91 percent migrant workers from China, the Philippines, Sri Lanka, and Bangladesh and virtually no federally mandated regulations.<sup>3</sup> Over the decades, corporations like Wal-Mart, Gap, Ralph Lauren, Levi Strauss, Tommy Hilfiger, Calvin Klein, and Liz Claiborne have all benefited handsomely from the lax regulations on labor, since clothing, technically made in the U.S.A. except without the overhead of decent and humane labor conditions, can travel tariff free to the mainland. The abuses weren't limited to the garment industry. Construction and tourism workers were also mistreated and underpaid. Even worse, female workers already exploited with long workdays were allegedly funneled into a thriving sex trade.<sup>4</sup>

The CNMI first hired Abramoff in 1994 when the threat of federal regulations from the Clinton administration caused Marianas Gov. Froilan Tenorio (D) to turn to Abramoff. Abramoff had boasted of close ties with DeLay and current Ethics Committee Chair Doc Hastings (R-Wash.), who chaired the House Subcommittee on Native American and Insular Affairs. An audit in 2001 revealed that the CNMI and various garment industry affiliated organizations (namely the Western Pacific Economic Council and the Saipan Garment Manufacturers Association) had paid a total of \$9.5 million to Abramoff and his

lobbying partners and firms—including \$6.7 million to Preston Gates & Ellis, and \$500,000 to Greenberg Traurig in 2001, after Abramoff had joined the firm. A \$1.2 million contract was awarded to David Lapin—brother of Daniel Lapin, co-founder and current Toward Tradition president who introduced DeLay and Abramoff to each other—to teach a nine-day course on “ethics in government.” Both Lapin brothers have guest appearances in the Indian Affairs investigation into Abramoff and his lobbying deals. The audit found no evidence of services performed by Lapin. The audit also revealed that the CNMI overpaid for eight years of Abramoff lobbying contracts. Some payments did not even have a contract attached. The audit found it “difficult to justify [his] hiring based on his work.”

Both lobbying firms now linked to Abramoff—Preston Gates, and Greenberg Traurig—had the CNMI on the books as a “gold mine account.” In December 1997, Abramoff paid for DeLay, his wife and daughter, and 14 staffers (including Abramoff sidekick, former DeLay spokesman, and Preston Gates associate Mike Scanlon) to visit Saipan. (Airfare was at least \$75,000; he billed the CNMI for the time spent arranging the trip.) At a banquet speech in honor of venture capitalist Willie Tan (a Republican National Committee bankroller who had allegedly volunteered to bankroll a public relations counteroffensive against the media outrage about the sweatshops), DeLay praised the CNMI for its free markets and promised to defend it. At the very same speech in which he claims Abramoff as one of his “closest and dearest friends,” he also praised Saipan for wanting to be “self-sustaining and self-sufficient.” Not surprisingly, DeLay’s celebrity visit was not a rarity for such a remote island location. Over the years, Saipan has footed the bill for 85 congressmen, their spouses, and aides to travel to the island.

This neat little corporate utopia had not gone unchecked. The conditions were brought to light by Reagan administration officials, and underscored by an official of the first Bush administration in a congressional hearing in 1992.<sup>5</sup> A Native American and Insular Affairs Committee hearing in 1996 bore no results after then-Chairman Hastings declared the CNMI an “economic success story,” and called Clinton administration interference a threat to workers’ jobs and livelihood. He “urged Congress to continue a hands-off approach, in part by rejecting imposition of a minimum wage.”<sup>6</sup> Afterward, Hastings received almost \$10,000 from Preston Gates and Greenberg Traurig employees. While

the amount is considered inconsequential, it is still important to note that Abramoff personally contributed \$1,000 to Hastings’ campaign chest between September 1996 and November 1997.

In June 1997, then Majority Whip DeLay and Majority Leader Dick Armey wrote a letter to the Marianas government promising to block any legislation attempting to regulate the garment industry. Rep. George Miller (D-Calif.)—then-chairman of the House Resources Committee—toured Saipan, met secretly with the island’s migrant workforce, and in 1997 and 1998 submitted reports<sup>7</sup> to the House and requested a hearing on his findings, but was rejected by Rep. Don Young, an Alaska Republican. “The whip [DeLay] has said he’s not going to let that happen,” Young told Miller.<sup>8</sup> In 1997, Miller also introduced a bill that would extend federal labor and immigration regulations to the CNMI. Only the immigration legislation was passed in 2000.<sup>9</sup> Subsequently, former Sen. Frank Murkowski—current governor of Alaska, who isn’t exactly labor-friendly (he flunked every liberal and labor organization’s score card and aced conservative organizations’ score cards when he was in office)—was outraged after hearing testimony about the sweatshops on Saipan. In early 2000, Murkowski introduced a reform bill to extend federal labor regulations to the CNMI. It passed the Senate unanimously. The bill never got past the House, thanks to Abramoff’s work, DeLay’s influence, and Hastings’ committee chairmanship.

In December 1999, Scanlon, along with another former DeLay aide, Edwin Buckham, visited the CNMI to influence two legislators’ votes for the territory’s House of Representatives speaker. The result of their success? Newly elected Speaker Ben Fitial pushed through a renewed \$100,000 per month Abramoff contract, and the legislators—Alejo Mendiola and Norman Palacios—who had switched sides found themselves the winners of federal budget appropriations, “apparently supported by DeLay.”<sup>10</sup>

Another Abramoff venture almost made its way onto Saipan in the form of SunCruz Casinos, a Florida-based fleet of floating casinos belonging to Gus Boulis, a Greek entrepreneur. Federal investigators had found Boulis in violation of the Shipping Act (he had purchased vessels without being a U.S. citizen). Boulis had to sell SunCruz and turned to his law firm—Preston Gates Ellis & Rouvelas Meeds LLP—to help him find buyers. Abramoff stepped up with a name—Adam Kidan, a former Georgetown Law classmate and New York businessman with alleged family mafia ties. Unbeknownst to Preston Gates, Abramoff had

**“Made in the U.S.A.” labels are not supposed to conjure up images of migrant laborers working 90-hour weeks, living in sub-par conditions, and making \$3.05 an hour. This was exactly the situation on an island that House Majority Leader Tom DeLay once laughingly referred to as his “perfect petri dish of capitalism.”**

**An audit in 2001 revealed that the CNMI and various garment industry affiliated organizations (namely the Western Pacific Economic Council and the Saipan Garment Manufacturers Association) had paid a total of \$9.5 million to Abramoff and his lobbying partners and firms.**

joined Kidan in a 50-50 partnership of the SunCruz venture. Kidan would put up the money, and Abramoff, according to his lawyers, “would use his lobbying expertise and network to help expand the new company’s markets both in the U.S. and abroad.” Lo and behold, part of Abramoff’s plans as new CEO to step up SunCruz’s operations was to place a casino in Saipan’s port. Preston Gates learned of the potential conflict of interest and informed Boulis, who knew of it already and did not seem to mind. As revealed in a May 2005 *Washington Post* story, when negotiations went awry and Boulis demanded more, Scanlon turned to Rep. Bob Ney (R-Ohio), who officially denounced Boulis and his business practices in the Congressional Record. With \$60 million in financing secured, the Boulis-Preston Gates-Abramoff-Kidan deal went through smoothly on official paper, but under the surface were two promissory notes in lieu of actual payments to Boulis. Sparks flew as Kidan revamped SunCruz and fired Boulis-loyal employees. Abramoff and Kidan paid themselves hefty \$500,000 salaries. Boulis clamored for his payments, physically brawling with Kidan in a meeting, and in February 2001 was killed. Four years later, his murder is yet to be solved. Kidan’s mismanagement threw SunCruz into a bankruptcy auction. Saipan’s port never saw a floating casino. By 2001, Abramoff had moved on to Greenberg Traurig. By 2002, Abramoff’s schemes were focused on lobbying money from Indian tribes, what is revealed now as a whopping \$82 million. Abramoff, Kidan, and the SunCruz venture underwent a federal bank fraud investigation.



Abramoff lost his Marianas gold mine in 2002 when Juan Babauta won the gubernatorial elections, beating out, among others, Ben Fitial, to whom Abramoff donated \$5,000. Fitial, still speaker, laments the loss of Abramoff’s assistance, and asserts, “Tom DeLay, he’s the one who can help us.”

The pro-garment factory CNMI leaders and elected officials, with only corporate interests in mind, still hail Abramoff as being their defender of freedom. *The Saipan Tribune*—the CNMI’s only newspaper, which is owned by the proprietor of the largest garment company in the CNMI—hailed Abramoff as their “freedom fighter” in Congress.

“It is probably no exaggeration to suggest that Jack Abramoff is a kind of hero to the indigenous people of the CNMI. Through his work at Preston Gates, our commissioned advocate, he has kept our islands free. He has upheld the principles of liberty, autonomy, and maximum local self-government in the Northern Marianas. He has protected us from unwarranted federal encroachments upon our relatively free markets.”

“But Mr. Abramoff is not a mere lobbyist. He is a dedicated champion of free markets and individual liberty. He is ideologically committed to supporting organizations that actively support and promote ideas on liberty—organizations such as the Cato Institute and Citizens Against Government Waste.”

“Mr. Abramoff, in a very real sense, is an ardent champion of the little guy—of the much maligned Northern Marianas as well as the Choctaw Indian tribe of Mississippi. He does us a valuable service, demonstrating once again that the true champions of the little guy cannot be found in the US Democratic Party, which promotes a victim mentality that expects solutions from the Federal Government. On the contrary, men like Abramoff support our own self-reliance.”

Even now, Governor Babauta (a Democrat in name only, it seems) refers to any U.S. attempt at regulation as a pseudo-dictatorial “federal takeover” that keeps investors away.

In 2002, Rep. Miller lamented, “Sadly, the Congress has refused year after year to respond to the disgraceful conditions in the Marianas, not only in the garment industry but in the construction and hotel industry as well. All of our efforts to correct these abuses have met with stonewalled indifference from the leadership of

Congress.<sup>11</sup> This year, Rep. Miller reiterates his concern for the Pacific Islands by calling for a House Resources Committee investigation into Abramoff's CNMI activities.<sup>12</sup>

Good investigative work on potential political and philanthropic misdeeds starts with the edict "follow the money," but it is not so simple when it comes to chronicling Abramoff's complex and arcane corporate, political, and philanthropic dealings. Abramoff's initial nonprofit venture was the International Freedom Foundation, which he helped found in 1985 and was receiving \$1.2 million a year from South Africa's apartheid regime. It was disbanded in 1992. The Marianas labor fight occurred side by side with Abramoff's questionable financial transactions with the National Council for Public Policy Research (NCPFR) and his very own Capital Athletic Foundation (CAF). For example, as revealed in June's Indian Affairs hearing, Abramoff, as a board member of the NCPFR, instructed Amy Ridenour, the center's president, to pay out \$1 million in Choctaw contributions. Some \$450,000 was to go to the CAF, and \$500,000 was to go to the Capitol Campaign Strategies, a Mike Scanlon-founded political consulting firm.<sup>13</sup> Abramoff appears to have drawn just about no lines between business and charity, often soliciting consulting associates for charitable donations, and using their names to legitimize his 990 filings. According to Guidestar.org, three of four CAF board members worked under Abramoff at Greenberg Taurig. It seems that one of them, Todd Boulanger, was not even aware of the foundation's existence.<sup>14</sup> In early August of this year, Abramoff and Kidan were indicted by a federal grand jury in Florida on SunCruz-related fraud and conspiracy charges. Abramoff surrendered to FBI agents in Los Angeles the same day.<sup>15</sup>

DeLay continues to defend his opposition of CNMI labor reform. In May of this year, a DeLay spokesman said that the legislation "would have strangled the Marianas' burgeoning economy," and praised the CNMI's commitment "to implement free-market reforms that would dramatically increase employment opportunities and living standards."

For a majority leader whose party touts "moral values" and the high ground, it is sad to be caught, yet again, flaunting a lack of value or respect for human decency. Abramoff, with the powerful assistance of the likes of Tom DeLay, Doc Hastings, and Bob Ney, had for almost a decade enabled the CNMI to circumvent federal labor laws, turned a blind eye to sex traffick-

ing, and funneled money to his pockets using his charity CAF and shaky business ventures like SunCruz Casinos. The only real value evident is the value of the dollar—certainly not one we can attribute as being "moral." ☹

#### Notes

1. "Abramoff: Well-Connected to the Well-Heeled of the Right." Rick Cohen. *Responsive Philanthropy*, Fall 2004.
2. "Swoosh Philanthropy Redux." Rick Cohen. *Responsive Philanthropy*, Winter 2003/2004.
3. CNN.com. "The real scandal of Tom DeLay." May 9, 2005. Mark Shields.
4. "Is this the USA?" 20/20 ABC News. 3/13/98.
5. <http://www.spinwatch.org/modules.php?name=News&file=article&sid=954>
6. *Los Angeles Times*.
7. "Economic Miracle or Mirage: The Human Cost of Development in the Commonwealth of the Northern Marianas Islands." Committee on Resources, Democratic Staff. U.S. House of Representatives. 4/27/97; "Beneath the American Flag: Labor and Human Rights Abuses in the CNMI." Rep. George Miller and the Committee on Resources, Democratic Staff. U.S. House of Representatives. 3/26/98.
8. *The Hammer: Tom DeLay: God, Money, and the Rise of the Republican Congress*. Lou Dubose and Jan Reid. Copyright ©2004.
9. <http://www.house.gov/georgemiller/cnmiletter.pdf>
10. *Los Angeles Times*, May 2005.
11. [http://www.ibew.org/stories/02journal/0207/p16\\_p3.htm](http://www.ibew.org/stories/02journal/0207/p16_p3.htm)
12. <http://www.house.gov/georgemiller/cnmiletter.pdf>
13. *Wall Street Journal*.
14. "Lineup of Lobbyists on 'Team Abramoff.'" *Influence* ([www.influence.biz](http://www.influence.biz)). 7/6/2005.
15. CNN.com. "Lobbyist Abramoff indicted on fraud charges" August 11, 2005. Rich Phillips, Kevin Bohn, Dree de Clamecy.

*Naomi T. Tacuyan is communications associate of NCRP. Naomi hails from the island of Guam, the westernmost territory of the United States and the southernmost island of the Marianas Island chain.*



## Available Now

### Social Justice Philanthropy:

*The Latest Trend or a Lasting Lens for Grantmaking?*

We are proud to release *Social Justice Philanthropy: The Latest Trend or a Lasting Lens for Grantmaking?* The new report defines and discusses the concept of social justice philanthropy, provides an assessment of its future in philanthropy, and explores how grantmakers define and apply the concept of social justice to their work.

The report's findings indicate that social justice philanthropy is fraught with many definitional variations, as well as disagreements on how to apply social justice concepts to grantmaking. While many agree that social justice philanthropy is somehow concerned with a more equitable redistribution of economic, political, and social power, there is little consensus on what a more just society would look like, or if philanthropy is capable of fostering these changes.

**To obtain more information**, make a membership contribution, or order a PDF or printed copy using a credit card (Visa or Mastercard), please visit NCRP at [www.ncrp.org](http://www.ncrp.org) or call 202-387-9177. Social Justice Philanthropy costs \$20 per copy (\$10 for NCRP members).

## Foundation Cooperation Was Key to Successful Advocacy Campaign

*"Ending the Juvenile Death Penalty" continued from page 1*

2002 to 2005, a collaboration of foundations and nonprofits planned a comprehensive campaign for the eventual Supreme Court showdown.

Four foundations, among others, led the way. During the preliminary stage, the John D. and Katherine T. MacArthur Foundation and the Open Society Institute (OSI) supported general research and justice reform. Then, the JEHT Foundation and Atlantic Philanthropies joined OSI for the *Simmons v. Roper* coalition in 2004. This combination of sustained support for a targeted campaign would make victory possible.

### Opportunity

The 2002 case of *Atkins v. Virginia*, in which the Supreme Court banned the execution of the mentally retarded, jumpstarted the campaign to abolish the juvenile death penalty. The court determined that executing people who were not fully culpable for their actions was cruel and unusual, by America's "evolving standards of decency." The justices relied on state laws to determine a national consensus, noting that a majority of states either prohibited the execution of the mentally retarded or had eliminated the death penalty entirely, and determined "that death is not a suitable punishment for a mentally retarded criminal." *Atkins* provided the legal logic to use for another legal battle.

A coalition began to organize against the juvenile death penalty in 2002 and would eventually include the American Bar Association (ABA), Juvenile Justice Center, National Coalition to Abolish the Death Penalty (NCADP), Justice Project, Death Penalty Information Center, American Civil Liberties Union (ACLU), Physicians for Human Rights, National Juvenile Defender's Center, and Amnesty International.

In organizational meetings following the *Atkins* decision, the coalition began to lay out a comprehensive strategy that focused on overturning the death penalty in the states, which would then provide the legal ammunition to attack the juvenile death penalty at the Supreme Court using the "evolving standards of decency" argument. "We knew, from a footnote in the *Atkins* opinion, that the Supreme Court counts states, so we wanted to give them states," says David Elliot, the communications director for

NCADP. By 2002, 29 states had banned the juvenile death penalty, compared with the 30 that had outlawed the execution of the mentally retarded before *Atkins*. Another key to winning the case would lie in convincing at least one of two swing votes on the court—the two moderate conservative justices, Sandra Day O'Connor and Anthony Kennedy. O'Connor "was particularly interested in state activity, and the consensus was that the time was right to push for change," says Adam Ortiz, a former Soros Criminal Justice fellow with the ABA's Juvenile Justice Center.

In order to win, the campaign had to take full advantage of each group's strengths. Patti Puritz of the ABA's Juvenile Justice Center took on the role of coordinator, playing "a critical role in convening all of the groups and in fostering collaboration," according to Steven Hawkins of the JEHT Foundation.

The campaign would consist of three primary parts: message, grassroots organizing, and legal strategy. The Justice Project handled the media work; grassroots organizing in the states was split between NCADP, the Juvenile Justice Center, and Amnesty International. The Juvenile Justice Center also coordinated the legal strategy, coalition partners, and amicus briefs, in preparation for any case the Supreme Court would accept.

The Death Penalty Information Center and other organizations provided their assistance while continuing their public education and information campaigns against capital punishment and lobbying for the passage of the Innocence Protection Act in Congress.

### Early Funding

This coalition operated to an extent rarely seen in the philanthropic community. Cooperation is often a stumbling point for nonprofit groups accustomed to competing for the same pot of money, but shared goals, good organization, and previous collaboration on the *Atkins* case—all coupled with foundation support—helped things run smoothly and allowed the coalition to pursue its goals.

Many of the groups received general operating support or broad project grants for justice advocacy from OSI. Flexible funding gives groups the freedom to organize themselves and keeps organizations ready to respond to situa-

tions not apparent when the grants were made. Explains Jacqueline Baillargeon of OSI on funding strategy, “Two years earlier, when you’re making that grant, it’s not clear the court will take up the [juvenile death penalty] case.”

Other early funding united groups from different disciplines. The MacArthur Foundation had already been funding efforts against harsh youth crime laws in 1996, bankrolling programs like Northwestern University’s Children and Family Justice Center and the Child Welfare League’s Juvenile Justice Division. These associations studied how teenage minds work and what that means for the justice system. In 2001, the MacArthur Foundation created the Research Network on Adolescent Development and Juvenile Justice, centered at Temple University, which juxtaposed the scientific research with the legal issues. Since 2000, the foundation has spent over \$23 million advancing juvenile justice reform, creating useful partnerships across disciplines.

Smaller funders also teamed up; the Arca Foundation and the Butler Family Fund sometimes combined resources through the Tides Foundation’s Death Penalty Mobilization Fund. Foundations large and small helped build the capacity and expertise of groups central to the juvenile death penalty struggle.

### Message

A resonant message was needed, one with the goal of reframing the debate and moving the focus from capital punishment to children. The message gurus refined the emotional sentiments along with the new scientific research to come up with the direct and pointed message “Kids are different.”

Integrated in their powerful argument was new scientific research, including the MacArthur Research Networks’ banner study “Less Guilty by Reason of Adolescence,” by Laurence Steinberg and Elizabeth Scott, that showed adolescents’ brains work differently from adults’ brains. This brought a new fact-based approach to a traditionally emotional argument.

A resource kit containing scientific research and organizations’ testimonials and briefs was compiled. Entitled “Kids are Different: Evolving Standards of Decency and the Juvenile Death Penalty,” the kit was then distributed across the country.

A message alone is not enough to shift public, legislative, or Supreme Court opinion. The crux of the “evolving standards of decency”

legal strategy depended on successful lobbying of the state legislatures by the grassroots organizations.

NCADP and the Juvenile Justice Center, with Amnesty International, split up the states and began their work with statewide lobbying and a grassroots campaign that included print and radio advertising. Their first success came in Wyoming when the Legislature agreed to consider the measure. To the surprise of many, the bill encountered little opposition and was passed overwhelmingly. On March 3, 2004, Governor Dave Freudenthal signed it, making Wyoming the 30th state in America to ban the juvenile death penalty.

On the same day, Wyoming’s neighbor South Dakota became the 31st state to ban the execution of minors. The bill, signed by Governor Mike Rounds, brought to a close a hard-fought campaign that had culminated in an exceedingly close vote in the South Dakota State House, where the measure passed by only two votes.

David Elliot of NCADP recalls the pivotal role that young organizers played: “We organized students on college campuses. ... We taught them to lobby their state legislators. ... The students flipped two legislators. So the students gave us the victory in South Dakota.”

### *Roper v. Simmons* Arises

The long-expected case that would adapt the *Atkins* argument for juveniles surfaced in 2003. From Missouri’s death row, Christopher Simmons asked the state Supreme Court to reconsider his sentence in light of *Atkins*. In 1993, 17-year-old Simmons and a younger friend had bound and drowned a woman from their hometown in a confused robbery attempt. Without the aid of a lawyer or even his parents, Simmons waived his Miranda rights, made a confession after about two hours of interrogation, and reenacted the crime on videotape. He pled not guilty at trial, but his earlier admissions ensured prosecutors a conviction and death sentence.

The Missouri Supreme Court declared it unconstitutional to execute a juvenile offender like Simmons, audaciously applying *Atkins* logic in an unusual challenge to the U.S. Supreme Court. This bold argument, combined with four justices’ existing wishes to address the juvenile death penalty, convinced the high court to accept the case in January 2004. Simmons’ story was hardly the most sympathetic, but this would be the case to settle the issue of the juvenile death penalty.

**The Simmons decision was the culmination of a campaign begun years before that illustrated the power of strategic general operating funding from foundations and effective coalition building among nonprofits.**

**Funders and coalitions can take away two central lessons. First, years of general operating support and grants for previous projects positioned these groups to be effective. Consistent funding can establish the capacity and expertise for important projects later on and gives groups the leeway to create the coalitions they consider productive.**

### Organizing Around *Simmons*

Once the Supreme Court agreed to hear the case, opponents of the juvenile death penalty knew they needed coordination and funding. Early in 2004, nonprofit leaders invited representatives from OSI, the JEHT Foundation, and Atlantic Philanthropies to their planning meeting. The advocates then established who was responsible for each area of the campaign. Then and there, they submitted the proposal; the foundations studied it, figured out “which pieces of it made the most sense,” according to Baillargeon, and agreed to fund the effort.

During the almost yearlong “Campaign to End Juvenile Executions,” the three foundations granted the coalition a total of \$1.55 million. Meanwhile, the foundations continued supporting related issues, spending \$4.4 million on capital punishment advocacy during 2004.

From the beginning, the coalition was united by past work and common purpose. OSI had funded some groups before, and many advocates were veterans of the *Atkins* campaign. Steven Hawkins’ experience on both sides of the checkbook, as a senior program manager at the JEHT Foundation and former executive director of the NCADP, helped strengthen the coalition.

### Taking It to the Court

While the advocates had strengthened the nationwide consensus against executing juvenile offenders, the legal team had to convince the U.S. Supreme Court of these results. Patti Puritz of the Juvenile Justice Center recruited a broad, impressive array of organizations to submit amicus briefs.

The effort yielded 16 separate amicus briefs, signed by 17 Nobel Peace Prize laureates; professional organizations, including the American Medical Association and American Bar Association; and other respected experts. These amici promoted three core arguments. First, a medical argument asserted that children are different: As the MacArthur Research Network showed, their brains are not fully developed for planning and self-control, making youths less culpable for their crimes, less competent to stand trial, and less deterred by the existence of a death penalty. Second, international law and human rights standards prohibit the execution of juvenile offenders. Third, many Americans oppose the policy, as shown by widespread religious opposition to the death penalty, many laws that specially protect those under age 18, and juries’ reluctance to actually impose the death penalty on young offenders. This nationwide consensus against the juvenile death

penalty was most clearly demonstrated by the long and growing list of states that banned the juvenile death penalty.

The Supreme Court heard the *Simmons* case in October 2004, and on March 1, 2005, abolished the juvenile death penalty. Rebecca Rittgers of Atlantic Philanthropies recalled that the advocates “[kept] messages consistent, simple, and to the point,” and these very arguments became the basis of the majority opinion. The decision, written by swing voter Justice Kennedy and joined by the four previously supportive justices, drew on the three points presented in the amicus briefs.

Based on the successful advocacy work by coalition members in South Dakota, Wyoming, and elsewhere, governors, state legislatures, judges, and juries had demonstrated their burgeoning reluctance to allow juvenile executions; to the U.S. Supreme Court, this showed a consensus that the juvenile death penalty was unacceptable. Further, based on scientific evidence, the court considered execution disproportionate to juveniles’ level of responsibility and thus a cruel and unusual punishment: “The differences between juvenile and adult offenders are too marked and well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability.” The decision acknowledged international law and human rights arguments as “respected and significant confirmation for our own conclusions,” without considering them binding.

With the *Roper v. Simmons* decision, the Supreme Court ended America’s shameful distinction of being the last country in the world to officially permit the juvenile death penalty. About 70 juvenile offenders across the country were spared from death sentences.

Ultimately, this victory helps change how Americans think about the death penalty. As Richard Dieter of the Death Penalty Information Center puts it, “[Juries] are returning more life sentences: less death sentences and more life sentences.”

The coalition struck a remarkable balance, running a disciplined campaign with a consistent message and strategy, without any one organization or funder taking too much control. Coalitions must be orderly enough to merit funding. In a public policy roundtable, NCRP founder Pablo Eisenberg explained, “Foundations hesitate to fund coalitions because they can’t control the outcome. ... Yet increasingly on public policy issues [coalitions] are proving to be essential.”<sup>1</sup>



## MISSED A RESPONSIVE PHILANTHROPY ISSUE OR ARTICLE?

Visit [www.ncrp.org/rparticles.asp](http://www.ncrp.org/rparticles.asp) to view selected articles from previous *Responsive Philanthropy* issues spanning 2000 to 2004. Please check back on a regular basis as we continue to add and update our archives. Here's a sampling of what you may have missed:

### Strange Bedfellows by Rick Cohen (Spring 2004)

NCRP Executive Director Rick Cohen casts his eyes west to the Rio Grande and to two high-profile political leaders on opposite sides of the river. Both Mexican First Lady Marta Sahagun de Fox and U.S. House Majority Leader Tom Delay have charitable foundations that are more concerned with allowing special interest groups to purchase political access and influence than with giving away money.

### Saying 'No' To Forever by Jeff Krehely (Spring 2004)

Not all foundations plan on lasting forever, as Jeff Krehely discovered when he examined the largely unreported phenomena of foundations deliberately spending down and not existing in perpetuity.

### Paying to Mind the Store by Rick Cohen & Jeff Krehely (Spring 2004)

NCRP Executive Director and Deputy Director lay out the case for reducing the foundation excise tax from 2 percent to 1 percent, as proposed in the 2005 Bush budget, but only if the revenue raised is directed towards its original purpose of funding government oversight for foundations and the non-profit sector.

## NCRP Board of Directors

James Abernathy	<b>Environmental Support Center</b>
Christine Ahn	<b>Women of Color Resource Center</b>
Bruce Astrein	<b>Arizona Community Foundation</b>
Gary Bass	<b>OMB Watch</b>
Paul S. Castro	<b>Jewish Family Services of Los Angeles</b>
Lana Cowell	<b>Greater Community Shares of Cleveland (NCRP Board Secretary)</b>
Louis Delgado	<b>Philanthropy &amp; Nonprofit Sector Program, Loyola University Chicago</b>
Mike Doyle	<b>Community Shares of Illinois</b>
Pablo Eisenberg	<b>Georgetown University Public Policy Institute</b>
Angelo Falcon	<b>PRLDEF Institute for Puerto Rican Policy</b>
Richard Farias	<b>Tejano Center for Community Concerns</b>
Angel Fernandez-Chavero	<b>Community Foundation for Greater New Haven</b>
Deborah Felder	<b>Maine Initiatives</b>
Margaret Fung	<b>Asian American Legal Defense &amp; Education Fund</b>
David R. Jones	<b>Community Service Society (NCRP Board Vice Chair)</b>
Rhoda Karpatkin	<b>Consumers Union (NCRP Board Treasurer)</b>
Larry Kressley	<b>Public Welfare Foundation</b>
Julianne Malveaux	<b>Last Word Productions Inc.</b>
Peter B. Manzo	<b>Center for Nonprofit Management</b>
William Merritt	<b>National Black United Fund</b>
Nadia Moritz	<b>The Young Women's Project</b>
Terry Odendahl	<b>Georgetown University Center for Public and Nonprofit Leadership and Public Policy Institute (NCRP Board Chair)</b>
Alan Rabinowitz	<b>Peppercorn Foundation</b>
Russell Roybal	<b>National Gay and Lesbian Task Force</b>
Greg Truog	<b>Community Shares USA</b>
Helen Vinton	<b>Southern Mutual Help Association</b>
Bill Watanabe	<b>Little Tokyo Service Center</b>



national committee for  
responsive philanthropy

2001 S Street NW • Suite 620 • Washington, DC 20009

Address Service Requested

Nonprofit  
Organization  
U.S. POSTAGE  
PAID  
Washington, D.C.  
PERMIT NO. 273

www.ncrp.org

