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DISCLOSURE IN THE DIGITAL AGE

INVESTIGATING THE IMPACT OF TRANSPARENCY ON POLITICAL PARTICIPATION

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ABSTRACT

The development of digital public records databases under the policy doctrines of open-government and transparency has significantly increased visibility of information about the political participation records of citizens. Many states in the US have public disclosure mandates to make available records of campaign contributions, petition signatures, and other forms of voter information – all of which contain personally identifiable details. While this disclosure is meant to promote the public interest, these public records databases can be merged with other digital data and repurposed to facilitate negative social sanctions and reprisals against individuals who have made contributions or signed petitions in popularly initiated referendums. Scholars, lawmakers, and courts are divided on the extent to which online access to public records increases more serious forms of reprisals, with some arguing that this practice will have chilling effects on future political participation in referendums.

This thesis investigates the extent to which digital databases of political participation records from referendum campaigns have been used and repurposed to facilitate reprisals, and to what extent public disclosure could have chilling effects on participation in referendum campaigns. The study employs a mixed-methods approach comprised of two case studies, a laboratory experiment and an online experiment. The case studies explore the use of online public records in popularly initiated referendums regarding same-sex marriage rights in California and Washington, while the experiments were used to understand the impact of public disclosure notification on an individual's willingness to sign petitions and demonstrate support for divisive political issues.

The findings from the case studies show that while governments are motivated to provide online access to public information to achieve democratic outcomes, activists are instead motivated to use public records to facilitate social sanctions against their opponents and to alter their participatory efforts in the political process. However, these reprisals were mostly legal forms of political protest against businesses and institutions rather than illegal forms of harassment against individuals. Additionally, the results of both experiments did not find strong evidence to support the argument that public disclosure has chilling effects on political participation. However, the presence of heterogeneous effects between different groups of people remains unclear – a finding that should drive future research on this topic.

The findings from this research advance understanding of digital public records and political participation within the framework of democratic theory and social influence, and provide empirical evidence that counters the chilling effects hypothesis. The study concludes with recommendations for public policy, which include providing online public disclosure notification on petitions in order to achieve a more optimal balance of democratic outcomes in the context of popularly initiated referendum campaigns.

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LIST OF ABBREVIATIONS

API	Application program interface
APSA	American Political Science Association
CA	California
CESS	Centre for Experimental Social Sciences
CEO	Chief executive officer
CSV	Comma separated values
CUREC	Central University Research Ethics Committee
E-government	Electronic government
EU	European Union
FEC	Federal Election Commission
FOIA	Freedom of Information Act
GBP	United Kingdom Pound Sterling
GCS	Google Consumer Surveys
GOTV	Get out the vote
H (1-4)	Hypothesis (1-4)
IP	Internet protocol
JSON	JavaScript object notation
LGBT	Lesbian, Gay, Bisexual, and Transsexual
OII	Oxford Internet Institute
R-71	Referendum Measure 71
RQ (1-3)	Research Question (1-3)
TIFF	Tagged image file format
UK	United Kingdom
US	United States of America
U.S.C.	United States Code
USD	US dollars
WA	Washington State
XML	Extensible markup language
Z-tree	Zurich Toolbox for Readymade Economic Experiments

1 Introduction and background

> "*Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed...I do not look forward to a society which, thanks to the Supreme Court, campaigns anonymously and even exercises the direct democracy of initiative and referendum hidden from public scrutiny and protected from the accountability of criticism.* "
>
> -Justice Antonin Scalia, 2010[1]

> "*...compelled disclosure of signed referendum and initiative petitions...severely burdens those rights and chills citizen participation in the referendum process...the state of technology today creates at least some probability that signers of every referendum will be subjected to threats, harassment, or reprisals if their personal information is disclosed.*"
>
> -Justice Clarence Thomas, 2010[2]

Academics, lawmakers and political activists in democracies around the world have praised the increasing trend of open governments and policies that mandate the digitization and online publication of public records to dramatically enhance transparency of democratic procedures and ensure accountability (Doe v. Reed, 2010; Fung, 2013; Karger, 2017; Lang, 2016; Murphy, 2016). While the amount of transparent government information accessible to meet the informational needs of citizens is exponentially greater

[1] This statement was delivered in a majority-concurring opinion filed in the US Supreme Court Case *Doe v. Reed*, 561 U.S. 186 (2010). Antonin Scalia was an Associate Justice of the US Supreme Court.
[2] This statement was delivered in the dissenting opinion filed in the US Supreme Court Case *Doe v. Reed*, 561 U.S. 186 (2010). Clarence Thomas is an Associate Justice of the US Supreme Court.

in the digital age compared to any previous time period in the history of democratic governance, many voices have also called for a curtailment of access, in consideration of the detrimental impact the disclosure of public information can have on undermining effective participation in the political process (Doe v. Reed, 2010; Carpenter, 2007; Carpenter, 2009; Green, 2013; Nissenbaum, 2010; Papacharissi, 2010; Solove, 2002). This threat to democratic outcomes can be particularly acute in the domain of popularly initiated referendums, where governments mandate access to digitized public records of petition signatures and campaign donors – all of which contain personally identifiable information of citizens. While the original justification for public access to this information was to facilitate democratic accountability, it can and has been used to facilitate harmful reprisals against participants, which has resulted in calls from even the highest court in the US to curtail public access due to the potential of chilling effects on political participation (Briffault, 2010; Doe v. Reed, 2010). This thesis is motivated to generate new insight for this debate, and produce an original set of empirical findings that can be used to supplement legal and academic arguments that have thus far only been made on normative and theoretical grounds in the domain of referendum campaigns. In order to generate this new insight, this study focused on answering three research questions:

> **RQ1**: How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns, and what are the driving motivations of individuals and organizations involved with facilitating this expanded visibility?

RQ2: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?

RQ3: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

Before delving into the theory and previous research, this chapter first presents requisite background information in four key topic areas: 1) the rise of open-government and digital public records, 2) public disclosure law and policy in the US, 3) competing conceptualizations of the role of citizens in referendums, and 4) the *Doe v. Reed (2010)* lawsuit that motivated this study and the research questions. This chapter then presents the mixed-methods approach of the research design, followed by a list of objectives for contributions that include contributions to academic research, contributions to law and policymaking as well as jurisprudence, and contributions to the praxis of campaign organizing. Finally, this chapter concludes with a broad overview of the thesis structure, including brief summaries of the six subsequent chapters.

1.1 Background information

The aim of this section is to explain the evolution of information transparency in democratic governance in the digital age, and its particularly complex role in the domain of popularly initiated referendums and direct democracy procedures. This section is especially insightful for readers with less familiarity with popular initiative referendums,

which differ considerably from the more common form of referendums that are initiated by legislatures. Since states in the US lead the world in usage of this referendum device – along with cantons in Switzerland – and since the case studies explored in this study are also derived from American states, this section also includes the necessary background information regarding popularly initiated referendums in the US and public disclosure laws which regulate the public records policies of state governments. This section concludes with a brief overview of a key lawsuit that not only motivated the pursuit of this scholarship, but also encapsulates some of the most compelling arguments for and against public disclosure of political participation records in the domain of popularity initiated referendums.

1.1.1 The rise of open-government and digital public records

While the open-government doctrine has been in practice since the Enlightenment period, its execution in the digital age only began in the late 20th century, when democratic governments around the world began to adopt electronic and digital tools and technology to deliver information and services to their constituents (Habermas, 1962; McNeal et al., 2006). The use of electronic and digital information to provide government information and facilitate government service became known as electronic government, or E-government (Layne & Lee, 2001; Silcock, 2011). Leveraging digital technology allowed governments to not only offer new and constructive ways for citizens and governments to communicate and deliver or receive public services, but also increase the efficiency of information delivery (Norris, 2001). Depending on the country or state and the

established norms, the information typically made available for citizens would be the activities of various governing individuals and organizations, including both elected representatives and unelected civil servants. This activity ranges from region to region, but may include everything from elections details – such as campaign financiers and voter registration lists – to the voting record of political representatives and parliamentarians. This type of information is vital for healthy democracies to enable citizens to make informed decisions at the ballot box, and in other democratic arenas where they are enabled to engage in the governing process (Dahl, 1989). At the same time, however, disclosure of political participation records of citizens does not guarantee successful democratic outcomes, and its very application clashes with liberal ideals of a citizen's privacy rights (Carpenter, 2007; Doe v. Reed, 2010; Green, 2013).

In the pre-digital age of democratic governments and governance, such information was often available, but far more resource-intensive to access, and even more difficult to organize and assess in meaningful value-adding ways for both citizens and governments. Governments would have to retain physical records, often in the form of paper, and citizens as well as other interested information-gathering entities such as democratic-watch-dog agencies or news organizations would have to arrange appointments with the government offices in order to access the information they needed. While a politician's voting record might be readily available for a civil servant to announce over the telephone to an interested inquirer, other forms of information like lists of campaign donors or petition signatures from popular referendums would be far more laborious to arrange and deliver. Further, this delivery would also require significant

input to organize and sort to find specific information, reveal patterns or simply to verify whether procedures had been lawfully adhered to. Unsurprisingly, the high transaction costs for accessing public records were enough to deter ordinary citizens from carrying out their legal right to public scrutiny (Boudin, 2011). As a result, citizens were less accountable to their political opinions and actions (Brennan & Pettit, 1990). The rapid development of powerful Internet search engines and omnipresent digital access in the 21st century, along with the adoption of digital technology and electronic disclosure under the policy doctrine of open-government has enabled new possibilities for accessing and organizing this information, as well as integrating this information with other available data to develop further insights which may or may not be related to the original democratic aims of the respective information-disclosing government (Green, 2013; Nissenbaum, 2010; Papacharissi, 2010; Solove, 2002). Many of the traditional actors in political campaigns including citizens, activists and media outlets have demonstrated an interest in accessing this information by using digital technology to search these files (Fung et al., 2007, p14). Due to the indexing of this data on personally identifiable details, this data is also easy to come across inadvertently when using online search engines to search for content related to target individuals.

In the domain of direct democracy and popular referendums, the type of information citizens require from their governing bodies in order to make meaningful and informed decisions are not only the details of an initiative (or politician's voting record, in the case of a recall referendum), but also the financial backers of the proposed campaign, as well as those financing the opposition campaign. The names of individuals

and organizations – as well as amount of financial contributions – may provide significant insight into the winners and losers of an issue that might not be readily apparent in the general proposed referendum details (Cronin, 1989). An additional justification of information transparency in this domain relates to the verification process, so that citizens can conduct their own due diligence to determine if signature thresholds had been met, and that approval of petitions for ballot did not include duplicate, fraudulent or otherwise invalid signatures. However, states in the US that have provisions for the popular referendum device have taken very different approaches to determining whether or not records of participation in referendums should be available and accessible to the public, as discussed further in the next section (Grading State Disclosure, 2008).

1.1.2 Public disclosure law and policy regarding popular referendums

For the scope of this study, an understanding of the original intention of public disclosure regimes is critical for assessing the current mandates and exemptions that are codified into law and that guide administrative decision-making in disclosure policies. While all modern democratic governments administer secret ballot procedures for voting in candidate elections and referendums, there are still certain aspects of political participation that are not kept secret (Brennan & Pettit, 1990). In the US, this public information at the very least includes voter registration lists and campaign donations that exceed minimum thresholds (Brennan & Pettit, 1990). In the US, regulations regarding public disclosure exist at both the federal and state levels of government administration,

and are colloquially referred to as the federal or state Freedom of Information Acts, or FOIAs. At the federal level, the FOIA established in 1967 is the key law that grants the right to access information from any agency within the federal government.[3] The driving motivation at the time was a response to the American classification system regarding government documents, and a desire to bring transparency to records that were stamped with the lowest level of confidential status (Gold, 2012). As the Act states, there are nine areas of exemptions from disclosure, which exist to "protect interests such as personal privacy, national security, and law enforcement." This justification for disclosure and exemptions manifests among individual state public disclosure acts, which are more important for understanding for the purpose of this study regarding American referendums, since the American states themselves have traditionally administered voting procedures for both state and federal elections.

While federal level disclosure motivated state level disclosure, the mandates and exemptions of records regarding political participation varies between states (Boudin, 2011; Carpenter, 2009; Grading State Disclosure, 2008). Many state disclosure regimes were established a few years after the FOIA in the early 1970s, in response to corruption in the Richard Nixon administration that was enabled by confidential classification. Public disclosure laws passed during this time are often referred to as *Sunshine Acts*, referencing an oft-cited quote from former Supreme Court Justice Louis Brandeis (1913) regarding the benefits of transparency: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light

[3] More details about the FOIA in the US is available on the official government administered webpage: https://www.foia.gov/

the most efficient policeman" (p. 4). These disclosure acts regulate both government information and public records of citizen participation in the political process, including popularly initiated referendums for states that have provisions for this form of referendum device.

As a matter of statutory protocol, states do not specifically cite each fragment of government information that must be disclosed. Instead, they state a general guiding mandate for providing accessibility to broad areas of government procedures, and then clarify exemptions. Lawsuits against state public disclosure acts generally focus on this narrower set of exemptions, and aim to either prove consideration for exemption status, or establish new areas of exemptions (Doe v. Reed, 2010; Protectmarriage.com v. Bowen, 2011). In the domain of popular referendums, the variations in exemptions are most often the threshold of campaign contributions that ought to trigger disclosure, and access to petitions of signatures and other personally identifiable information that has been submitted to – and verified by – state or county governments.[4] While there is no limit to campaign spending in US state referendums, minimum donation thresholds which trigger mandated disclosure range from 'no minimum' to $250 USD (Carpenter et al., 2009). With regards to petition signatures, some states like California have explicit exemptions against public access, while other states like Washington, Oregon, Massachusetts, Florida, and Arkansas – a politically diverse collection of American jurisdictions representing each geographic region – are just some of the states that permit disclosure

[4] The Digital Media Law Project provides a useful resources regarding the provisions of federal and state public disclosure acts in the US, and procedures for obtaining access to records. The project website is available at http://www.dmlp.org/

for purposes of transparency and public scrutiny regarding ballot verification (Carpenter, 2009; Lang, 2016). The lack of research in this field makes it very difficult to evaluate current disclosure laws and proposed reforms, as "the potential costs of various policies have been completely ignored by scholars and policy makers alike" (Milyo, 1999, p.537). The case studies presented in Chapter 4 of this study provide an overview of these public disclosure policies in California and Washington, which allows for an assessment of costs associated with providing access to digital records of petition signatures.

1.1.3 Background of referendums, and competing conceptualizations of the role of citizens

The unique role of citizens in formulating laws and amending constitutions through popularly initiated referendums is a driving factor in the drastically different legal regimes that mandate disclosure of citizen activity in referendum campaigns, but not for actual voting records at the ballot box which are guarded by secret ballot procedures.

In order to understand the competing conceptualizations of citizen roles in referendums, it's critical to first define the various types of referendums, and what makes the popularly initiated referendum so unique among the range of democratic instruments.[5] Broadly, referendums are defined as the official procedure for citizens to directly vote to pass or

[5] As the Oxford English Dictionary (2016) notes, both *referendums* and *referenda* are used as plural forms of referendum, with usage being fairly divided since the 20th Century. The term *referendum* derives from the Latin *referre,* and in practice has often been modified to *referenda* with an *-a* in line with other Latin plural words like *agenda* and *memoranda*. However, this Latin plural gerundive implies a plurality of issues (or measures), while *referendums* connotes more than one referendum on a single issue. In practice, the choice of term is generally a matter of preference amongst authors and speakers, and throughout this thesis the English pluralized form *referendums* will be used, consistent with much of the political science literature (Altman, 2011; Butler & Ranney, 1994; Qvortrup, 2005; Setälä, 1999) and legal scholarship (Matsusaka, 2004; Tierney, 2012; Williams, 2009).

reject an issue that has been put up for vote (Butler & Ranney, 1994). Referendums vary considerably around the world, and have developed differently among different democratic countries. However, in nearly all its manifestations around the world and across time, referendums have served as a complementary democratic procedure alongside the more common representative democracy (Butler & Ranney, 1994; Qvortrup, 2007).

The origins of the referendum and direct democracy more broadly that manifest in the 21st century can be traced back to classical antiquity, to the very least in 5th century BCE in Athens, often referred to the 'Golden Age' of democracy (Jones, 1957; Ober, 2009; Sinclair, 1991). In Athens, all citizens were able and expected to participate in the decision-making process, and met as a popular assembly referred to as the *ecclesia*. Citizenship was narrowly defined and restricted to males with at least two years of military service. The ecclesia met anywhere from one to four times a month on the Pynx hill of the Athenian agora (Hansen, 1977; Sinclair, 1991). In the Athenian ecclesia, citizens mostly voted by a raising their hands, in full public view, with first the 'ayes' and then the 'nays' (Hansen, 1977).[6] On certain issues however, votes could be carried out by ballot, indicating that Athenians understood well that full disclosure of one's position on an issue could hamper with a citizen's willingness to vote in congruence with their preferred position. Athens' leading role in establishing referendum procedures for all

[6] The exact way votes were counted within the Athenian ecclesia is a matter of debate amongst scholars, as there are few sources on this specific procedure, leading scholars to offer different theories about how vote-counting may have transpired. Further details regarding the debate amongst scholars of antiquity are highlighted in Hansen, 1977.

citizens to vote directly was so prominent that similar referendum systems established in later time periods were referred to as 'Athenian democracy.'

More than one millennium later in early medieval Europe, Swiss cantons had firmly established direct participation of citizens in referendums as a form of decision-making (Setalla, 1999; Qvortrup, 2002). This exercise was similar to the assembly meetings in classical Athens, and this form of government has persisted through the 21st century in the contemporary Swiss state at both the canton level and state level in the form of a national assembly. The canton assemblies in Switzerland are referred to as *landsgemeinde*, and the voting procedure was – like in the Athenian ecclesia – exercised by a show of hands (Setalla, 1999). The cantons were small in size in terms of population, and but well-attended like with the ecclesia in Athens, and participation was fully disclosed (Hansen, 1997; Setall, 1999).

The next important phase in the use of referendums also transpired on the European continent beginning in the 20th century, namely in Italy and Germany (Qvortrup, 2002). However, these referendums were held on a much broader national scale, and the lacked the full disclosure of the public show-of-hands procedures seen in Athens and the cantons of the old Swiss Confederacy.

On the other side of the Atlantic Ocean, the idea of public meetings and direct decision-making was established in the Americas in the 16th century, in what were referred to as 'New England Town Hall' meetings (Setälä, 1999). The voting was public in these small town hall meetings, as with the ecclesia and the *landsgemeinde*. However, it would take more than three hundred years before this idea of direct democracy became

codified into law at the state level, beginning in South Dakota in 1898 (Smith, 2010). The development of referendums in the US was heavily influenced by the Swiss system, and included provisions for popularly initiated referendums (Smith, 2010). This form of referendum spread across much of the Western US, and as of 2017 exists in 24 American states, as well as in over 90% of American towns and cities (Renner, 2017).

While initiatives and referendum have existed in the North American British Colonies since the 17th century, they didn't take off until the early 20th century, beginning with South Dakota (Smith, 2010). The founding fathers of American democracy were originally quite skeptical and even fearful of direct democracy and the tyranny of the majority (Smith, 2010). Though in all jurisdictions where there are provisions for direct democracy referendums, they exist as a complimentary and supplemental tool for representative government, rather than a replacement (Butler & Ranney, 1994). The suspicion of popular power over lawmaking is reflected in the various types of referendums in the US, and a number of taxonomies have developed overtime to categorize them. Referendums can either be required by law to decide certain issues, in tandem or in lieu of a legislative vote; handed down by the legislature voluntarily; or popularly initiated by the citizens themselves (Setälä, 1999). In the US, 49 states require citizens to vote on amendments to the constitution, while 24 states enable citizens to force a referendum vote to change or propose laws or amendments to their state constitution if a minimum number of signatures are first collected on a petition in support of the ballot initiative (Smith, 2010). This procedure allows for citizens to have a check against state legislatures, and even grants them power to propose statutes and

amendments to their state's Constitution, which can provide a necessary outlet for voter frustration (Cooper, 1998). In the US, this serves as a critical first step in the most direct form of lawmaking that an American citizen can exercise at the state level, and different jurisdictions have different participation thresholds required for turning a petition into a referendum on the ballot (Ellis, 2002). These type of initiated referendums considering propositions that are precipitated by petitions are more than just consultative – they are binding, unlike with referendums in the UK for instance (Butler & Ranney, 1994). The US does not have a national referendum (Smith, 2010). Instead, referendums are only administered by states and cities. Some scholars have argued that many referendums that are successful at the ballot box in the American states ultimately end up unrealized, due to a variety of reasons (Gerber, E. et al., 2001). These reasons include resistance from elected leaders and established political parties, as well as cases where judiciaries declare successful ballots to be unlawful or illegal (Gerber, E. et al., 2001).

Depending on the jurisdiction, popularly initiated referendums have varying degrees of statutory restrictions on who may legally participate by signing a petition, and how many signatures are required to meet the minimum threshold to demonstrate a reasonable level of interest amongst the citizenry (Cooper, 1998). Such signature restrictions may also include narrower geographic requirements, where a minimum threshold of citizens is required from each contained county or region. And all legal codes administrating popular referendums exclude duplicate names, the names of deceased citizens, the names of non-existing people – as well as the names of existing individuals who do not have citizenship or voting rights, which may be contingent upon

residential address or some other exclusionary factor. In all jurisdictions with popular initiative referendums, this verification process is facilitated by one or more regional government offices. As noted earlier, in a smaller subset of jurisdictions mostly in the US, citizens are also able to access petition lists from the state to carry out their own verification; a legal consequence reflective of early 20th century populist and progressive sentiments of the day that were as distrustful of governments and elected leaders as they were of corporations and special interests, as well as later established freedom of information acts and public disclosure laws ushered in from the late 1960s and 1970s (Bowler & Donovan, 1998; Smith, 2010). The modes of public information access and delivery has changed with the adoption of digital technology, and the implications and consequences of these new forms of digitized public records data for citizens and democracy as a whole are the driving force behind this study.

1.1.4 *Doe v. Reed* (2010) and chilling effects on participation in popularly initiated referendums

The *Doe v. Reed* (2010) lawsuit filed in the state of Washington in July 2009 and concluded in the US Supreme Court in May 2010 not only motivated this study, but also encapsulates the consequences of providing access to digital databases of public records information, as well as the key arguments for and against disclosure of public records from divisive and contentious popular referendum campaigns.

The challenge was made against the state by *Protect Marriage Washington* – which was not only the proponent of the original petition to force a referendum measure

on the Senate Bill that had extended same-sex marriage rights, but also an official committee representing the 'No-on-71' campaign. They asked for a temporary restraining order to avoid the release of petition signatures, which campaign activists from the 'Yes-on-71' campaign had threatened to make public. Their argument for exempting the petitions from disclosure was on grounds of risk of harassment.[7] While Washington State's Public Disclosure Commission ruled that the petitions were indeed a matter of public record, in September 2009 the federal judge presiding over the case issued a restraining order, prohibiting the state from disclosing the names. Unsatisfied with the federal judge's ruling, the State appealed the case with the Ninth Circuit Court of Appeals – and in October 2009, this appeals court reversed the previous court's ruling and sided with the State of Washington in disclosing the petition sheets on grounds of information transparency.

However, before the petition signatures were released, the Supreme Court placed a temporary block on the disclosure, to be determined upon their own hearing of the case. In the meantime, Election Day passed, and Referendum 71 was approved by a sizable majority of voters. The following summer in June 2010, the Supreme Court ruled 8-1 in favor of Washington's Public Records Act, enabling the disclosure of petitions in principle, though allowing the plaintiffs to pursue an exemption in this specific case considering its unique circumstances. The plaintiffs indeed exercised their right to a second legal challenge with the lower district court, which it lost – along with further

[7] The arguments of the Supreme Court trial were retrieved from http://www.supremecourt.gov/oral_arguments/argument_transcripts/09-559.pdf

appeals in higher courts. In the case of Washington, the various courts ruled that there was not enough evidence of harassment or reprisals presented.

While the majority of the court sided against the plaintiffs, the minority dissenting opinion focused on the new possibilities enabled in the digital age regarding drastically enhanced visibility, and concerns for chilling effects on participation in future referendums from individuals who feared their participation could lead to harassment or illegal forms of reprisals. The *Know Thy Neighbor* website platform is one example from this case for how the digitization and open access to records of popular initiative petitions under the policy directive of open-government enabled entirely new ways of accessing and gaining insight from information that was always extant in non-digital formats, but not visible. Rather than providing campaign finance details, the main objective of this organization was to digitize hand-written signatures from the petitions supporting anti-same-sex marriage laws in order to make them more publicly visible. While the lists were always available from previous petitions in the form of paper records, these paper records could not be as easily aggregated and organized as they could be in their digital format. The digitization process enabled a completely new way of repurposing the available information, and cloned websites containing the data ensured that the lists would stay up long after they were removed from the original website (Green, 2013). The concurrent emergence of online social media tools and portals also enabled additional opportunities for aggregating and crosschecking this data against an individual's social networks.

The arguments in this case were largely rooted in established case law, guided by normative democratic governance, and speculative regarding the potential impact on political participation in popularly initiative referendums. Empirical evidence that can pinpoint the exact effect of these new forms of online visibility enabled by new public disclosure policies on citizen behavior was not cited – not least because there is little research available in the academic literature (Carpenter, 2009; Milyo, 1999). Indeed, this extant gap in the literature was another motivating factor for the development of this study, and one of the main objectives of this research was to generate a set of empirical findings that could be used to drive adjudication in future legal proceedings, as well as inform lawmakers and policymakers during their re-evaluations of public disclosure regimes in the digital age.

1.2 Research design, scope and limits of research

The research questions formulated in this study were motivated by not only the development of nascent digital technologies, public policy strategies and case law, but also to generate data to understand the impact of online public disclosure in this domain on the balance of normative democratic outcomes which include the need for an enlightened and informed citizenry in tandem with effective means and access to participation in the political process. This study is also motivated to address the gap in previous research studies that have been conducted to understand the relationship between public information disclosure in the digital age and participation in popular

initiatives and referendum campaigns. To answer these questions, the research design includes a mixed-methods approach using both case studies and experimental methods. This section provides a broad overview of the methods used, the scope of research and the limits of the findings of this study.

1.2.1 Research questions

Motivated by the increasing adoption of open government policies by state governments and past cases of online public information disclosure regarding petition signatures and campaign donors, along with the significant gap in extant literature and empirical research exploring the impact of online information disclosure on political participation in popular initiatives and referendums, this study generated insight for three research questions:

> **RQ1**: How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns, and what are the driving motivations of individuals and organizations involved with facilitating this expanded visibility?
>
> **RQ2**: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?
>
> **RQ3**: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

The formulation of these questions was driven by unsubstantiated claims regarding the impact of public disclosure on political participation in popularly initiated referendums. While the first two research questions are qualitative, the third research question necessitated a more quantitative approach to identify the presence, direction and magnitude of chilling effects from public disclosure, as described in further detail in the next section.

1.2.2 Mixed-methods approach

This study employed a mixed-methods approach using both case studies and experimental methods in order to gain insight into the relationship between public information disclosure and participation in popularly initiated campaigns. In order to answer the first two research questions, RQ1 and RQ2, the case method was used to provide a comprehensive understanding and assessment of two high-profile cases of online disclosure in popularly initiated referendums that have transpired in two American states – California and Washington – which have some of the most lauded public disclosure regimes among the American states (Grading State Disclosure, 2008). To answer the third research question, RQ3, this study employed both laboratory and online experiments to investigate the impact of visibility on the expression of political opinions and participation – as a proxy for participation in a popularly initiated cause – to explore if there was an impact on participation rates.

There are three instances in which case studies are a preferred method for research: when "how" or "why" questions are being posed; when the investigator has

little control over events; or when the focus is on contemporary phenomenon within some real-life context (Yin, 2003). All three of these elements apply to understanding the changes in access to public records in the digital age, and therefore justified the use of case studies for this investigation. RQ1, which asks how access to public records information has developed in the digital age, is not only a 'how' question, but also aims to understand 'the why' in terms of motivations that have driven the changes in government public records access policies. The focus of RQ2 also rendered the case study a highly appropriate method to provide insight into the reprisals of this contemporary digital phenomenon, especially considering the significant challenge for a researcher to control access to public records on a broad scale. Conveniently, Proposition 8 in California and Referendum 71 in Washington both provided cases in which data from online access to public records was reshaped and republished in a number of innovative ways, yielding claims of reprisals for individuals that resulted in legal proceedings that entered the public domain.[8] These cases were therefore not only directly related to RQ1 and RQ2, but also accessible for a deeper scholarly investigation.

With regards to RQ3, experiments had the greatest potential for identifying and measuring the impact of disclosure awareness on political behavior in a controlled setting. As noted before, much of the concerns regarding the impact of public disclosure on participation in referendums were based on speculation of probability rather than a

[8] While there have been a number of Proposition 8 ballots in the state of California, the specific campaign that is explored in this study is Proposition 8 that was placed on the California state ballot in November 2008 (every few years the numbering system restarts from 1). Throughout this study, all references to Proposition 8 are referring to the ballot from 2008 concerning same-sex marriage in the state of California. Similarly, there are also a few ballots titled Referendum 71 in the state of Washington. Throughout this study, all references to Referendum 71 or R-71 are referring to the ballot from 2009 concerning same-sex marriage in the state of Washington.

robust empirical assessment of actual impact. The lab experiment offered the greatest degree of control, and was used to find evidence of an impact on participation rate not only at the aggregate level, but also to see if there was a mediating effect on the size of this impact based on an individual's perception of the distribution of others' opinions with regards to their own opinion. This experiment was conducted at the Center for Experimental Social Sciences (CESS) research lab based at Nuffield College in the University of Oxford using a locally recruited subject pool. The treatment applied was in the form of notification regarding the visibility of a subject's participatory behavior in the experiment shown to other subjects in their lab session. The two hypotheses that were tested using the data from this experiment were:

> **H1**: Individuals who are prompted with a public disclosure treatment will be less likely to demonstrate their support or opposition for an issue by engaging in micro-participation tasks compared with individuals whose actions are not publicly disclosed.
>
> **H2**: When individuals perceive there to be a supermajority opinion for an issue among their group, the impact of a public disclosure treatment on their engagement in micro-participation tasks will be greater for those who oppose the supermajority compared with those who agree with the supermajority.

The second experiment was conducted online using Google Consumer Surveys (GCS) to deliver surveys targeting Internet users in California and Washington. As with the lab experiment, the treatment in this experiment also included notification regarding public disclosure, but this time invoked a reference to general online visibility, rather than among a small group setting within the lab experiment. The online experiment was also used to test if the political divisiveness of an issue had an effect on the relationship

between public disclosure notification and participation in petitions similar to popularly initiated referendum petitions. The two hypotheses that were tested using data from the online experiment to yield insights into RQ3 were:

> **H3**: Individuals who are prompted with a public disclosure treatment informing them of online access to public records will be less likely to participate in petitions compared with individuals who are not prompted with the treatment.
>
> **H4**: The political divisiveness of an issue will amplify the impact of a public disclosure treatment on participation in a petition.

The previous research supporting all four of these hypotheses is derived from previous empirical work by Berg (2017), Carpenter (2009), La Raja (2011) and (2014), and Wood and Spencer (2016), as well as theories from social influence, which show how social desirability bias can lead to avoidance or preference falsification under mandated visibility (Cialdini & Trost, 1998; Kelman, 1958; Kuran, 1995; Noelle-Neumann, 1974). Chapter 2 of this study discusses this previous research at depth.

1.2.3 Scope and limits of study

While this study generates important empirical contributions and a critical update to previous research and legal scholarship, the domain of inquiry is limited in scope, as are the empirical findings. This study is not concerned with the role of transparency in representative democracy, where information is provided to facilitate accountability in elected administrators or governing institutions. There is already an extensive corpus of previous research in this area, and there is generally more acceptance of transparency of

elected officials and government information than there is of private citizens and records of their political behavior. Within this narrower frame, the main focus of this study is limited to the disclosure of information in the form of public records as a distinct tool of transparency.

With regards to the topic of referendums, the scope of this research is limited to public disclosure of political activity in a distinct form of referendums: those that are popularly initiated by citizens through the signature collection process, and financed through campaign contributions. This type of referendum can used to amend constitutions, create and repeal state statutes, or to recall an elected leader from office before the official end of their term. Referendums that are instead initiated by national legislatures, elected leaders, or triggered by a statutory mandate are not the main the focus of this study. While there are provisions for referendums in dozens of democratic (and indeed non-democratic) countries, states, regions, towns and cities, this narrower form of popularly initiated referendums are found mostly in Switzerland and the American states (Butler & Ranney, 1994; Lutz & Hug, 2010). Consequently, this limits the focus and findings from the cases of this thesis to a smaller subset of referendum states in the US.

However, the findings of this study are still relevant for governments who may be considering expanding disclosure requirements through digital means under the policy doctrine of open-government. And while this study is focused on official procedures directly relating to precipitating a popular referendum, the empirical findings regarding the impact of online disclosure of personally identifiable information also provide

valuable insight into non-binding government initiatives, such as the Whitehouse.gov petitions website in the US, and the Petitions website of the UK Government and Parliament, which act more as agenda-setting devices rather than precipitating citizen law-making. Furthermore, while this study does fall within the broader literature of direct democracy and referendums, it does not attempt to advocate for more or less referendums, or for the virtues of direct democracy over representative democracy. The findings, conclusions and recommendations in this study should not be interpreted as advocating in favor of having more direct democracy.

The limits of this study are driven by the research focus, methodological approach and validity of findings. While case studies are a powerful way of understanding the 'how' and 'why' inquiries in RQ1 and RQ2, these cases are not necessarily representative of all other cases of popularly initiated referendums with similar public disclosure regimes. In addition, while the findings from the controlled experiments were used to explain behavior in the real world, the designs were not perfect emulations of the actual experience of political participation in the real world. The subject pools were also not perfect representations of broader populations in either the US or the UK. Further details regarding the limits of each experiment are provided in the relevant sections in Chapter 3.

1.3 Contributions of research

The findings generated from the mixed-methods approach of this study will provide new ways of understanding how digital forms of public records are used and repurposed, the

motivations that drive these different uses, and the implications for citizens, campaigns, and most importantly, achieving democratic outcomes. The main contributions of this study are best understood across three domains: 1) academic scholarship spanning referendums research, democratic theory, information transparency, and social behavior research within the broader realm of political participation, 2) the realm of lawmaking, public policy, and jurisprudence concerned with re-evaluating public disclosure in the digital age, and finally 3) campaign activists and organizers who can leverage the findings of this study to achieve their own political goals, whether it's providing transparency for information needs or using it strategically for political gains in referendum campaigns.

1.3.1 Theoretical and empirical contributions

One of the major empirical contributions of this study will be to the body of previous research that has explored how online public disclosure impacts citizens and political participation. Within the broader domain of political participation research (Bond et al., 2012; Campbell et al., 1960; Caren et al., 2011; Converse, 1964; Downs, 1958; Fiorina, 1981; Fowler, 2005 Funk, 2010; Helsen et al., 1958; Leduc, 2002; Lupia, 1994; McKelvey & Ordeshook, 1986; Popkin, 1994; Riker & Ordeshook, 1968; Reis et al., 1976; Verba & Nie, 1972; Wolfinger & Rosenstone, 1980; Zaller, 1992), there are no other studies that have generated empirical findings that directly answer the research questions posed in this study, with the most closely related study focusing on signing petitions being conducted by La Raja (2011) that found treatment effects of

approximately 8.5%. Other similar studies that explore other forms of political participation include Perez-Truglia and Cruces (2017) who find significant treatment effects of observability on contributions behavior, and Wood and Spencer (2016) who fail to find a significant impact of increased disclosure policies on donations. This study is also the first to apply theories from social information and social influence (Cialdini & Trost, 1998; Crowne & Marlowe, 1960; Kelman, 1958; Kuran, 1995; Noelle-Neumann, 1974) to understanding the motivations of campaign activists and citizen activity in issue-centered referendum campaigns. In terms of theory, the findings of this study resolve a long-standing issue based on Dahl's (1989) normative democratic model regarding the difficulty in balancing transparency and an informed citizenry with effective participation.

1.3.2 Public records law, policy and jurisprudence

The findings from this study also offer valuable insight for law and policymakers who are – or soon will be – in the process of re-evaluating their public disclosure laws, and whether or not they should maintain status quo procedures or establish new exemptions. If the findings in this report demonstrated that citizens are indeed less likely to participate in the democratic process in one of the most direct forms of democracy, lawmakers would finally be able to cite scientifically produced findings to justify and support policies that limit the ways in which campaign petition and donor information can be accessed, or instead maintain the current standards for privacy protections in the domain of political participation. Additionally, lawsuits – like the ones reviewed later in this

study from California and Washington – have previously been adjudicated using established case law along with normative arguments, with little empirical support regarding the established presence or extent of chilling effects on political participation in referendum campaigns. The findings from this study generate this much-needed empirical data to more precisely assess the chilling effects argument.

1.3.3 Political campaign strategy and tactics

The findings of this study also have implications for political activists who would like to better understand how public information disclosure policies and laws regulating their jurisdiction can be strategically leveraged to their advantage. For instance, the *Doe v. Reed* (2010) case that motivated this study noted a number of shaming and boycott campaigns against those who opposed same-sex marriage. However, it's difficult to understand to what degree these shaming and boycott tactics were successful in achieving desired political outcomes for opposition activists. This study provides insight for campaign activists to understand how others have used and repurposed accessible public records databases, and how target members of opposition campaigns may respond following attempts to identify and sanction supporters of their campaigns.

1.4 Structure of thesis

This thesis is comprised of seven chapters. The first three chapters introduce the motivations and background of the topic, the theoretical framework and previous research, and the mixed-methods research design. The next three chapters formulate the

findings and analysis sections of this thesis, beginning first with the case studies chapter, followed by the findings from the lab experiment and then the findings of the online experiment. The final chapter provides a synthesis of the findings and discussion of the results along with new insights generated from the study, before concluding with contributions and recommendations for future research. The remainder of the final chapter provides brief chapter summaries, highlighting key findings and lessons learned.

Chapter 2 provides the background theories from political, legal and social frameworks, in addition to the findings from previous research that is available related to the effect of public disclosure and visibility on political participation. The chapter begins with a review of the broader domain of political participation research and previous findings regarding the drivers of participation. Much of this review covers voting and voter turnout, including economic models of participation, partisan identification, information shortcuts, and social information involved in decision-making and attitude formation. While much of this research was on voting and candidate elections rather than popularly initiated referendums, the chapter demonstrates how much of this earlier work is still relevant in understand behavior and decision-making in petition-signing for referendums. The next section in Chapter 2 applies democratic theory, and highlights the theoretical discord that manifests when exploring the relationship between public records information and citizen participation using Dahl's (1989) five-point model for normative democracy. This study ultimately aimed to re-evaluate the balance of these competing elements in the digital age, where the proliferation of public information has increasing and previously unanticipated implications for not only enlightening voters, but also

potentially curtailing their participation in publicly disclosed acts like signing petitions and campaign contributions.

The remainder of Chapter 2 explores the social mechanisms that can be used to understand chilled behavior as a result of public disclosure, finding that social desirability bias and an individual's preference for conformity and inclination to avoid negative social sanctions from a variety of associated social groups are the key drivers of behavior in domains which lack anonymity and obscurity. The most serious threat to normative democracy – including its direct forms of popular referendums – is when social desirability bias overrides an individual's true political preferences and results in either avoidance of participation, or preference falsification. Chapter 2 concludes with the empirical findings from previous research, with the most closely related study by both La Raja confirming the presence of chilling effects from public disclosure on participation in petition signing and campaign donations. The general lack of similar empirical studies underpinned the importance of this research endeavor, which aimed to generate empirical findings using a more valid set of experiments relating to the forms of petitions signing and donating that constitute the requisite procedures of popular referendum campaigning in the real world.

Chapter 3 presents the rational behind the mixed-methods approach taken, and further provides not only the methodological underpinnings of each method, but also the full details of the research design and protocols. The overall research design includes two case studies which influenced the design of two experiments – one which was carried out in Nuffield College's *Centre for Experimental Social Science* (CESS) lab at Oxford, and

the second deployed online using *Google Consumer Surveys* (GCS) to deliver a survey instrument. The case study method is straightforward, and largely follows a standard protocol well established in social sciences research. The experimental methods are explored in greater detail, after first highlighting the dramatic rise in use of this method in political science research, and the opportunities they provide in exploring the impact of visibility. The full protocols of the experiments are provided in this chapter, along with a discussion of internal and external validity of the experiments.

Chapter 4 presents the findings from two case studies involving visibility and popularly initiated referendums concerning same-sex marriage rights and privileges. The cases reviewed include 2008's Proposition 8 in California, and 2009's Referendum 71 in Washington State. The proponents in both referendums were motivated to use the power of the ballot to restrict marriage rights for same-sex couples. Both states maintained robust and comprehensive public disclosure laws, and by the time the cases transpired both jurisdictions had a policy of uploading online publication databases regarding campaign finance information for all referendums. In addition to financial contributors, the state of Washington also made available the list of petition signers – an important distinction compared with California, where the State's public disclosure act explicitly exempts popularly initiated petitions from public access.

The findings in the case studies from Chapter 4 illustrate innovative ways online disclosure databases had been used by different stakeholders to bring more visibility to supporters of the anti-same-sex marriage petitions, and demonstrate how this disclosed information was accessed by private citizens, news organizations, campaign activists, and

non-partisan watchdog agencies. These findings further show how public records can be accessed, used and re-purposed by merging with other available databases that include personally identifiable information in order to bring greater visibility to supporters, as well as any unusual or notable patterns in funding. These findings include details of naming and shaming websites, searchable donor maps, and crowd-sourcing research efforts, as well as the details of various cases of reprisals ranging from organized boycotts of businesses to instances of physical harm and death threats. The most significant findings from the case studies are derived from interviews with the leading campaign activists in each of these states, which finds that their motivations to use and repurpose state-sanctioned public records was not only influenced by a commitment to addressing the information needs of an enlightened citizenry, but also by an attempt to strategically leverage the social desirability bias and facilitate negative social sanctions in order to achieve a political triumph. However, the case studies did not provide enough evidence to assess the third research question that seeks to understand if public disclosure can influence political participation, and if this degree of impact varies under different conditions; these topics are instead explored in the experiments reviewed in Chapter 5 and Chapter 6.

Chapter 5 provides the findings from the lab experiment that was conducted at the Nuffield College Centre for Experimental Social Sciences in Oxford. These 13 lab sessions were carried out between December 2014 and January 2015 in both morning and afternoon sessions of up to 90 minutes each, with each session yielding a turn-up rate ranging between 8 to 24 participants, for a total of 226 subjects. While Chapter 3 focuses

on the experimental protocol and methodology, Chapter 5 focuses on presenting the data collected using the Z-tree software. This data includes a summary of subjects stated position regarding each of the 8 issues, how important they thought each issue was, how strongly subjects felt others in the lab felt about each issue, what percentage of others in the lab subjects thought would support, oppose or feel neutral about each issue, and which online actions subjects would be willing to take in order to demonstrate their support or opposition for each issue. In addition, data is also presented on how each subject performed in the micro-participation stage of the experiment for each issue they selected to work towards, as well as how much money they volunteered from their pay-out endowment to donate towards each of the issues. Using statistical analysis, this data is used to measure the difference in recorded outcomes between the control group and the disclosure-treated group. The performance and behavior recorded in the experiment is regressed against a number of independent variables including issue controversy and gender of subject. The output of statistical regression models from Stata are provided to better understand if there is a difference in behavior between the control group, and the treatment group that varies across these various demographic traits to respond directly to the third research question which concerns the democratic principle of effective participation. Chapter 5 concludes with a brief discussion of the findings in consideration of the internal and external validity of the lab experiment, before summarizing the chapter's main findings.

Chapter 6 presents the findings from the online experiment that was conducted between in March and May 2016, with approximately 100,000 surveys completed for

four different issues by online users in California and Washington. This chapter first presents summary data for the group of participants, followed by the results to see if there was a difference in the mean response to the survey questions between the control and treatment group, which can be attributed to the disclosure notification treatment. As in Chapter 5, Chapter 6 also concludes with a discussion of internal and external validity regarding the online experiment.

Chapter 7 brings together the results from the multi-case analysis and the two experiments and synthesizes them to generate four new insights which include: 1) the manner in which public records can be used to achieve democratic and non-democratic outcomes, 2) the way in which political minorities can leverage social influence to inflict negative sanctions on political majorities and even impact political participation of both individuals and organizations, 3) the significance of disclosure thresholds and filing deadlines in determining the impact public records can have on a campaign prior to the referendum vote, and finally 4) the lack of chilling effects at the aggregate level of participation, and potential presence of heterogeneous effects based on gender.

This set of insights informed practical policy recommendations also noted in Chapter 7, which focus on making an amendment to public disclosure acts to mandate the inclusion of a public disclosure notification on petition sheets in jurisdictions which currently designate popular petitions used to initiate referendums as public records. Implementing these policy changes – which does not necessarily require a change in statutory regulations in order to execute – would not only better inform citizens of the ways in which details of their political participation records could be visible in the public

sphere, but also shields states and other jurisdictions from lawsuits seeking injunctions against disclosure on threat-to-privacy claims. The theoretically-justified concerns of those worried that an enlightened awareness of public disclosure accessibility will have chilling effects on political participation and turn citizens off from signing petitions or making contributions should be diminished based on the aggregate findings of this study. The remainder of this chapter highlights the implications of the findings from this research for both academic scholarship and real-world policy, as well as three avenues for future research developing from the findings and unresolved issues which include 1) investigating the presence of heterogeneous effects of disclosure for different demographic groups, 2) new technology and implications for visibility enhancing capabilities, and 3) comparative studies exploring the impact of public disclosure on political participation in other democratic jurisdictions beyond the US and UK.

2 Theory and previous research

> "*A fundamental premise of American democratic theory is that government exists to serve the people. ... Public records are one portal through which the people observe their government, ensuring its accountability, integrity, and equity while minimizing sovereign mischief and malfeasance.*"
>
> -Justice Maureen O'Connor, 2006[9]

The research questions posed in this study are intrinsically multi-disciplinary, which therefore necessitates a theoretical framework supported by theories from the domains of political theory, political science and social psychology, alongside a review of the previous empirical work related to the impact of public disclosure on political participation and behavior. This chapter provides both of these elements in five sections. The first three sections are theoretical, with the first part reviewing the political theory regarding the role of transparency in democratic governance, and how public records law and policies are used to achieve democratic procedures and outcomes. The second section provides a review of previous research on the drivers of political participation, which mostly focuses on voting and voter-turnout. The third section provides existing

[9] Maureen O'Connor became the Chief Justice of the Ohio Supreme Court in 2011, having served as a Justice of the Court beginning in 2003.

theories from the field of social psychology regarding the relationship between social information and social influence on individual behavior, which is used to develop four hypotheses for how an awareness of public disclosure will impact a citizen's willingness to engage in political activity. The fourth part of this chapter provides a review of previous empirical research in the social sciences regarding the impact of public disclosure on political participation and related forms of civic engagement. The final section of this chapter weaves together the political and social theory with previous findings to highlight the gaps in previous research that this study fills, as well as demonstrate what motivated the various hypotheses that were developed to explain the use and repurposing of public records, and how public disclosure will impact political participation.

2.1 Transparency and public records in democratic governance

Transparency has an important informational role in democratic societies used to facilitate accountability in governance. This section first explains where transparency fits within the broader domain of democratic theory, and highlights the significant difference between the disclosure of government information and the disclosure of citizen information. This section then provides an overview of different disclosure models and highlights their implications for public records of citizen participation records within each system. The next section discusses two competing conceptualizations of the role of

citizens within popularly initiated referendums, and explores the normative democratic implications of each. The final section presents a discussion of transparency and public disclosure from the perspective of citizens in terms of visibility, anonymity and obscurity.

2.1.1 The role of transparency in democracy

Transparency of information facilitates accountability, and in this way functions as a means to reaching a democratic end. While there are a number of ways to define democracy, Dahl's (1989) five-point model for assessing the democratic merits of a modern jurisdiction is one of the most oft-cited and most useful for application in this study. These five criteria – which focus on procedures and conditions rather than outcome – include effective participation, voting equality, enlightened understanding, control of the agenda, and inclusiveness. Dahl acknowledges that no country or state has ever or could fully realize each of these goals, but instead should simply work towards this ideal 'theoretical utopia.'

Within Dahl's five-point framework, transparency is most directly related to control of the agenda, effective participation and enlightened understanding. Control of the agenda requires all citizens to have the opportunity to decide which matters will be placed on the agenda for consideration. Within the context of direct democracy, referendums – and the petitions process required to initiate them in popularly initiated forms of referendums – are the key agenda-controlling device. Additionally, for a democracy to achieve effective participation, all citizens must also have adequate equal opportunities to form their preference and place questions on the public agenda (Dahl,

1989). This condition necessarily requires no discrepancies in the barriers to participation between different types of citizens. While statutory codes are one mechanism for enabling effective participation, it may not be achieved if there are other types of social or psychological barriers to participation that differ across demographic categories like race or gender, which are far more difficult to rectify. In the context of popularly initiated referendums, statutory codes regarding elections ought ensure all citizens have unfettered access to participating in referendum procedures, so that no one group faces more burdensome obstacles than another. The third element – enlightened understanding –requires that citizens have ample and equal opportunities for discovering and affirming the choices that best serve their interests (Dahl, 1989). This understanding is derived from the free flow of information – or in other words – transparency (Hollyer et al., 2011). In the context of popular referendums, such information ranges from ballot information regarding the pros and cons of an issue, along with other important and useful voter information cues such as sponsors, financial backers and party affiliation and positions, if any.

Understood together, enlightened understanding and conditions for control of the agenda and effective participation enables citizens to exercise accountability for elected leaders and government's decisions. However, these requirements of democratic systems can conflict, and greater achievement of one may diminish realization of the other. For instance, transparency of public records regarding political opinions and campaign finance details has been thought to have the potential to not only chill political participation, but also at different degrees for different types of people (Thomas, 2010).

In the US in particular there have been historical cases of majority groups using public records including membership lists to harvest details about private members among minority groups for the purposes of carrying out harassment and intimidation tactics to discourage and mitigate their political participation (Levy, 2012).[10] This tactic can informally disenfranchise a group – and in the US has indeed often been used to informally disenfranchise groups that had historically faced formal disenfranchisement enshrined in statutory law (Levy, 2012). Consequently, too much enlightened information can in practice be used to facilitate unequal participation. It is up to governments to decide how they will balance Dahl's five criteria in their attempts to achieve the theoretical utopia, and a diverse set of balancing approaches exists across the democratic states of the 21st century. The government's approaches to this balancing act within the American states of California and Washington are explored at length in Chapter 4 of this study.

Generally however, a government's willingness to disseminate policy-relevant data is a strong indication of their democratic will (Hollyer et al., 2011). This sort of government information contrasts sharply with the sort of public records information of citizens at the focus of this study. Each of these different types of transparency can be better understood through Fung's four-principle framework that includes availability, proportionality, accessibility and actionability (2013). The first principle relates not only to whether or not information is available within a democratic system – but also to the richness and depth of that information. The second principle concerns how proportionate

[10] See footnote 68 in Boudin (2011) for additional cases of lawsuits used to compel disclosure of membership lists and other personally identifiable details.

the available information is with regards to "the extent to which those organizations jeopardize citizens' interest" (p. 184). The third principle relates to how accessible the information is. This accessibility refers not only to how difficult it is for citizens or groups to retrieve information – but also the format and organization of the information. The final principle relates to the various structure of a society, and the extent to which these structures – social, political and economic – collectively enable a citizen or group to take action based on disclosed information.

One of the most constructive aspects of Fung's four-principle framework regarding transparency is its applicability to a variety of domains. While Fung applies it to health care services, it can more widely be applied to corporate transparency, non-corporate organizational transparency, democratic elections and the electoral process, as well as other democratic institutions (Fung, 2013). For the purposes of this study, these four principles are also highly useful to think about information disclosure as it relates to citizens and participation in a popularly initiated referendum. Different jurisdictions have different regulatory regimes regarding public disclosure, and the full-range of transparency approaches can be found. Within the US, many states have public disclosure laws established in the 20th century, which were reviewed in greater detail in Chapter 1. These laws generally define the parameters for information disclosure, and state governments carry out their disclosure policies within the set parameters.

As Fung notes, information from transparency can been thought of as a 'critical resource – like money, organization, social capital, or political capital – that can be structured and distributed in ways that support or undermine the real utopian values of

equality, freedom, and democracy' (2013, p. 184). This conceptualization is useful for understanding the transparency of information in the form of open access to public records. Information in the popularly initiated referendum process varies by jurisdiction, but within the American states often includes personally identifiable details of petition sponsors, petition circulators, and campaign finance details submitted by committees who support or oppose a ballot measure. These campaign finance details include personally identifiable information in the form of name, address, and employer. Some American states like Washington, Oregon, Arkansas, Florida and Massachusetts also allow for the disclosure of information regarding the names and addresses of petition signers. The disclosure of this information enables citizens to achieve two objectives: first, to scrutinize the validity of the signatures to determine whether it meets the statutory requirements, and second, to determine who supports or opposes and initiative, and where the financial backing is coming from, and how strongly an initiative is supported or opposed. Beyond verification, this transparent information can then be leveraged by citizens as an information cue to determine whether or not they want to exercise their democratic rights by supporting or opposing the initiative at either the petition-signing stage, the campaign financing stage or at the culminating ballot-voting stage on election day.

While democracies are more transparent than other political regimes (Hollyer et al., 2011), democratic governments in different countries – and even in different states within countries – have developed very different transparency models. Some of these differences can be explained by the electoral incentives of democratic governing. For an

incumbent administration seated in government, there are incentives to make information that demonstrates their success and competency more transparent while making other information that highlights their failures more difficult to find. In other words, moderating the degree of availability and accessibility can yield electoral benefits. The next section further explores this idea through the lens of various types of information transparency that have been developed within political and legal theory.

2.1.2 Types of information transparency

For democratic governments that do provide transparency, there are three different approaches they can take which are defined by how proactive they are in making information available (Fung, 2013). These three types, as defined by Fung, include information on demand, naked government and targeted transparency. The 'information on demand' model only requires that information be made available by governments upon request. In the US and the UK, this idea has been codified into law as the Freedom of Information Act, and it remains the most common form of information transparency today among other democratic governments due to its simplicity, minimal costs of deployment, and most importantly the degree to which incumbent administrations can maintain control over information. This information on-demand system is most often used by journalists and civic organizations, who have the resources and 'analytic capacity' to interpret and assess information (Fung, 2013).

The second type of information transparency, naked government (or open government) developed out of the information on demand model. In this open

government model, administrations are pro-active in publishing information, rather than waiting for on-demand requests. The development of this form of transparency coincided with the digital age, and much of the information provided by governments manifests in digital form and is available on government websites. One unintended consequence of this form of information transparency – for both citizens and governments – is the needle-in-the-haystack problem, where vast amounts of data can make it even more difficult for citizens, journalists and civic organizations to decipher and analyze. This phenomenon can be leveraged by incumbent administrations that want to adhere to transparency regimes, while at the same time making certain assessments about procedures, performance or outcomes more difficult to make.

The third type of information transparency according to Fung's classification is targeted transparency, which refers to public policies that compel organizations – usually private actors beyond and external to democratically elected government bodies – to disclosure information to the public. Unlike the previous two forms of information transparency, targeted transparency has less to do with democratic accountability and more to do with achieving stated policy goals like improving public health or safety, such as requiring tobacco companies to provide health-related information on cigarette boxes. Much of the focus with this form of transparency is on private actors – usually corporations – who would otherwise not provide this information due to proprietary interests that are antithetical to the public interest.

Generally, all three of Fung's information transparency models can and do exist side-by-side within advanced democratic governments, with different types of

information regulated by different disclosure regimes. Washington's public disclosure laws regarding popularly initiated referendums are a prime example of this multi-transparency approach, where the government provides an on-demand policy for public access to petition signatures including personally identifiable information of signers, alongside an open-government model for providing detailed campaign finance information for both sides of a referendum by regularly updating online databases. By requiring campaigns to provide the details of their donors – including citizens, organizations, and corporations – Washington applies a targeted form of information transparency in order to inform the public. While Fung's classification regime was not constructed to explain information transparency for forms of direct democracy like popularly initiated referendum campaigns and issue-centered politics, it still manages to be applicable, and provide a framework for understanding the use of public records within this domain. As will be shown in Chapter 7, Fung's classification, alongside the four-principle model, are useful in not only understanding state-motivations, but also in developing recommendations for more optimally balancing Dahl's criteria and consequently improving democratic governance.

While Fung's three-type informational transparency model is highly useful at the broadest level of political analysis, a narrower information model that focuses on different information regimes within the domain of campaign finance disclosure of donor information allows for even more insight into information transparency as it relates to public records within popularly initiated referendums. In Ayers' (2000) three-regime model regarding donations, the different types of regimes are distinguished based on who

is entitled to disclosure regarding a financial contribution made towards a political candidate within a democratic state. The disclosure regime describes a system in which the donor, the candidate, and the public are all aware of a donation and its provenance, while the laissez faire regime describes in a system in which only the donor and candidate are aware of donor details. Contrastingly, the anonymity regime describes a system in which only donors are aware of their contribution details; the information is not disclosed to either the public or even the candidates receiving the funds. The latter system is largely theoretical, which Ayers posits could be achieved if donations were held by a blind trust that could publicly disclose names – but not individual donation amounts. Ayers rightly notes that this would mitigate quid-pro-quo corruption between candidates and donors. However, in the domain of popularly initiated referendums, this at first seems far less relevant due to the issue-centered design of referendum voting. However, upon closer inspection this three-regime model for information transparency does add value to understanding the informational asymmetries between the public, donors, and campaigns – including the key proponents of an initiative and those who have the most to gain within a referendum, which are most analogous to candidates in an election.

Ayers argues against the need for public disclosure, finding that most types of candidate-based corruption in the form are contributions-for-access are legal, and that the illegal types of corruption in the form of contributions-for-influence 'can't be proven' (Ayers, 2000). This conclusion is based on a very weak premise, as the mere suggestion of contributions-for-influence can impact a citizen's understanding of not only a candidate's coffers, but also who stands to gain and lose in a referendum. As Chapter 4

will demonstrate with regards to the Mormon Church's role in same-sex marriage referendums, a closer inspection of the patterns of donations that can only become transparent in public disclosure regimes may also yield significant insight into surreptitious institutional organizing happening behind the scenes. The next section will examine the more specific theoretical justifications for transparency of information in popularly initiated referendums.

2.1.3 Transparency of information in popularly initiated referendums

Most of the transparency theory is discussed within either the frame of representative democracy and its candidate-centered elections, or from the frame of corporate transparency. Much less literature concerns the narrower democratic domain of popularly initiated referendums, with regards to petition signatures and campaign donors. As noted earlier, this is an important distinction to consider, due to the different implications of issue-focused vs. candidate-focused democracy – two categories that are more broadly related to direct democracy and representative democracy, respectively. If the main purpose of transparency in candidate campaigns is to mitigate or diminish quid-pro-quo corruption, the analogous purpose of transparency in popularly initiated referendums is to provide verification and details of political participation and mitigate fraudulent activity in the form of invalid signatures. It also allows citizens and civic organizations to better understand who stands to lose or gain from the passage of a referendum – an element of disclosure which can inform and guide their own position on an issue, and decision to participate by signing a petition or making a donation. While Chapter 4 provides

examples of the type of information provided by two American states that are lauded for having some of the most robust and progressive public disclosure policies in the democratic world, this section will provide the theoretical justification for and against disclosure within this domain.

The theoretical arguments for and against disclosure of citizen information in popularly initiated referendums are largely contingent upon how one conceptualizes the role of a citizen within this participatory domain. In one sense, participation in the various stages of popularly initiated referendums – from signature gathering during ballot qualification all the way through referendum voting on election day – is akin to participation in voting for candidates. In other words, voting in referendums is like voting for candidates or political parties – and therefore should be subject to a similar standard of privacy (Carpenter, 2007). On the other end of the conceptual spectrum, referendums are a form of direct democracy, where in some jurisdictions citizen participation can directly lead to amendments or repealing of laws codified into the Constitution, or even the creation of new laws (Noyes, 2015). This view largely focuses on the final stage of the popularly initiated referendum, which takes place during the actual vote. This conceptualization sees citizens less as citizens with private preferences and more as citizen-lawmakers with the power to repeal or amend, analogous to the power of elected leaders within a representative democracy. The strictest interpretation of this understanding leads many to justify a similar degree of transparency of information regarding citizen participation, as is expected of democratically elected representatives participating in an official legislative vote to amend, repeal or create a law (Brennan &

Pettit, 1990). A majority of the US Supreme Court has maintained adamant support for this argument through the digital age, which has experienced reprisals for citizens and organizations as a result of the phenomenon of easily accessible public records databases online which can be repurposed by activists for alternative aims (Doe v. Reed, 2010).

Most of the scholarship regarding the role of citizens in popularly initiated referendums, and more broadly the role of citizens in direct democracy, is within the legal domain of law journals and case studies (Noyes, 2015; Schmidt, 1989). Within political theory, there is undoubtedly far more literature on representative democracy than direct democracy, likely due to the popularity of the former compared with the latter, as will be shown later in this chapter. It's worth noting that no pure direct democracy exists in the modern era, including the robust referendum regimes in Swiss cantons and American states. The closest thing to it manifests as a right to a procedure that citizens may initiate in what is otherwise a mostly representative democratic state with laws and policies decided directly by elected members of a legislative body. Furthermore, within political theory most of the literature regarding referendum relates to non-popularly initiated referendums, which are far more common around the world (Butler & Ranney, 1994; Qvortrup, 2002). Consequently, there is more discussion within legal scholarship compared to political science scholarship that specifically addresses the justifications for and against public disclosure in popularly initiated campaigns (Boudin, 2011; Briffault, 2010; Carpenter, 2007; Carpenter, 2009).

The main justification against mandating public disclosure is when signing a petition or making a donation towards a referendum campaign is interpreted as a form of

speech – which, at least in the US, is protected under the Constitution and therefore may also be granted anonymity if sincerely needed to exercise fully. The main justification in favor of mandating disclosure of petition signatures and campaign contributions in referendums is when citizens are seen as lawmakers, beginning at the very first stage of initiating a referendum. Citizens in this interpretation are therefore expected to be subject to similar forms of accountability as elected leaders. However, it is difficult to justify this view, considering that citizens acting as lawmakers cannot be held accountable the way elected lawmakers can, because they do not have to face competition for their office in an electoral process. The greatest costs they face in terms of accountability is being forced to publicly acknowledge their political acts to those who may disagree with their position. The social theories discussed later in this chapter explore the existence of other costs associated with conformity and transgression with group norms and majority positions. Regardless of which interpretation one applies regarding the role of citizen participation in popular referendums, there is considerable evidence that if offered a choice most citizens would prefer to be anonymous – or at the very least have records of their participation obscured rather than being fully visible, as discussed further in the next section (Carpenter, 2007; Carpenter, 2009; Gardner, 2011; Green, 2013).

2.1.4 Privacy, anonymity and obscurity in political participation

While the previous sections reviewed information transparency from the framework of governing bodies, this section discusses various approaches to understanding information transparency from the experience of being a citizen subject to various disclosure models.

On this front, there is a great deal of discourse spanning philosophy, law, political theory and social psychology on the topics of anonymity, obscurity and visibility with regards to political participation, each of which is conceptually related to the general subject of privacy. While there are many definitions for privacy, one of the most cited definitions was penned by Westin (1967) as "the claim of individuals, groups or institutions to determine for themselves when, how and to what extent information about them is communicated to others." The literature regarding privacy is expansive, including theoretical foundations (Mill, 1861; Shils, 1956; Westin, 1967), applications in electoral law (McGeveran, 2011), perspective from the fourth estate (Petley, 2013), citizen rights in democratic systems (Lever, 2006), feminist critiques (Lever, 2006), public records (Solove, 2002), and threats in the digital age (Nissenbaum, 2010; Rosen, 2001). This section provides a review of theoretical concepts most directly applicable to the narrower participatory domain of popularly initiated referendums.

Within Westin's (2010) oft-cited conceptualization of privacy, there are four functions that explain this concept and its social dimensions:

> "First it engenders personal autonomy; the democratic principle of individuality is associated with the need for such autonomy – the desire to avoid manipulation or domination by others. Second, it provides the opportunity for emotional release. Privacy allows us to remove our social mask. Third, it allows us to engage in self-evaluation – the ability to formulate and test creative and moral activities and ideas. And, fourth, privacy offers us the environment in which we can share confidences and intimacies, and engage in limited and protected communication." (p34).

The first, second, and fourth functions resonate with the experience of political participation in a popularly initiated referendum from the perspective of a citizen. It is easy to imagine an emotionally divisive issue like same-sex marriage that is conducive to manipulation or domination by those with more vested interests (on either side of the

issue). Westin's fourth function of privacy facilitates the freedom of association a citizen may require in order to participate in a way that follows their true preferences. This form of non-disclosure can also lead to outcomes that are non-democratic or otherwise harmful to political minorities, who can be otherwise discriminated against in a majority-wins referendum. Consequently, any democratic system following a privacy enhancing non-disclosure information regime must protect minority rights through either the Constitution or, even more forcefully, through judicial review.

In order to achieve Dahl's ideal democratic model, citizens must have the right to participation in the political process (specifically to ensure electoral participation, control of the agenda, as well voting equality). Lever (2006) connects the concept of political rights with privacy rights, arguing that privacy rights are necessary to secure the political rights, which she describes as the right to political choice, association and expression. Privacy rights can help facilitate the political rights of citizens in a number of ways, particularly for individuals 'who are timid, unsure of their political skills and values, or uncomfortable with established forms of politics to develop self-confidence, politically relevant skills, an forms of association that better reflect their interests, experience and sense of themselves' (Lever, 2006, p. 10). Ensuring privacy for citizens engaging in the political process also enables them to avoid conflicts with those they disagree with, or from reputational harm. It can also mitigate harm from reprisals, threats, and harassment (Carpenter et al., 2009; Green, 2013; McGeveran, 2011). Using the same-sex marriage issue explored in Chapter 4 as an example, one only needs to consider the pressure faced by an individual whose personal values is not in harmony with those of their respected

church leaders. A citizen's desire for privacy in this sense is closely related to the idea of anonymity within a political system.

As Piazza and Bering (2008) note, "privacy is not the same as anonymity" and "although privacy generally entails anonymity, anonymity does not necessarily entail privacy" (p. 488). Anonymity within political participation is distinguished by the absence of disclosure. It is both a condition experienced by an individual, as well as a policy practice of governments. As Gardner (2011) finds in his summary of judicial review: "anonymity has been both praised for freeing citizens to vote and speak their true beliefs, and condemned for providing convenient cover to harmful or democratically undesirable behavior" (p. 929). Some of the most common forms of political participation that generally provide anonymity include making donations beneath a disclosure threshold or voting in a secret ballot election. However, even within these examples there are still elements that are not fully anonymous, such as voter registration lists, which are subject to public disclosure in the American states. Arguments for anonymity in the political domain almost always revert to protecting political minorities, and mechanisms for ensuring the normative concepts of freedom of speech and association, which may be necessary in certain conditions to enable citizens to participate equally and effectively (Doe v. Reed, 2010). Within popularly initiated referendums, anonymity allows citizens to conceal two aspects of their private preferences: their position on an issue, as well as the 'intensity of their feelings and preferences' (Gardner, 2011, p. 931). The signing of a petition demonstrates a higher intensity of feelings towards an issue, while circulating a petition or making a donation indicates an even

more intense feeling towards an issue. Anonymity is indeed closely related to privacy and the terms are often used interchangeably. However, they are not the same thing. Privacy does not imply anonymity, and acts carried out privately may be discovered more easily than acts protected under the cloak of anonymity which de-links citizens from acts (Gardner, 2011).

While this section has so far provided a theoretical review of privacy and anonymity – and the lack thereof – it has yet to cover a degree of disclosure that lies somewhere on the spectrum between these two ends – though undoubtedly leans closer to anonymity than pure visibility: the notion of obscurity. Selinger and Hartzog (2014) conceptualize obscurity as "the idea that information is safe – at least to some degree – when it is hard to obtain or understand....When information is hard to come by, the only people who will seize upon it are those with sufficient motivation to expend the necessary effort and resources" (p. 2). During the pre-digital era, citizens who signed petitions or made donations could feel a strong sense of obscurity within the public record, even though their personally identifiable information was technically available on the public records under mandatory disclosure regimes. Digital technology – alongside online access to public records databases – has diminished this sense of obscurity, particularly for more digitally-savvy individuals who are aware of how to access public records online, as well as those who have experienced having their political actions made more visible. On the other hand, vast troves of data have also strengthened the notion of political obscurity for an individual. Using the needle-in-the-haystack analogy, the size of the haystack has grown exponentially larger. This principle is difficult to appreciate in

Fung's four-principle framework for information transparency, where the expansion of availability, accessibility and the extent of individual information, does not help understand the overall size of the data haystack, and the element of obscurity it entails.

As applied to popularly initiated referendums, Green (2013) argues that political obscurity "is an important, unarticulated interest in the current discourse about privacy and petition" which should be protected by the courts and state administrators in order to avoid risking a decrease in participation in the referendum process (p. 367). The need for this protection has been precipitated by the digital age, where obscurity-related issues arise much more frequently than ever before (Selinger & Hartzog, 2014). As Green (2013) notes, time is also a key aspect of political obscurity, since the passage of time can allow one's political activities to "fade and be forgotten" (p. 374). Yet in the digital age, information that is posted on the Internet can contribute to a citizen's longer-lasting 'digital footprint', which is far more difficult to fade and be forgotten (Green, 2013; Mayer-Schonberger, 2009; Solove, 2007).

Since the extent of personally identifiable details is generally already codified into public disclosure law, there is little that can be done from the perspective of a citizen that wants to engage in the political process without having their actions made visible, other than completely disengaging, or by only partaking in acts to the extent in which they can remain obscure, if not private or entirely anonymous. While Green's argument for protecting political obscurity is made on normative grounds and on the presumption of expected chilling effects on participation, it remains to be seen whether or not a diminished sense of obscurity in the digital age will actually mitigate participation in

popularly initiated referendums. The lack of empirical support for this presumption motivates all three research questions of this study – to determine how public records can be used and repurposed in the digital age (R1), the extent of related reprisals (RQ2), and the likelihood of chilling effects on participation in issue-centered political acts (RQ3). The next section provides a review of established theories of political participation to not only ground this study within the broader domain of political participation research, but also demonstrate how much of this research which focuses on voting and voter-turnout can be applied to understanding petition-signing in popular referendums.

2.2 Theories of political participation

Before reviewing the literature on how social information and social influence impact political participation, this section sets out to frame this study within the broader discourse of political participation, and indicate where this study is situated among existing work regarding the drivers of political participation. Signing petitions and making campaign donations towards popularly initiated referendums are two forms of political participation which compliment the most well-known and far more common form of participation in representative democracy: voting in candidate elections. Much more research has been published exploring and understanding voting and voter-turnout than the petition signing and ballot campaign donations at the focus of this study. Despite signing official petitions being an institutionalized act within the domain of popularly initiated referendums across nearly half the American states, early research exploring a

multitude of acts of political participation have omitted this procedure from their analysis (for instance, the twelve different acts of political participation noted in Verba & Nie's oft-cited seminal work on participation in America, 1982). While he research into petition signing is considerably understudied (Caren et al., 2011; Milyo, 1999), most of the research on political participation that focuses on voting and voter-turnout can yield considerable insight into understanding petition-signing and participation in popular referendums. This section not only reviews this extent voting literature to situate this study on petition-signing, but also to draw conceptual links to the domain of popularly initiated referendums to help understand the behavior and drivers of petition-signing. The areas explored in this section include economic models of political participation, partisan identification, information cues in voting, and social information in voter turnout.

2.2.1 Economic models of political participation

Much of the early literature on voting was explored through the frame of rational and self-interested voting behavior. This early research often focused on understanding low voter turnout. The Downsian model assumes that since voters are rational decision-makers, they will not show up to vote because the benefits of voting, weighted by the extremely narrow probability that a single vote will determine an outcome, do not exceed the costs involved with turnout out to vote (which can incur time, as well as financial costs) (Downs, 1957). The most obvious flaw of Downs' model is the fact that in every election, people do turn out to vote, implying that there must be other reasons – rational or not – which explain voter turnout. Riker and Ordeshook (1968) attempted to resolve

the Downsian model by introducing the concept of civic duty to explain both why some people vote and others do not. While Riker and Ordeshook do not directly focus on participation in signing petitions to precipitate popular forms of referendums, this conceptualization is just as applicable to understanding why people sign petitions. The main difference here is the lower transaction costs of signing a petition, as citizens do not need to seek out petitions, and rarely do so in the general case of American states where motivated activists as well as petition drive management companies organize tactically to bring the petition directly to the citizen. In the most common petition-signing scenario that manifests in the American states, a rational Downsian-voter has significantly lower costs of participation in terms of time, where petition signing happens much more conveniently in parking lots, grocery stores, church settings and malls, where citizens have already shown up – unlike the case with voting booths and election days. However, in the case of mandated public disclosure, new costs arise in the form of reputational consequences, which must be incorporated into the early economic-voting models conceptualized by Downs and Riker & Ordeshook.

2.2.2 Party identification and partisan preferences

Departing from the rational-choice approach of Downs and Riker & Ordeshook, Campbell et al. (1960) theorized in *The American Voter* that party identification and partisan preferences had the most significant influence on a citizen's decision to vote, conceptualized as an "enduring psychological attachment" that is formed through a process of political socialization which is influenced mainly through the party

identification of a citizen's parents. Campbell et al. (1960) note that in order to vote, citizens must 1) be cognizant of an issue, 2) have an opinion about the issue, and 3) have an understanding of where their political party stands on that issue. This three-step theory was originally formulated to explain how partisan positions on issues could affect voter attitudes towards broader candidate platforms and vote choice. However, this theory can be just as useful in understanding citizen behavior in other forms of political participation in the domain of popular referendums such as signing petitions and making donations when referendums are conceptualized as single-issue elections, with choices narrowed down to simple binary options to demonstrate support or opposition. Although scholars have found that there is more volatility in referendum behavior than in elections when focusing on partisan position, as political parties may sometimes be internally divided in opinion with regards to a referendum issue that cuts across traditional party ideology (Leduc, 2002). In such cases, the role of partisanship and party behavior may be mitigated, with other information cues taking prominence.

2.2.3 Information shortcuts and political participation

As noted above, the research that explores information influence on voter attitudes towards candidates and vote choice (such as established party stance) is apropos to understanding how similar forms of information can influence attitudes in popular referendums campaigns, and more specifically the cognitive process involved when a citizen is faced with a petition to sign regarding a divisive issue. Public opinion research has shown that citizens generally do not adhere to complete and consistent political

viewpoints or ideologies, and at times seem to make decisions at random (Converse, 1964). Those among the general public who have the capacity to fully understand an issue and where it fits within their ideology (i.e. political sophisticates) have been found to be exceedingly rare (Converse, 1964). This lack of information is mostly a result of an individual's scarcity of time and perception of limited benefits to be derived from an issue outcome, and consequently the need to minimize the economic costs of decision-making (Popkin, 1994). Since most citizens lack full information about candidates and policy platforms, they instead rely on information shortcuts and cues from a variety of sources in order to formulate their opinion on an issue, such as partisan position, as noted in the previous section (Fiorina, 1981; Leduc, 2002; Popkin, 1994). While the cost-minimizing behavior of Popkin's theory is congruent with Downs' rational-choice model, the latter was used to explain voter turnout while the former was used to understand decision-making at the ballot box.

However, leveraging shortcuts doesn't necessarily mean that citizens consistently make sub-optimal decisions at the ballot box, or that these decisions would be any different than decisions made under the conditions of full information (McKelvey & Ordeshook, 1986). For instance, when this concept of information shortcuts was extended from the traditional candidate and elections-based research and applied to direct democracy, the results found that in an empirical analysis of complex California initiatives related to insurance reform, citizens that had to rely on information shortcuts based on knowledge of the opinion of third-party interest groups still managed to emulate the behavior of voters who were much better informed (Lupia, 1994).

2.2.4 Social information and political participation

Another type of information that has been shown to have an affect on political participation is social information. For instance, knowing how family members, friends, acquaintances at church and colleagues at work feel about a candidate or issue (as well as perceived ideological foes), can be used by an individual to determine where they stand on an issue or candidate. Even knowing if an individual within one's social network planned to vote can increase the likelihood that that individual will also turn out to vote, resulting in a voter-turnout cascade (Bond et al., 2012; Fowler, 2007). While this research stops short of a close evaluation at the petition signing stage of a referendum, the concept of a participatory-cascade facilitated by social informational is just as applicable to the domain of direct democracy, as the circulator of a petition – as well as the broader organized campaign behind a petition – can play a significant role in disseminating similar informational cues (including the aforementioned informational cues like partisan attitudes, as well as third-party interest group support and opposition) to encourage a citizen to not just support, but also offer their signature and personal details for a petition sheet.

Other studies have confirmed the impact of social informational incentives on voter turnout, including Funk using evidence from the Swiss Mail Ballot System (2010), and Gerber, Green & Larimer (2008) using evidence from a large-scale field experiment involving hundreds of thousands of registered voters in Michigan to show that higher turnout was found among treated subjects who received notification via postal mail informing them that the voter turnout details of their household would be made visible to

their neighbors. Unfortunately, no similar study has been carried out which explores the impact of similar forms of social information relating to signing petitions among neighbors, and publicizing the records (although there has been some research exploring a similar phenomenon in the domain of making donations towards political parties and candidates, noted later in the empirical review section of this chapter; this includes Perez-Truglia & Cruces, 2017; Wood & Spencer, 2016). The theoretical explanations for what triggered this higher turnout rely on the mechanisms of social norms and influence, which are discussed in much greater detail in the next section.

2.3 Social norms, social influence and behavior

While the previous section provided a review of various drivers of political participation, including social information, this section provides a review of theories that help explain the social and psychological mechanisms that drive individual behavior under various forms of public disclosure conditions. Much of this theory derives from the psychology literature, and more specifically the narrower subset of social psychology research. This section discusses the most relevant theories as they apply to participation in popularly initiated referendums. This includes a review of social norms and how they relate to political norms, social rewards and sanctions for conformity and non-conformity to norms, social influence, spiral of silence theory, the social desirability bias and preference falsification. Each of these theories helps inform the hypotheses for this study regarding the impact of public disclosure on political participation, and further helps explain the

empirical findings from previous research that is presented in the final section of this chapter.

2.3.1 Social and political norms, rewards and sanctions

Social norms refer to a psychological construct with associated rewards and sanctions that act as a key factor driving both opinions and behavior. As noted by Cialdini and Trost (1998), "social norms are rules and standards that are understood by members of a group, and that guide and/or constrain social behavior without the force of laws" (p. 152). An earlier conceptualization of norms was defined by Sherif (1936) as the "customs, traditions, standards, rules, values, fashions, and all other criteria of conduct which are standardized as a consequence of the contact of individuals" (p. 3). These social norms are generally understood by most members of a group, and can manifest in the absence of formal legal rules and standards (Cialdini & Trost, 1998). The subset of social norms that relates directly to positions on political issues are referred to as political norms. Political norms will reflect the majority opinion of a group, with political minorities and majorities defined by whether or not an individual aggress with or opposes the majority view on a political issue (Karpowitz et al., 2011). Political norms operate in the same way as social norms, with positive and negative rewards driving compliance and conformity behavior. Karpowitz et al. (2011) further note that privacy concerns are greater amongst those who go against the political norm of the majority. Their study found that not only are political minorities more concerned with their privacy, but that they are also more difficult to reassure when it comes to the safeguarding of their voting behavior. This finding

informed H2 of this study, which hypothesized that an individual's own perception of their majority or minority status moderates the impact of disclosure on political participation. While there is a great deal of literature available regarding the provenance and formation of social norms, this discussion goes beyond the scope of this review of social theory.[11]

There are two types of social norms – injunctive and descriptive. Injunctive norms refer to what people ought to do, and conveys approval or disapproval (Cialdini & Trost, 1998). Descriptive norms – which are also referred to as informational norms – describe what others actually do (Cialdini & Trost, 1998). Applied to the issue-centered frame of popularly initiated referendums, the consideration of descriptive norms can influence the position one takes on an issue and whether or not they decide to participate, while informational norms can also facilitate conformity to established majority positions and behavior. These norms are enforced extrinsically by sanctions that can be classified as either formal or informal. Formal sanctions are generally triggered upon an infraction of statutory law and ordinances, which can lead to fines, prison sentences or censure. Informal sanctions include criticism, exclusion and shaming of individuals whose actions or behavior have transgressed a social norm. While formal sanctions are applied by the state, extrinsic informal sanctions are enforced by family, friends, neighbors, employers, church communities and even through the hypothetical consideration of future generations. These sources can deliver face-to-face approval and disapproval, ostracism, and pressure to conform through the socio-psychological mechanisms of shame and pride

[11] Cialdini and Trost (1998) provide a comprehensive literature review on how norms are formed, developed, and transmitted, which include empirical findings from laboratory research.

(Campbell, 1982, p. 432). Signing a petition or making a donation towards an issue which indicates a position that transgresses the social norms within a citizen's domain can therefore trigger negative sanctions. Similarly, the anticipation of negative sanctions can also affect if and how a citizen participates in a popularly initiated referendum.

Most of these aforementioned forms of negative sanctions manifest externally of an individual. However, sanctions can also manifest internally. An internal sanction involves "processes of conscience or superego, the pain of guilt feelings, and the fear of supernatural sanctions" (Knack, 1992, p. 137). While internal sanctions only require knowledge of one's own actions or behavior, external sanctions can be triggered only if actions or behavior are disclosed. The public disclosure laws and policies of a democratic process can therefore trigger external sanctions, or even the anticipation of external sanctions that can motivate participatory behavior, since visibility can drive compliance or conformity to a social norm (Elster, 2007). Under mandated public disclosure in the digital age, visibility in Elster's theory should be considered through the lens of political obscurity, and an individual's perception of observability rather than the mere existence of information transparency regimes.

The flipside of negative sanctions are positive sanctions, or rewards, which largely revert to acceptance among a respective social group, and access to the benefits that may be conferred by this membership. The construct of *solidary*, as defined by Moe (1980), describes some of these positive intangible incentives as "friendship, camaraderie, recreational activity, status, social pressure, or a sense of belonging" (p. 615). Long-term membership to a socially defined group can tighten social bonds and

yield even greater benefits – as well as stronger sanctions. Members of social groups will consider the strength of their social relationships, alongside their perception of a norm, before considering the potential consequences of conforming to that norm (Sinclair, 2012). Individuals may be members of multiple social groups, each with a separate set of values that may or may not overlap (Sherif & Sherif, 1964). These membership groups can also be understood as 'peer networks.' Peer groups can form locally, or through work, church or leisure activities. These networks are not only where norms are formed and enforced, but can also have a direct and immediate influence on the political behavior of any single individual within that group (Sinclair, 2012). This theory is particularly striking, considering even peer groups formed for ostensibly non-political reasons can still shape the political actions of their members (Sinclair, 2012).

Much of the literature from social psychology focuses on rewards and sanctions for individuals. However, organizations and institutions can also receive positive and negative sanctions for complying or breaking from some expected or idealized social norm. Rowbottom (2013) refers to this as naming and shaming – a tactic used as a form of punishment for those who deviate from a norm. This norm enforcement is often carried out by media organizations, as well as other organizations with some established 'watchdog' role (2013). An example of this is when a pro-human rights charity names the top-10 the worst countries in terms of human rights violations, which not only confers shame upon the leaders of these countries, but also works to confer praise for countries ranked at the other end of this spectrum in terms of respect for human rights. In practice, these negative sanctions can also be delivered in the form of press releases by legal

authorities operating as a function of the nation-state. Such visibility can be significantly expanded if the publicity is proliferated even further through the power and means of the media" (Rowbottom, 2013).

Rowbottom's argument can be apt;y applied to the case of information transparency regimes and public disclosure of citizen behavior in popularly initiated referendums. An example is when a state publishes a database of information regarding campaign contributions for a referendum, which is then used and repurposed to name and shame a narrower defined subset of individuals or organizations for deviating from some norm. However, the general norm-and-sanction formula becomes significantly more complex when considering that citizens are members of various social groups, and not all social groups will have overlapping values or social norms. The case studies presented in Chapter 4 explore this complexity to better understand the motivations and impact of reprisals and negative sanctioning on individuals, businesses and organizations explored in RQ2.

2.3.2 Social influence, normative social influence and informational influence

This section establishes the link between social norms and influence. The simplest definition of social influence refers to when an individual's opinions or behaviors are affected by the consideration of others. Social influence, like social norms, can also motivate individuals to conform or obey. However, the difference in the terms relates to the conceptualization of the 'other'. While social norms relate to group expectations,

social influence relates more to the expectations of others – which may or may not have group status. Social influence can be further broken down into informational or normative. Normative social influence refers to one's need to be accepted and liked by others, and describes the type of social influence that motivates conformity. Informational social influence refers to an individual's need to behave correctly within a given scenario, or amongst a given group of people. Asch's (1955) conformity experiments may be the most cited study exploring social influence, finding that participants would give wrong answers in order to conform with others in their group giving obviously wrong answers.

Social influence has been further classified into three level based on the differences in the process by which an individual accepts and responds to influence, whether it be compliance, identification, or internalization (Kelman, 1958). Compliance refers to when "an individual accepts influence because he hopes to achieve a favorable reaction from another person or group" (Kelman, 1958, p. 53). Compliance therefore does not require acceptance or agreement with a particular attitude or behavior, since compliance will yield the sought social benefits. Identification describes a stronger form of social influence, whereby an individual accepts the influence "because he wants to establish or maintain a satisfying self-defining relationship to another person or group" (Kelman, 1958, p. 53). In this case, the act of conforming yields additional rewards from the satisfaction gained from identifying with a person or group. Finally, internalization represents the strongest response to influence, where an individual adopts an opinion or behavior because it is truly congruent with their value system.

Kelman's classic model for social influence has great potential for application to understanding how public disclosure can impact a citizen's participatory behavior in the various stages of a popularly initiated referendum. Compliance can yield social benefits, though it requires some degree of visibility for these rewards to manifest. An individual can comply with some political norm without actually identifying or internalizing it, and still reap the benefits. However, they would comply in a manner that departed from the true opinion or desires if there was enough transparency to make their actions visible among their target group. On the other hand, campaign activists who are seeking to gain compliance – particularly amongst those who do not identify or intrinsically accept their position on a political issue – can be motivated to do so if there were an adequate balance of social rewards and sanctions. Facilitating a naming and shaming campaign or a boycott could motivate compliant action – a worthwhile political win in the short-term, albeit there may be no potential for inspiring internalization or adoption of beliefs. Kelman's model of social influence helps explain some of the motivations behind both the actions of campaign activists who repurpose public records, as well as how individuals and organizations responded to reprisals – the main focus of RQ2.

2.3.3 Social desirability bias

Social norms and influence are also closely related to the social desirability bias. The social desirability bias most often refers to a form of response bias in survey research, where subjects are biased in their responses to questions by their desire to look favorably in front of others (Crowne & Marlowe, 1960). In this social theory, the 'other' is most

often the surveyor, or other members of their survey group. In research, this response bias has a notorious reputation for over-estimated 'good' behavior and underestimating 'bad' behavior, and therefore must be taken into account during the initial design phase in order to mitigate the degree of this bias.

There is an obvious overlap between the structure and format of a survey question – particularly one gauging a political opinion – and the process of signing a political petition – particularly the type required to popularly initiate a referendum. In the real world of political participation, a subject is analogous to a citizen, while a signature-gatherer is analogous to a surveyor or research. Consequently, the social desirability bias can help explain what drives an individual to sign a petition – particularly with regards to the degree and form of disclosure that is applied. The social desirability bias is useful in understanding the actions and behaviors of individuals in situations where the social rewards and sanctions they respectively seek and avoid are not directly conferred upon them by a social group of which they are a member, but instead by a researcher with which they do not maintain pre-existing or lasting social ties. In other words, while an awareness of public disclosure in the real world might drive the direction and magnitude of a political position and action, awareness of non-disclosure may still not necessarily represent an individual's authentic political position and desires. This theoretical bias was crucial for evaluation of not only the survey experiment used to glean insight into RQ3, but also for the evaluation of behavior and treatment effects in the lab experiment.

2.3.4 Spiral of silence and preference falsification

Like the social desirability bias, the spiral of silence theory is another concept that can explain individual behavior in issue-centered popularly initiated referendums. This theory stems from the social norms and sanctions framework, and is used to describe the intrinsic fear of isolation that manifests in social beings (Noelle-Neumann, 1974). This fear of isolation from social sanctions is said to begin a spiraling process of silence when it triggers the tendency of one to remain silent while another with an opposing opinion speaks up on an issue. Under this concept, public opinion is defined as "the opinion which can be voiced in public without fear of sanctions and upon which actions in public can be based" (Noelle-Neumann, 1974, p. 44). While this theory was originally proposed to explain public opinion – it can be applied to political participation due to the conceptual overlap between voicing an opinion and expressing an opinion through the process of signing a petition or donating towards a campaign. Within these forms of disclosed political activity, individuals could manifest their silence by avoiding signing or donating.

While there are many reasons for which a citizen may avoid political participation – particularly in the domain of issue-focused campaigns – fear of isolation may be one of the more prominent rationales in referendums regarding highly divisive and controversial issues, where an individual perceives the threat of social sanctions and isolation from one's social groups registered high. However, fear of isolation due to a mismatch between an individual's true political preference and the perceived political position of a social group which may confer sanctions can drive not only avoidance of participation in

the form of silence – but also participation manifesting false compliance. Kuran (1995) refers to this false compliance as "preference falsification, the act of misrepresenting one's genuine wants under perceived social pressures...preference falsification aims specifically at manipulating the perceptions others hold about one's motivations or dispositions" (p. 4). Preference falsification cannot be invoked when an individual is participating in a secret ballot or private voting booths – a standard condition of candidate-voting systems in modern democracies. However, under political systems where signatures and donations in referendum campaigns are mandated to be disclosed in public records, preference falsification is a useful theoretical explanation for what drives the participatory behavior for some individuals in the context of prevailing social norms. This phenomenon of preference falsification was demonstrated by Bishop and Fisher (1995), who found that compared with face-to-face interviewing, secret ballot survey responses yielded "more accurate, valid self-reports of voting on socially sensitive ballot issues" (p. 585).

While preference falsification yields extrinsic rewards, it may also yield intrinsic conflict and stress. Comparatively, non-participation can avoid intrinsic stress, and therefore explain to some degree why citizens do not sign petitions or make campaign donations for popularly initiated referendums when faced with mandatory public disclosure. The calculation in determining which path to take will include and assessment of the distribution of opinions for and against an individual's ideas, using what Noelle-Neumann (1974) refers to as the "quasi-statistical organ" (p. 4).

These theories help inform the hypotheses developed for RQ3, as noted later in this chapter – in particular understanding how an individual's perception of the distribution of others' opinions can impact their participatory behavior within an experiment. The next section provides a review of empirical findings on applicable forms of political participation to provide further support for the hypotheses tested in this study.

2.4 Previous research findings regarding impact of public disclosure information on political participation

This section provides a review of findings from empirical research that has been carried out in studies seeking to explain the relationship between information disclosure and political participation. The previous two sections have provided theory regarding information transparency and democratic governance as well as social information and influence to provide an analytical framework for understanding the research questions regarding the impact of public disclosure on political participation in popularly initiated referendum campaigns. The findings from this section are used alongside the multidisciplinary theoretical framework to not only identify gaps in literature, but also provide robust support for the hypotheses stated at the end of this chapter. The most relevant areas of previous research are classified by the format of political or participatory activity, each of which yields insight into understanding the relationship between public disclosure and political participation. These categories include petition signing and campaign finance – both key elements of popularly initiated referendums,

and as suggested below one of the most empirically under-researched topics within the domain of political science. Many of the studies reviewed in this section employ the use of experiments to determine the relationship between cause and effect, and consequently helped guide the design of the experiments in this study described in Chapter 3.

2.4.1 Public disclosure and petition signing

While there is previous research on the impact of information disclosure on voting (Bond et al., 2012; Fowler, 2007; Gerber et al., 2008; Grose & Russell, 2009), there has been little empirical research published that focuses on petition signing for ballot campaigns (Parry et al., 2012), leaving a clear gap in research findings which this study seeks to fill. Previous research on petitions has explored the affect of group size on petition-signing (Reis et al., 1976), and the impact of gender, style and dress of the petition-circulator (Reis et al., 1976; Suedfeld et al., 1971). However the most relatable research for this study regarding public disclosure of petition signatures comes from La Raja (2011), who found that signature disclosure discourages people from signing petitions, especially if their signatures will be made public on the Internet.

La Raja reverts to social norms and influence theory to predict and conclude that disclosure involves social costs that negatively impact political participation. His experiment delivers a treatment in the form of a disclosure statement notification to trigger a subjects' consideration of the various implications of their hypothetical willingness to sign a petition. He finds that there is an 8.5% overall decrease in the proportion of subjects willing to sign a petition among the treatment group compared

with the control group. This study is particularly notable for its investigation of differences between various demographic categories of people, including gender, race, and union affiliation, finding that women appear to be more sensitive to disclosure than men. While La Raja's findings are highly relevant to RQ3 of this study, there are a number of methodological considerations that have the potential to significantly bias the validity of his conclusions regarding the negative impact of public disclosure on signing petitions. First, the study only used controversial petition topics. Including ostensibly non-controversial topics would enable further insight into the effect of public disclosure notification. Second, and more importantly, the treatment statement regarding disclosure contains a number of variables beyond the simple online posting, as noted below:

> "How likely are you to sign a petition that is posted publicly on the Web to support a cause or candidate you believe in event if that candidate or cause is unpopular with your friends or co-workers?"

This statement also makes a reference to candidates (in addition to causes) as well as references to two specific social groups: friends and co-workers. This research design mitigates the internal validity of the findings considerably, since individuals may have different ways of considering public support for candidates – who are associated with a range of issues – compared with public support for a specific issue that is pre-determined to be controversial (there is also no mention of whether or not the candidate is supposed to be controversial or not). Further, identifying two specific social groups narrows the reference frame of potential social rewards and sanctions considerably, considering the

wide range of other social groups that individuals must consider when taking public actions. A less confounding treatment statement using a salient issue for a targeted group would yield much higher internal validity. The experimental designs in this study are motivated to leverage the strengths of La Raja's design, while also improving upon some of its methodological weaknesses.

While La Raja focused on public disclosure, Berg (2017) took a different approach by focusing on anonymity. Berg's analysis of e-petitions hosted on Finland's preeminent e-petition site found that 'demand type' was a key factor for predicting the share of anonymous signatures. While this study did not yield findings regarding the impact of anonymity, it does provide insight into when and why citizens without signing petitions that entail public scrutiny – which can drive citizens towards participating anonymously if given an opportunity. While e-petition sights can decide whether or not they want to enable anonymity, the paper petitions that are used to initiate popular referendums in various US states are regulated by public disclosure act that may or may not provide public access to signature lists.

While La Raja focused only on controversial issues, Berg's study finds that 'controversiality' does not make a difference in determining the share of anonymous signatures. This may be explained by the nature of the experiment that collected data from an e-petitions site, which would have only been visited by a narrow subset of the population that is more politically active. This bend towards activism may be high enough to surpass the potential social sanctions. This narrowly bounded subject pool

significantly diminishes the external validity of this study beyond politically active Finnish citizens who are somewhat digitally savvy.

Another finding regarding e-petitions – though less relevant to popularly initiated forms of petitions – comes from Schmidt and Johnsen (2014), who found that about 40% of Germany's Bundestag e-petition platform users signed pseudonymously 'always or in most cases.' More specifically, 27% of users stated they always signed under a pseudonym rather than using their real name. The researchers concluded that e-petition design and characteristics do not seem to have a major impact on whether or not an individual will choose to avoid disclosure of their real name if offered the opportunity to do so. This study did not employ experimental methods, and therefore could not make any firm conclusions about cause and effect of anonymity and disclosure on signing a petition. Overall, the previous research on the impact of public disclosure on political participation suggests there is evidence to hypothesize that public disclosure will lower participation rates for petition signing, and that this negative impact will be even greater for controversial issues compared with less controversial issues due to the stronger triggering of social norms, sanctions and the desirability bias. The next section provides a similar review of previous empirical findings regarding the impact of public disclosure on the second element of popularly initiated referendums: campaign financing.

2.4.2 Public disclosure and campaign finance

Only a small subset of the literature regarding campaign finance in referendums relates to the specific aspect of public disclosure requirements. Carpenter (2007, 2009) has carried

out the most extensive research on disclosure rules and regulations in the American states, including survey information regarding citizen awareness of – and attitude towards – campaign finance disclosure in popular referendums. Carpenter et al (2009) assembled a review of the minimum contribution thresholds that trigger different levels of disclosure for each of the US states that have popularly initiated referendums, which is reproduced in Table 2.1.

Table 2.1 Disclosure thresholds and requirements for US States

		Contributors		
	Register as Committee	Name and Address	Employer or Occupation	Itemize Committee Expenditures
Alaska	$500	No minimum	$250	$100
Arizona	500	$25	25	No minimum
Arkansas	500	200	n.a.	100
California	1000	No minimum	100	100
Colorado	200	20	100	20
Florida	500	No minimum	100	No minimum
Idaho	500	50	n.a.	25
Illinois	3,000	150	500	150
Maine	1,500	50	50	No minimum
Massachusetts	No minimum	50	200	50
Michigan	500	No minimum	100	50
Mississippi	200	200	200	200
Missouri	500	100	100	100
Montana	No minimum	35	35	No minimum
Nebraska	5,000	250	n.a.	250
Nevada	No minimum	100	n.a.	100
North Dakota	No minimum	100	n.a.	100
Ohio	No minimum	No minimum	100	25
Oklahoma	500	50	50	50
Oregon	No minimum	100	100	100
South Dakota	500	100	n.a.	n.a.
Utah	750	50	50	50
Washington	No minimum	25	100	50
Wyoming	No minimum	No minimum	n.a.	No minimum

As the table shows, the minimum contribution threshold for the 24 states ranges from 'no minimum' up to $250 USD. In six states there is no minimum threshold, implying all donations for ballot campaigns are subject to public disclosure of name and address

details. Most of the states have the same (or higher) contribution threshold that requires additional personal information including employer or occupation. Despite some form of mandatory disclosure regulation in each of the 24 referendum states, Carpenter et al (2009) note that it is not clear if citizens actually "make use of this information" (p. 81).

Regarding public opinion of mandatory disclosure, Carpenter (2009) finds that in a 2006 poll of citizens from six US states with ballot issues that more than 82% approve of mandatory public disclosure. A majority of respondents further claim that information about organizations and individuals that have donated towards a campaign could change their opinion on an issue (71% and 52% respectively). However, only 40% of respondents feel that their name and address should be posted on the Internet if they make a contribution towards a ballot campaign. An even smaller proportion of respondents (24%) feel that their employer details should be made available on the Internet if they make a private donation towards a ballot campaign. The same survey finds that nearly 60% of respondents would 'think twice' about donating money towards a campaign if they knew that their name and address were going to be released to the public.

Carpenter's survey highlights that while citizens do feel strongly about mandating public disclosure for others in ballot campaigns, they generally do not want to have their own personal details disclosed. Reasons cited in the survey for why respondents would prefer to avoid disclosure of their participation details in a ballot campaign include the possibility of harassment and other forms of repercussions ranging from personal safety to identity theft. Regarding consequences in the work place, some respondents noted that their job status could be jeopardized if their employer or associated unions could have

access to their private political activity in ballot campaigns (Carpenter, 2009). Finally, Carpenter's survey also found that only a minority of respondents were informed about the laws governing contributions towards ballot campaigns in their state (46%), and an even smaller proportion of respondents (35%) were aware of where to access lists of those who contribute to ballot campaigns in their state. This set of survey finding guides the public policy recommendations provided in Chapter 7.

Regarding the impact of public disclosure on campaign finance, La Raja (2014) finds that a statement regarding disclosure of personal information for donations above a certain threshold does decrease the number of donations at and above that threshold. This reduction in contributions has significant implications for the real world, where most public disclosure laws do include minimum thresholds to trigger public disclosure of financial contributions. This study also finds that a public disclosure treatment statement has greater chilling effects on a woman's willingness to donate above a threshold than for men. Such a finding in the real world would be antithetical to achieving Dahl's (1989) necessary criteria for democratic governance and outcomes. However, this study employed inquiries about willingness to participate in hypothetical scenarios, which rendered the responses biased towards higher measures of participation than in real life due to the diminished costs of not having to actually participate in some real effort-consuming way.

Wood and Spencer (2016) improved upon La Raja's study by assessing the impact of disclosure on contributions using real contributions data from citizens in US state elections between 2000-2008. Their study found that "the speech-chilling effects of

disclosure are negligible" and they further failed to observe heterogeneous effects for small donors (p. 302). The states in the study included 9 that did not have any changes to their disclosure policies during the eight years in focus (the control group), and 14 states that strengthened their disclosure policies in some way (the treatment group). These findings from real world cases contrast from La Raja's (2014) experimental findings, although it too suffers from a number of confounding methodological issues – most obviously the broad range of disclosure improvements that were included in the study (examples of non-equal disclosure mechanisms ranged from improvements to state disclosure web interface usability to new mandates on electronic filings). Rather than comparing specific disclosure mechanisms, Wood and Spencer developed an aggregate scoring model to compare states. While this was still a robust study of more than 175,000 individual contributors to state gubernatorial and legislative campaigns, it did not include contributors to ballot committees involved with popularly initiated referendums (or referendums of any sort). However there is a fundamental difference between demonstrating support for a political candidate or political party compared with a specific initiative or cause, as an individual's political profile and exact attitude towards specific issues is far more obscure in the context of candidates or parties which are comprised of a myriad of individuals and political positions. It's also worth noting that this type of study cannot assess the amount of contributions made below a threshold, which allows contributors to avoid disclosure.

Another study on disclosure effects on contributions in the domain of political parties was carried out by Perez-Truglia and Cruces (2017), whose findings contrasted

with the quasi-natural experiment conducted by Wood and Spencer (2016). Their field experiment delivered randomized multiple treatments in the form of letters sent to citizens informing them that their contributions towards political parties may or will be visible to their neighbors. This study used actual contributions data from the Federal Election Commission (FEC) and included 92,000 individuals from all US states, and modified treatments to trigger different perceptions of observability of a citizen's contributions by their neighbors. The researchers found being triggered with a perception of observability by neighbors significantly increased the contributions from individuals that support the majority local party, but decreased the contributions from individuals that support the minority party. Social norms, social desirability bias and spiral-of-silence theory may explain the underlying sociological mechanisms that drive this behavior. Perez-Truglia and Cruces (2017) conclude by stating their belief that similar patterns in contributions may also manifest when observability is triggered in other forms of political participation. The gap in literature remains in demonstrating what the effect of observability is on political participation in popularly initiated referendums – which this study addresses directly.

2.5 Gaps in empirical research, research questions and hypotheses

While there is a great deal of empirical research related to the impact of disclosure and transparency on voting, there is significantly less research on the impact of public

disclosure notification on political participation in popularly initiated referendum campaigns. Inspired by the research approach and findings of Carpenter (2009), La Raja (2011; 2014), Wood and Spencer (2016), and Perez-Truglia and Cruces (2017), and the remaining gap in empirical literature, this study employs experimental methods to address RQ3:

> **RQ3**: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

The findings from Carpenter (2009), La Raja (2011; 2014), and Perez-Trugli and Cruces (2017) regarding the impact of public disclosure and observability guide the four hypotheses of this study for RQ3 as noted below:

> **H1**: Individuals who are prompted with a public disclosure treatment will be less likely to demonstrate their support or opposition for an issue by engaging in micro-participation tasks compared with individuals whose actions are not publicly disclosed.
>
> **H2**: When individuals perceive there to be a supermajority opinion for an issue among their group, the impact of a public disclosure treatment on their engagement in micro-participation tasks will be greater for those who oppose the supermajority compared with those who agree with the supermajority.
>
> **H3**: Individuals who are prompted with a public disclosure treatment informing them of online access to public records will be less likely to participate in petitions compared with individuals who are not prompted with the treatment.
>
> **H4**: The political divisiveness of an issue will amplify the impact of a public disclosure treatment on participation in a petition.

In addition to previous empirical research findings on various forms of political participation, all four of these hypotheses are further informed by normative social influence theory, Noelle-Neumann's spiral of silence theory, as well as the social

desirability bias. The information transparency scholarship and social norms theories also provide a useful framework for understanding RQ1 and RQ2, as noted below:

> **RQ1:** How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns?
>
> **RQ2**: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?

In conclusion, building on the introductory background information provided in Chapter 1, this chapter has provided a multidisciplinary set of democratic and social theories and related empirical findings to not only demonstrate the gap in empirical research, but also to develop testable hypotheses and better understand the motivations behind various actors that have roles in the phenomenon of online access to public records being explored in this study. The democratic transparency theory helps explain the motivations of state actors in providing online access to public records, while the social influence theories help explain the motivations of campaign activists who re-purpose disclosure information, as well as understand the social and psychological mechanisms that determine participatory behavior in political acts. The review of political research further frames this overall study amongst the broader body of literature that has explored the drivers of voting and voter turnout behavior. The next chapter provides the details of the mixed-methods approach that was taken in this study to develop a comprehensive understanding of how online access to public records was used and repurposed, the source and motivation of reprisals against participants, and whether or not public disclosure notification can have chilling effects on political participation.

3 Research design and methodology

> *"Experiments appeal to our discipline because of their potential to generate stark and powerful empirical claims...Political scientists who learn how to design and conduct experiments carefully are often rewarded with a clearer view of cause and effect."*[12]
>
> -James N. Druckman, Donald P. Green, James H. Kuklinski, and Arthur Lupia, 2011

This study of political science research questions employed a mixed-methods approach that leveraged the explanatory power of experimental methodology alongside the well-established case study method. Political science is a social science that aims to offer ordered knowledge based on systematic enquiry (Stoker & Marsh, 2010). Like with natural science research, this investigation used theoretical propositions to establish a set of hypotheses that could be tested by observation (Furlong & Marsh, 2010). This focus on observation was influenced by the empiricist tradition, and this study applies a systematic approach using both qualitative and quantitative methods – across both case studies and experiments – to investigate the following research questions focusing on how online access to public records impacts participation in popularly initiated referendums:

[12] See Druckman, et al., 2011, p. 25.

RQ1: How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns, and what are the driving motivations of individuals and organizations involved with facilitating this expanded visibility?

RQ2: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?

RQ3: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

In order to answer RQ1 and RQ2, the case method was used to provide a comprehensive understanding and assessment of two high-profile cases involving online access to public records in popularly initiated referendums that have transpired in two American states – California and Washington. To answer RQ3, this study used both laboratory and online experiments to investigate the impact of public disclosure on political participation, and if the impact varied depending on the perceived distribution of opinions or the divisiveness of an issue. By employing both qualitative and quantitative methods, this mixed-method approach allowed for a better understanding of the broader phenomenon of online public records access in terms of reprisals for individuals, motivations of actors, and impact on participation.

Both the case studies and the experimental methods applied in this study are not only empirical, but largely positivist. Positivist research aims to develop and support a causal relationship between social phenomena (Furlong & Marsh, 2010). The causal relationship being explored here is that between public disclosure and political

participation, with a general hypothesis that public disclosure will mitigate participation, and that this impact will be exacerbated under certain conditions. Observations were made of both historical cases and experimental subjects to better understand and explain this relationship and to assess causality. The most obvious disadvantage of positivist research is that the explanation of reality may not be directly observable (Stoker & Marsh, 2010). While political behavior is often easy to observe, record and measure, the psychological reasons influencing opinions and decisions are sometimes much more difficult to detect. Consequently, there were limits to the directly observable phenomena in both the case study and experiments carried out in this study, and these limits are noted in this chapter. In addition, recommendations for further research drawing on alternatives to positivist approaches are provided in Chapter 7. The remainder of this chapter provides a detailed overview of the multi-case method that was used, and then presents the two different types of experimental methods that were employed – first, a laboratory experiment, and second, an online experiment. Each section includes first a summary of methodological background and rational for use in this study, a detailed account of the methods and research design, and finally the limits of each method and validity of the experiments.

3.1 Investigating online access to public records through case studies

The case study is a well-known method that has been used in a variety of disciplines ranging from medicine to the social sciences, and its advantages and disadvantages are well established (George & Bennett, 2005; Gerring, 2010; Ragin & Becker, 1992; Stake, 1995; Yin, 2003). This section presents an overview of this methodology and its use in the social sciences, and is followed by a detailed description of how the method was applied to selecting and analyzing the cases.

There are various forms and approaches to case study research, yet they all share one common theme – to study the "particularity and complexity of a single case, coming to understand its activity within important circumstances" (Stake, 1995, p.xi). While Stake focuses on the single-case study, adding more cases is not only possible, but incorporates even further understanding of a particular phenomenon under investigation. Case studies can be employed for explanatory, exploratory, and descriptive studies, rendering its application for the purposes of this investigation appropriate and powerful, as the cases selected are used to not only describe the phenomenon of online access to public disclosure information, but also explain it. As noted by King, Keohane, and Varba (1994):

> Case studies are essential for description, and are, therefore, fundamental to social science. It is pointless to seek to explain what we have not described with a reasonable degree of precision...One of the often overlooked advantages of the in-depth case-study method is that the development of good causal hypotheses is complementary to good description rather than competitive with it. Framing a case study around an explanatory question may lead to more

> focused and relevant description, even if the study is ultimately thwarted in its attempt to provide even a single valid causal inference. (44-45)

Considering the lack of previous research on the specific research questions posed in this study regarding popularly initiated referendums, a set of in-depth case studies was crucial, and offered much in the way of explaining and describing the 'how' question regarding new forms of online access to public records information.

3.1.1 Case study methodology

The case study methodology is well established in a broad range of disciplines ranging from medicine to the social sciences. An application of this method begins first with case selection. According to Ragin and Becker's (1992) conceptual map for understanding case studies, cases should be empirically real and bounded, with a clear scope, regardless of field or discipline. In addition to being real and bounded, cases can be selected for either their intrinsic or instrumental value (Stake, 1995). As Stake notes, cases that are intrinsic are selected to learn more about the uniqueness of a case, rather than using it as a representative example of other cases to explain or define a theory, while cases that are instrumental are used to understand how a target phenomenon works within given circumstances. Applying Stake's dual framework of case selection, the California and Washington cases selected for this study – which are both real and bounded – are more than just intrinsically interesting: they are instrumental, offering the opportunity to better understand the phenomenon of online public records access in terms of both the digital modality of online visibility and the reprisals for individuals and organizations.

Once the case study approach was selected for this investigation, the next step was determining a systematic approach for collecting and analyzing evidence. Yin (2003) provides one of the most useful and oft-cited protocols for developing an organized and systematic case study within the domain of social science research. Tailored for the narrower domain of political science research, George and Bennett (2005) suggest a similar protocol, which includes first designing the case study, then carrying out data and evidence collection, and finally analyzing evidence and reporting the results. The case study approach taken in this study draws heavily on both Yin and George and Bennett's protocols for positivist case study research. The next three sections present the details of the case study method, before then providing an overview of how the methods were applied to yield insight into RQ1 and RQ2.

3.1.1.1 Designing the case study

The case study is a "systematic inquiry into an event or a set of related events which aims to describe and explain the phenomenon of interest" (Bromley, 1990, p.302). To begin this process, the topic of interest must first be decided, and a 'unit of analysis' must be defined. The unit of analysis is the subject that is being studied, which can be anything from a person to an organization to a policy or event, and relates directly to how the research questions are formulated. Identifying a unit of analysis is the first major step in embarking upon a case study, and allows a researcher to limit the scope of research, and focus on a specific variable – or set of variables – as they relate to the research questions. The unit of analysis for RQ1 and RQ2 in this study is broadly defined as a series of events occurring within jurisdictions that have held popularly initiated referendums where

public records of participation containing personally identifiable information were published online. Since US state governments administered these public records in the first instance, the aforementioned jurisdictions were defined as US states bounded by internal governing structures. To narrow down the scope from the various American state cases that could have been selected, a few more limiting factors were applied. The cases had to not only be applicable to the research questions, but also accessible in order to collect, analyze, and publicly report the data and evidence. As will be discussed later in this chapter, the California and Washington referendums provided a unique opportunity in terms of being not only relevant to RQ1 and RQ2 but also highly accessible due partly to a number of public legal proceedings that transpired.

After defining the unit of analysis, the next major step for conducting this case study was to determine whether to use a single or multi-case approach, as there was more than one relevant case that could be investigated. Single-case designs are used to assess extreme cases or unique circumstances, as well as highly representative cases. They can also be used for revelatory cases, exploring cases that were previously inaccessible for a variety of reasons, or extended longitudinal studies to explore how certain variables change over time (Yin, 2003). Comparatively, the logic behind multi-case design is replication. Using multiple cases increases external validity, which makes them a preferred design choice (Yin, 2003). This was the key rational underpinning the investigation of two cases instead of one for exploring RQ1 and RQ2.

Like single-case studies, multi-case and comparative case studies should follow a structured and focused method, as described by George and Bennett (2005):

> "The method is 'structured' in that the researcher writes general questions that reflect the research objective and that these questions are asked of each case under study to guide and standardize data collection, thereby making systematic comparison and accumulation of the findings of the cases possible. The method is 'focused' in that it deals only with certain aspects of the historical cases examined." (p. 67)

In this study, these aspects were limited to the background context in which the cases transpired, including 1) the motivations that drove the online publication of public records, 2) the different ways these online public records were used and repurposed, 3) the reprisals for individuals and organizations, 4) the relevant public information laws and disclosure policies, and 5) the legal challenges that were made in the courts regarding online access to public records for Proposition 8 in California and Referendum 71 in Washington.

3.1.1.2 Preparing for and collecting evidence

Once the case study design was selected and a unit of analysis identified – along with two specific cases to be assessed – a protocol for assessment was the next step in the procedure. A protocol is a standardized agenda for an investigator's line of inquiry for a single case (Yin, 2013). The protocol for the two case studies in this investigation included the collecting of both hard and soft data. This data comprised of available media reports on each of the cases, along with open-source data available from state and municipal government offices, as well other sources including non-partisan watchdog agency data and activist blogs and websites containing crucial pieces of evidence. Standardized government forms related to the popularly initiated referendums were also collected, along with digital maps and visualizations. A considerable amount of data collected and assessed derived from official legal documents and sworn testimonies from

various legal proceedings, including judgments rendered at each stage of the legal process. Legal proceedings manifested in both cases, and the details of these legal proceedings highlight many of the key issues that are explored in this investigation. In addition, state laws and policies related to public records and the referendum process in both California and Washington were also collected and assessed.

Finally, interviews were arranged with the leading campaign activists in both case studies that had the greatest role in re-purposing state records databases, and precipitating the very phenomenon that this study focuses on. From the California case, Fred Karger was interviewed regarding his role with *Californians Against Hate*, motivations, and experiences in leading the boycott campaigns against supporters of Proposition 8. From the Washington case, Brian Murphy was interviewed on two separate occasions to better understand his role and motivations as well with his *Whosigned.org* platform, which contrasted sharply with Karger's with regards to his focus on petition signers rather than big donors. In addition, Tom Lang was also interviewed, who set up the original petitions signature website, *Knowthyneighbor*, in Massachusetts and other states that had influenced Murphy's tactics in Washington. Insights gained from the overlap and contrasts in experiences between these three individuals provided a broad understanding of the nuance involved in assessing the motivations behind their actions, and the extent of their role in their respective referendum campaigns.

3.1.1.3 Analysis and reporting of case evidence

Following Yin (2003) and George and Bennett's (2005) protocols for case research, the next stages are analysis and reporting of the evidence collected. The various pieces of

evidence for each of the cases in this study were aggregated and examined to understand how public records were published and accessed online, how they were repurposed, and the reprisals for individuals and organizations who had participated in these popularly initiated campaigns. With regards to analysis of RQ1, upon the collection data it became clear that the key players who had used and repurposed public records databases in the case of Proposition 8 and Referendum 71 could be classified into three groups: campaign activists (with or without formal affiliations), news media outlets, and non-partisan transparency organizations. This typology of categories provided an optimal classification to understand the motivations behind accessing, processing, and re-purposing and republishing public records data, and consequently the reporting for both cases is divided into these respective sections.

All research methods face challenges, and one of the challenges of these case studies was investigator bias. Analytical and political bias can distort not only the collection, but also the analysis and interpretation of findings (George & Bennett, 2005). This bias was mitigated in these case studies by focusing on collecting and presenting objective data points including standing laws and policies, standardized forms, open government data, images of websites and sworn legal testimony. Furthermore, while the author of this study maintains private opinions on the highly contentious social and political issues at the focus of these same-sex marriage referendums in California and Washington – every conscious effort was made to avoid letting these personal opinions creep into the analysis of information or conduct of interviews. However, as the research focus of both RQ1 and RQ2 was on the broader point of online access to public records

for popularly initiated referendums in general rather than same-sex marriage more specifically, there was very little opportunity for this potential bias to taint the findings, or the focus of the analysis. In the next section, brief synopses of the case study method applied to both California Proposition 8 and Washington Referendum 71 are presented, before discussing the experimental portion of this mixed-methods investigation.

3.1.2 Justification and protocol for case study #1: California Proposition 8

Proposition 8 was a popularly initiated campaign in the state of California which aimed to legally define marriage as being between a man and a woman so that same sex couples could not gain recognition, nor the benefits associated with that recognition. In 2008, the electorate voted to pass the amendment to the state constitution, resulting in a protracted protest campaign and legal challenge by same-sex marriage advocates and supporters around California and across the US (Messner, 2009). During this time, campaign activists leveraged information from online databases containing public records of campaign finance details to enhance visibility of those who had supported curtailing the rights of same-sex couples with Proposition 8. One example was a web site called "Eightmaps.com" which integrated names, addresses and donations in favor of Proposition 8 with Google Maps, using red arrows to pinpoint the exact locations of all financial supporters that donated above the disclosure threshold towards passing Proposition 8 (Briffault, 2010). Another example included a website called *Californians Against Hate*, which called for boycotts against businesses and business owners listed in

digitally reconstructed donor databases. As will be shown in Chapter 4, there is extensive evidence that demonstrates that these websites were used to organized negative sanctions through the use of boycotts, but their link in motivating death threats and other forms of harassment and vandalism was more difficult to prove. Media coverage of the website further amplified the visibility of these public records, eventually precipitating a series of lawsuits against the state of California requesting an exemption on the disclosure of Proposition 8's donors.

Consequently, this case raised two important questions regarding law and public policy: 1) if the harassment and threat to personal injury which could result from online access to public records were sufficient reason to establish new exemptions to the state's long-standing Public Records Act, and 2) whether online access to public records of campaign finance details for individuals at even relatively small donation levels could harm future political participation and weaken normative democratic outcomes.

With regards to ethics, it's worth noting that in addition to the aforementioned resources that were collected and presented in this case study, a few personally identifiable details of individuals involved in the cases were included, however the names of individuals have been blacked out.[13] Additionally, only data that was legally disclosed by the state of California, remained accessible with standing public records law, and remained in the public domain was included in the various screenshots that are provided as evidence. Similar precautions were taken in the Washington case study, as described in further detail in the next section.

[13] Names and other personally identifiable details that were blacked out are footnoted in each instance throughout Chapter 4.

3.1.3 Justification and protocol for case study #2: Washington Referendum 71

The second case in this study investigated another popularly initiated referendum involving a same-sex marriage petition, but one year later in the state of Washington. Supporters of Referendum 71 hoped to receive enough signatures in order to get the measure on the official ballot to be voted on by state citizens in their upcoming election in November 2009. Groups hoping to avoid seeing the measure go to ballot threatened to exercise their statutory rights under Washington's *Public Records Act* and publicly disclose an aggregated list of names and other personally identifiable details of signers of the divisive ballot regarding marriage benefits for same-sex couples (Briffault, 2010). As a result, a group representing the signers began a series of legal proceedings similar to those in California to exempt the petition signatures from disclosure – which the state government of Washington, like California, adamantly defended.

The protocol used to assess the Washington case is the same that was used to assess California. It included collecting and reporting on primary and secondary sources, the presentation of petition forms, legal statutes, state policies, and available website data. This case review also presented an additional layer of public disclosure within the referendum campaign that was not present in California: the public access to digital records of petition signers – in addition to financial donors – yielding more insight about how access to public records for another common form of political participation could be reconstructed in the digital age, and how this data had been used against participants who had played a role in getting this popular initiative to the ballot box.

In conclusion, California's Proposition 8 and Washington's Referendum 71 provided two highly relevant cases for understanding the 'how' and 'why' of RQ1, as well as evidence for assessing the reprisals noted in RQ2 that have been experienced by individuals and organizations in both states. These two states also rank among the highest of all the American states with regard to their well-established public disclosure regimes, which include some of the nation's most expansive, accessible, and usable online disclosure websites and platforms (Grading State Disclosure, 2008). The findings from RQ1 and RQ2 are interconnected with RQ3, as they precipitate the follow-up question regarding whether continued online access to public records – as well as an awareness of public disclosure policies – will impact political participation rates not only in popularly initiated referendum campaigns, but other modes of political participation that may include online access to public records containing personally identifiable information. The next section provides the methods and protocols of two experiments that were used to explore this third research question, RQ3.

3.2 Investigating the impact of public disclosure on political participation with experiments

Methodologically, while the case studies allowed for replication, they represent historical cases that could not be controlled. The application of experimental methods allows for such control, and enabled an opportunity to more accurately identify the impact of disclosure on political participation. The next two sections describe in detail the methods

used to carry out two experiments, the first in a laboratory setting, and the second in an online setting. As with the case study section above, the sections below first present a background regarding the methodology and justification for the use of experimental methods for this empirical investigation. The two experiments are then presented in the order in which they were carried out: first, the lab experiment, and second, the online survey experiment.

3.2.1 Experimental methodology

One of the simplest definitions of an experiment is the manipulation of one or more variables within a controlled environment. It involves first applying a treatment to one or more randomly assigned groups, and then comparing an outcome of interest with a control group that did not receive the treatment. The random assignment of subjects to the treatment and control group are what distinguish an experiment from an observational study (Druckman et al., 2011). Another more formal explanation of experimentation comes from McGraw et al. (2001): "intervening or manipulating a real environment in which behavior occurs, controlling the environment to test whether hypotheses about the relationships between variables are supported, and randomly assigning subjects...to control for extraneous factors that can influence the empirical results" (p. 13). This more formal definition has merit in both natural and social science research fields. Experiments are one type of research design that can be incorporated within the scientific method to test hypotheses that are developed based on theories to explain or understand scientific or social phenomena. The three common elements across these various

definitions are a clearly defined treatment or intervention, random allocation of subjects to control and treatment groups, and the ability to measure outcome and results.

While case studies can be used to explore causality, experiments are used to test them by comparing differences in outcome between control and treatment groups. The control group is the group of subjects within a selected sample from a population that does not receive a treatment or intervention. It is also possible to have no control, and instead multiple treatments. In such scenarios, known as *between-subjects design*, the differences in outcomes between subjects in distinct control and treatment groups is measured and compared, as was done in this study. This is in contrast to a *within-subjects design*, which involves the observation of a subject before and after some sort of intervention or treatment.

Regardless of whether or not an experiment has a definitive control group or multiple treatment groups, subjects should be randomly assigned to those groups. Random assignment implies that each subject has an equal probability of being assigned to either the control or one or more treatment groups. That being said, experiments can still yield valuable insight even without perfect randomization. Sometimes random assignment can be too resource-intensive to carry out, or simply impractical for the context. Experiments that do not have perfect random assignment are referred to as quasi-experiments, and though lacking this key experimental element, still have great potential for political science research (Margetts & Stoker, 2010). In practice, however, the lack of random assignment can confound the results, as other uncontrolled variables can influence the outcome of the treatment (Druckman et al., 2011). This can ultimately

threaten both the internal and external validity of an experiment, as noted later in this chapter when discussing the experimental protocols.

No experimental methodology would be complete with a review of internal and external validity. Internal validity is concerned with not only if a treatment had an impact on an outcome, but if the level of change in that outcome – or difference in change when compared with the control group – was significant enough for an investigator to make a causal inference (McDermott, 2011). There are two threats to internal validity that are more prevalent in experiments than in other types of research design: noncompliance and attrition (Druckman et al., 2011). Noncompliance arises in experiments when the treatment group does not comply with the treatment, or the full level of the treatment applied. It can also manifest when members of the control group accidentally receive some level of the treatment. Attrition is another concern, and is primarily related to post-treatment analysis, where subjects may not be honest or are inadvertently inaccurate about their attitudes or behaviors. Unless an investigator considers or controls for this possibility, they may fail to accurately assess the impact of a treatment. But even experiments that do account for noncompliance and attrition may not yield results that are externally valid.

External validity is concerned with the extent to which the results regarding causal inference from an experiment can be applied more generally (McDermott, 2011). Political science experiments that have minimal external validity are of less value to applied researchers who are often interested in understanding patterns and behaviors on a larger scale or applying to a real-world setting. One way to amplify external validity is to

have as representative a sample as possible drawn from a larger population that the researcher wants to understand or explain. As will be explained later in this chapter, there are often obstacles to capturing a highly representative sample. During the design stage, considerations for strong internal validity must come first "both sequentially and practically" – as it will be difficult to apply an experiment more generally to the real world without first establishing that observations in differences are actually valid (McDermott, 2011, p.28). The balance of validity is a crucial element to any type of experiment, whether in the lab, in the field, or online, and the next section will present an overview of these three different domains for carrying out experiments.

3.2.1.1 Types of experiments

Regardless of the domain, experiments are still defined by their key elements– random assignment, control, and measurable outcomes. This study will employ two of these types of experiments – in the lab and online – and consequently there is a greater methodological focus on these types experiments in this section. Though it's worth noting that much of the theoretical support for the explanatory power of experiments is the same regardless of the domain.

Lab experiments are conducted within an artificial or simulated setting, which provides investigators the highest level of control when compared with the other two research designs (Iyengar, 2011). In lab experiments, subjects are recruited to a common location, which is usually a dedicated research venue established to run experiments. Subjects are then randomly assigned to control and treatment groups, and as noted before, this random assignment is crucial to the internal validity of the study. Ideally, the

investigator can and will control all variables other than the actual intervening variable for the treatment group, allowing them to make strong claims about any significant differences in outcome relative to the control group. Field experiments on the other hand involve intervention on a treatment group outside of a laboratory within a real, unplanned setting (Gerber, 2011; Gerber & Green, 2012). Researchers might go out into the field to apply their treatment, or they may administer it digitally through a computer-mediated setting. Margetts and Stoker (2010) insightfully note that the line between laboratory and field experiments is becoming muddled, as both types of experiments can be carried out using the Internet within a "virtual laboratory." Digital website portals can be designed to replicate laboratory experiments, and these online experiments can use surveys as an instrument to deliver targeted treatments – which is precisely what was done in the second experiment in this study. Online experiments – also referred to as web experiments – that use survey instruments are called online population survey experiments (Mutz, 2011). Diana Mutz (2011) has authored perhaps the most definitive and comprehensive book on online population survey experiments, which has informed both the design and analysis of the online survey experiment presented throughout this section.

No research methodology is without its pitfalls, and each type of experimental domain has limits. The most significant challenges for experimental research are design logistics and ethical constraints. With regard to design logistics, one oft-cited issue with lab experiments relates to the fact that many of them are conducted in university campus-based settings, which has an impact on the validity of results due to the local population

sample that self-selects to participate in a survey, which may not be representative of the broader population. Since laboratories are often fixed artificial environments housed within an academic department connected with a university, many of the subjects that opt to participate in an experiment are students – often from the same academic department, or from the same university setting. This can result in sample groups that are skewed towards younger age groups, which limits the generalizability of the findings. It is difficult to imagine a political scientist who wants to make an important claim towards external validity deliberately selecting a sample that is so heavily skewed towards a younger university student-skewed demographic for design purposes (the exception would be if a researcher was interested in making claims about that specific university population). Instead, their narrow selection is likely to be made out of convenience. As will be described later in this study, this was an important consideration in ensuring the most representative sample of subjects possible from the surrounding community were randomly selected to participate, and full demographical details from the subject pool – including the demographics of the group that participated – are provided. Though, as will be noted in the analysis of the lab experiment, the subject pool did skew heavily towards younger, university-affiliated individuals, and this may provide one explanatory premise for the findings. This subject bias is diminished with larger and more representative samples, as will be later demonstrated with the larger online subject pool that was used for the online experiment employed in this study.

Another design logistic that relates to external validity and subject recruitment at is incentivization, or what political scientists refer to as "induced value theory" (Smith,

1976). Many experiments use incentives, which may come in the form of course credit for students or financial fees or rebates for more general members of the population in order to entice them to contribute their time and effort towards the experiment. Induced value theory is more narrowly focused on compensation for answering questions or performing tasks correctly, rather than a show-up fee. Offering an incentive alone has the potential to skew a sample, as those who place a higher utility on the type and value of compensation may be more likely to respond and participate in an experiment.

In addition to sample bias, these incentives can cause another more practical problem to the researcher: high experimental cost (Margetts & Stoker, 2010). Experiments can cost much more to implement than other research designs, not just for incentive fees, but also for either lab equipment costs or field deployment fees. Distributing large-scale surveys are comparatively more cost-efficient. Remote Internet-based experiments, however, may decrease these high costs, particularly in cases where they save money from laboratory costs or field travel. Though this is not always the case, particularly when considering the increasing costs of software and interface design (Margetts & Stoker, 2010). There is a tradeoff here between lab and online experiments, as online experiments will often involve more participants, even if they are paid lower fees due to the additional convenience of participating remotely. This was precisely the case in this study, and the different incentives across both types of experiments will be explained later in this chapter to allow for an accurate assessment of the experimental results.

3.2.1.2 Analysis of experiments

For the analysis of experiments, data points that are collected from measured outcomes across both control and treatment groups are compared. Theoretically, in a perfectly controlled experiment that only differed on a single treatment variable, any difference in the measured outcome between control and treatment group would be directly attributable to the causal effect of the treatment variable. In a sample of observations, the average of all these differences is referred to as the standard average treatment effect (ATE), which is more formally defined as:

$$\frac{1}{N} \cdot \sum_{i=1}^{N} (y_{1i} - y_{0i})$$

where N equals the sample size, 'i' is the sample data reference point, and 'y_{1i}' is the measurement of the dependent variable of the treatment group, while 'y_{0i}' represents the value of the dependent variable of the control group for sample point 'i' (Green & Gerber, 2010).

In the experiments carried out in this study, a handful of analytical approaches that leveraged the power of statistical inference were taken in order to assess the impact of public disclosure notification on political participation. The statistical tests included tabulations and tests of independence, hypothesis testing and confidence interval constructions for difference in proportions, and logistic regression analysis using interaction variables. Specific details regarding the application of each of these statistical

methods within each experiment are provided in each of the respective methods sections in this chapter.

3.2.1.3 Ethical considerations in experiments

With regards to ethics, deception is perhaps the most prominent factor that can have a more substantial role in experimental research design compared with non-experimental research design, and was considered in great detail with regards to the experimental design in both experiments in this study. Deception is generally defined as the misleading of participants (Margetts & Stoker, 2010), and it is often implemented for purposes of convenience (e.g. to save time or money), or to induce subject behavior. Deception can manifest as untruthful information provided to subjects about real-world topics or events, or as deceitful use of experiment results that may embarrass or harm the subject. To account for this, investigators often anonymize results to protect the identity of subjects, and this is precisely the approach that was taken in the experiments in this study.

Department and university ethics committees often act as a check on the ethical limitations of experiments, and both of the experiments in this study faced ethical approval by various bodies prior to implementation. It's worth emphasizing that neither of the experiments used in this study entailed obligations or opportunities for entering and recording a subject's name, initials, address, or other identifiable information – which would be a violation of the anonymity requirement imposed by Oxford's Central University Research Ethics Committee (CUREC). It would have also been a violation of the lab policy that regulated use of the experimental lab this research was conducted in

(CESS Lab), as well as the survey policy of the survey deployment company that was employed in the online experiment (Google Consumer Surveys). These various layers of checks on deception and other ethical design elements ensured that no subjects would be harmed before, during or after participation in the experiment.

Despite these ethical restrictions and aforementioned methodological challenges, experimental research still has much to offer political science investigations compared with non-experimental research designs in determining causality, and overcoming these challenges are worth the effort considering no other methodology offers such a high degree of causal inference. Therefore, each of the ethical protocols was carefully adhered to in this study, and a number of unique design elements were applied to avoid infringing on any ethical policies, as will be described later in this chapter. Before providing the details of these experimental protocols for the lab and online experiments that were employed in this study, the next section will first present a brief overview of the rise of experimental methods in political science research, as this methodology is relatively new in the long history of political science research.

3.2.1.4 Development and rise of experimental methods in political science research

The use of experimental methods in political science research has grown dramatically in the 21st century, and this section will provide a brief history of the development and use of this method within the political domain, as well as cite some classic examples of how the power of experiments has been leveraged to make strong statements about causality across a wide range of politically-related research questions. Experimental design has been for centuries at the crux of research methodologies utilized by investigators studying

phenomena in the natural sciences, and more recently within certain branches of social sciences research (in particular psychology and behavioral economics, beginning in the 1970s) (Druckman et al., 2011; Kittel & Morton, 2012).[14] Since then, the smaller corpus of experiments conducted in the political domain has been growing, and quite dramatically since the turn of the century (Druckman et al., 2011). This represents a significant departure from the earlier bias against experimental research, perhaps best exemplified by a speech delivered by an early 20th century president of the American Political Science Association (APSA), A. Lawrence Lowell, who publicly declared "Politics is observational, not an experimental science..." (Druckman et al., 2011, p. 3; see also Iyengar, 2011).

Indeed, experimental methods have been historically rare in established political science journals – beyond the aforementioned APSA – with one survey noting that across a broad range of political science, psychology, and economics journals, there were only 105 articles employing experimental design authored by "established" political scientists from 1926-2000 (McDermott, 2002). Instead, most of the research published during this time has been rooted in other non-experimental methodologies – in particular, large-scale surveys and case studies that employ both quantitative and qualitative analysis – the sort of observational methodology that former APSA President A. Lawrence Lowell would have advocated for.

[14] For a more detailed history on the history of experimental methods in political science, see The Cambridge Handbook of Experimental Political Science (2011) edited by James N. Druckman, Donald P. Green, James H. Kuklinski, and Arthur Lupia.

However, times have changed since then, and scholars and journals have become quite receptive to experimental research. One only needs to consider the growing trend in the type of articles being published in academic political science journals. For instance, from 2000-2007 more than 50 experimental articles were published in the top three American political science journals alone (Morton & Williams, 2010), a trend that has only continued.[15] Further evidence indicates that it is not just the quantity of articles utilizing experimental methods, but also their prominence, as measured by article citation. For instance, Druckman et al. (2006) found in their study of citation rates for articles from the *American Political Science Review* that experimental articles were being cited "significantly more often" than non-experimental articles over the same time period. While there are a number of factors that have contributed to the rise of experiments in political science research, this trend is largely attributed to two key factors: the development of new technology that makes it easier to control experiments and measure their outcomes, and the increased acceptance of experiments as a useful, and at times optimal, research methodology among political scientists. The Cambridge Handbook of Political Science Experiments, edited by Druckman, Green, Kuklinski and Lupia (2011), provides a well-organized overview of all the different types of research questions that have been explored within this domain through the use of some type of experiment, including decision making; vote choice, candidate evaluation and voter turnout; interpersonal relations; identity, ethnicity, and politics; institutions and behavior – including collective action; and elite bargaining. The experiments carried out in this

[15] The top three American political science journals cited are the *American Political Science Review*, the *American Journal of Political Science*, and the *Journal of Politics*.

study augment this growing body of experimental literature in the political science domain with a focus on the impact of public disclosure on political participation.

3.2.2 Justification and protocol for the lab experiment

Considering the lack of previous research regarding the impact of public disclosure on the domain of participation at the center of this study, a lab experiment had the most to offer in terms of generating empirical findings in a controlled stetting. A well-controlled experiment also yields data to support or refute the chilling effects argument that permeates the academy, parliaments and the courtroom. The co-location of an experimental laboratory set up to facilitate social science research within the University of Oxford enabled the experimental aspect of this research which would have been otherwise significantly more challenging in terms of cost and funding. The lab experiment presented in this section was a collaboration with three other researchers at the University of Oxford's Oxford Internet Institute (OII), and was conducted at the Center for Experimental Social Sciences (CESS) located within Oxford's Nuffield College.[16] The lab was established in February 2008 to allow research within the Social Sciences division at Oxford to have an opportunity to conduct controlled experiments in a variety of disciplines. The convenient location of the lab, its extant subject pool, and working relationship with the OII rendered it the optimal venue to carry out this visibility study.

[16] The collaborators in this experiment included Professor Helen Margetts, Dr. Scott Hale, and Dr. Taha Yasseri. Helen, Scott and Taha each contributed to the design of this study, while all 13 lab sessions were run by either Taha or myself, as noted in Appendix A.

At the time of the experiment, the CESS lab contained 25 individual computer workstations, fully partitioned by canvas barriers to create private workspaces. The computers at the workstations ran Windows operating software, and used the open-source Z-tree platform for delivering experimental protocols. The Z-tree platform (abbreviated from the *Zurich Toolbox for Readymade Economic Experiments*) is a widely used software platform "for developing and carrying out economic experiments." [17] While the platform's functionality had limitations, its constraints were overcome with unique design aspects in the protocol. To maximize the leveraging of this platform's capability, a Z-tree coder at CESS was employed to write the code based on the protocol design, a service made available to all experimenters using the CESS lab at Oxford.[18]

Like most research institutions, the CESS lab had its own internal ethical procedures, which are available on their website.[19] In short, it generally limits the use of deception in the lab, details the application of anonymity, and further provides information about how data is collected and destroyed during and after an experiment. It further notes their commitment to general scientific standards and ethical principles. The main ethical guideline that heavily influenced the design of this experiment related to the degree in which disclosure of subject identity could be displayed within the lab. While photographic imagery was permitted and indeed used in this experiment, names, addresses and other forms of identifiable information were not. The lab experiment was therefore carefully designed to overcome the challenges presented by this restriction, as

[17] For more details about the Z-tree platform, see http://www.ztree.uzh.ch/index.html
[18] The coder for this experiment was Dr. John Jensenius III, Lab Manager and Researcher at CESS, Nuffield College, University of Oxford.
[19] The CESS *Researchers Commitments and Privacy Policy* is available at http://cess-web.nuff.ox.ac.uk/experiments/for-researchers/

described in the protocol presented in the next section.

Experiment protocol: Part 1

At the beginning of the experiment subjects entered a waiting room and were asked to give signed consent using a standardized CESS form tailored for this study, which noted the use of photographic imagery within the lab (form is available in Appendix B). After completing the forms, the subjects were called one-by-one down a short co-corridor to stand against a white wall and have their photo taken using a basic digital camera, before selecting at random a card with their assigned computer station. This was the key step in which random allocation between control and treatment groups was ensured, as each subject's randomly selected computer station was *also* randomly selected within the randomization function of the experimental software to be assigned to one of the two groups.

Once seated in the lab, all subjects had to again provide consent – this time in electronic form – before receiving the first set of instructions noted on the next page:

> Thank you for your willingness to take part in this experiment. This is an experiment exploring how people decide to support various issues, and your participation in this experiment will help us better understand the role of design in civic engagement. On the next screen, you will view a selection of issues that we'd like you to answer a few questions about. You'll have 20 minutes to read about all 8 issues, and respond to 5 questions for each. Your answers will be kept anonymous, and in no way visible to others in the room.

When all the participants indicated they were ready to begin, they then interfaced with the menu screen that listed the eight issues in a random 2x4 layout, as illustrated in Appendix C. These eight issues included:

- Banning immigrants from claiming benefits
- Legalizing the recreational use of marijuana
- Banning the niqab/face veil
- Banning smoking outside of public buildings
- Promoting aviation safety
- Providing free prescriptions for organ transplant recipients
- Requiring financial education in schools
- Banning the transport and finance of cluster bombs

Upon clicking on one of the eight issues, the subjects were then directed to the next screen that provided them with a more detailed prompt about the issue they had selected. These petition prompts were borrowed and adapted from the UK Government's e-petitions website.[20] The full prompts for each of the eight issues – as they were presented during the experiment – are provided below:

[20] Original petitions posted on the UK Government and Parliament's e-petition website were retrieved in November 2014 from https://petition.parliament.uk/

Banning Benefits for Immigrants
The UK should ban all non-UK nationals from claiming any type of benefit including jobseeker's allowance, housing benefits, winter fuel payments, disability benefits, social housing, tax credits, child benefit, free travel.

Banning Medical Marijuana
The UK should ban doctors from prescribing marijuana for medical purposes.

Banning the Niqab/Face Veil
The UK should establish a law banning the niqab (face veil) from being worn in public.

Banning Smoking outside of Public Buildings
The UK should establish a law banning people from smoking outside public buildings.

Promoting Flight Safety
The UK should establish a law to promote safer aviation rules and practices.

Permitting Free Prescriptions for Organ Transplant Recipients
The UK should establish a law to permit free prescriptions for people who receive lifesaving organ transplants and require daily medications to stay alive.

Requiring Financial Education in Schools
The UK should establish a law requiring schools to teach a basic understanding of personal finance and consumer rights to all students.

Banning Cluster Bombs
The UK should establish a law banning cluster bombs from being financed by British citizens and banks.

The UK government's e-petitions platform was used to ensure the issues selected were both diverse in topic and relevant amongst the UK-based sample group during the time and dates of the experiment. The prominence of an issue – as determined by number of signers at the time of topic selection (November 2014) – was taken into account to ensure a greater likelihood of issue salience with subjects drawn from the Oxford-based CESS subject pool. A number of methodological considerations went into the wording and framing of each of these issues. For instance, the vignettes were significantly

reduced from the original formulation to concise phrases with clear action words, and all began with the same phrase: "The UK should establish a law..." The first four issues from the aforementioned list were presumed to be more divisive among the population of the UK, as there were often one or more related petitions advocating for each side of the issue regarding immigration, marijuana, niqabs/face veils, and smoking. The remaining four issues were assumed to be far less divisive, as there were no other petitions directly advocating in favor of cluster bombs, or against flight safety, free prescriptions, or financial education in schools listed on the UK e-petitions web portal during the time and dates the experiment was conducted. The basis for selecting more divisive and less divisive issues was to see if issue-divisiveness moderated the treatment effect, as noted in H4.

Each of the eight issues was presented alongside five questions about the issue, delivered one-at-a-time and in the same order for each issue. These questions are provided in Appendix D using the *cluster bomb* topic as an example. The questions were designed to assess subject awareness and attitude towards each issue. As noted before, the wording of questions is consistent across all eight issues. After completing all of the questions for each of the eight issues, subjects were then offered an opportunity to donate a portion of their payout towards a third-party organization advocating for their position on one or more of the eight causes. This concluded the first part of the experiment. This first stage of the experiment lasted up to 20 minutes, before the digital interface would automatically enter into the next stage. If participants finished before the 20-minute time limit, they then had to wait facing a blank computer screen until the rest of the

participants in the session had completed the stage in order to trigger the start of Part 2 of the experiment in advance of the 20-minute time limit.

Experiment protocol: Part 2

The next part of the experiment had different instructions for the different groups, which are presented below with the treatment emphasized in bold print:

Instructions for Control Group

> In this part of the experiment, you'll have an opportunity to review each of the issues from the first part of the experiment and demonstrate how strongly you feel about the issue by filling carrying out a counting task. The more number counting tasks you complete, the more you'll be showing us how strongly you support or oppose the issue. Your responses will in no way be visible to other participants, or to the experimenters. **Further, we will not be using your photo in any way in this experiment.** The photos will be deleted at the end of the session, and your responses will not be connected with your personally identifiable information by the experimenters.

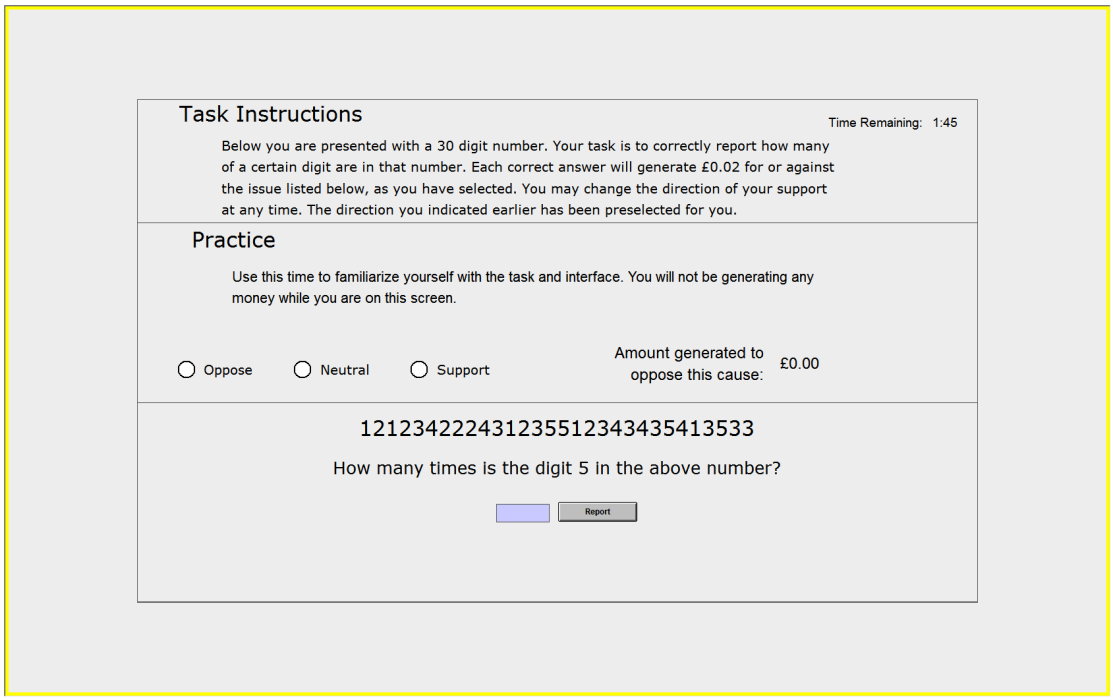
Instructions for the Treatment Group

> In this part of the experiment, you'll have an opportunity to review each of the issues from the first part of the experiment and demonstrate how strongly you feel about the issue by filling carrying out a counting task. The more counting tasks you complete, the more you'll be showing us how strongly you support or oppose the issue. **After finishing this part of the experiment, your level of support or opposition for each issue will be visible to other participants sitting in the lab at this session, alongside your photo.** The photos will be deleted at the end of the session, and your responses will not be connected with your personally identifiable information by the experimenters.

All subjects were then asked to engage in micro-participation tasks to demonstrate their support or opposition for each of the issues. This micro-participation task consisted of counting the number of unique digits within a string of exactly 30 digits between 0-9,

as a proxy for micro-effort that citizens carry out in various acts of political participation in developed democratic systems. Effort tasks like this one are often applied in experiments to model natural world effort (Lezzi et al., 2015). Similar effort tasks have included pressing multiple keys simultaneously, and in constant succession to demonstrate degree of effort (Ariely et al., 2009). The number counting task was chosen as opposed to other types of tasks commonly used in experiments because it did not require prior knowledge, had little possibility of learning bias over time, and was considered sufficiently tedious to render it a low but not negligible taxing effort on subjects (Abeler et al., 2011). An illustration of this task taken from a screenshot in the experiment is provided in Figure 3.1.

Figure 3.1 Screenshot of micro-participation counting task



Each time a subject selected an issue to begin a micro-participation round, a reminder of the treatment regarding image disclosure was delivered to subjects in the treatment group to further strengthen the likelihood of treatment diffusion. During the actual micro-participation stage, variables were measured for the number of correctly counted tasks for each issue, as well as the total number of attempts at each counting task for each issue, which included both correct and incorrect attempts. This latter figure was the main dependent variable that was used to measure differences between control and treatment groups, which was converted into a discrete dichotomous variable indicating either 'participation' or 'no participation.' The number of attempts was a closer proxy for small-scale political effort compared with the number of correct attempts. Furthermore, converting this figure into a dichotomous variable mitigated learning bias, which is always a risk with simple counting tasks in experiments (Benndorf et al., 2014).

In the actual micro-participation stage each time a task was completed correctly to demonstrate support or opposition for an issue, £0.02 GBP was contributed to an aggregate group donation that was pledged towards an organization that advocated for the respective issue. By designing this stage to enable participation in either direction, significantly more cases could be used for analysis. At the end of the session, the net amount of money raised was calculated as the difference between support and opposition pledge amounts. Whichever side received more donations was pledged the net difference as a lump-sum donation on behalf of the experimenters towards a related real-world organization. The organizations selected to receive the funds were prominent leading issue groups, and the subjects were informed that the money they raised through micro-

participation tasks and donations would be donated at a future date upon the culmination of the study. Unlike most economic experiments, the £0.02 GBP was not allocated from subjects' £15 GBP payout, but instead paid out from general experimental funds. This was done to mitigate response bias from financially motivated subjects in the sample group.

After the micro-participation tasks were completed, subjects who were in the treatment group were presented with an interface that displayed the images of other treatment subjects, along with the issues they supported or opposed, and the strength of support or opposition as demonstrated by their participation during the micro-task stage. Simultaneously, control subjects were instead provided time to review (but not change) their survey responses. Due to the workstation partitions, subjects in the control group could not view the computer screens of subjects sitting next to them, and were therefore unaware of the treatment group's receipt of images – which flashed quickly on their screens in a brief moment of seconds. All subjects then received an experimental debriefing message to inform them that all photos taken during the experiment would be destroyed. The text of this debriefing message is provided in Appendix E.

At the end of the experiment subjects were asked to complete a survey that included questions about their demographic background. The full questionnaire is available in Appendix F. To limit rapid click-throughs by uncommitted subjects to reach the end of the survey, as well as at other points in the experiment, subjects were verbally reminded on numerous occasions that no one could leave the lab early before all subjects had completed all parts of the experiment, and that there was no incentive to finishing earlier

or 'faster' than other subjects. This was an important reminder, as many other experiments that take place in the lab have incentives for finishing early or more quickly than other subjects.

Timing of experiment

The total amount allotted for each of the 13 sessions was 90 minutes, which included the time it took to complete the consent forms, have photographs taken, complete both parts of the experiment, and finish the post-experiment survey questionnaire. A summary of the experiment, along with the times allotted for each stage is noted below:

Pre-experiment - Before entering lab (20-25 minutes)
Signing CESS Consent Form (in waiting room)
Signing Participant Information Sheet (in waiting room)
Photos of subjects taken; subjects then enter lab

Part 1 of Experiment - Issues menu and questions (25 minutes)
Step 1: Instructions for participation
Step 2: Issues menu - clicking through leads to eight sub-screens with issue prompts and survey questions
Step 3: Option to donate a portion of payout towards issues

Part 2 of Experiment - Micro-participation stage (20 minutes)
Step 4: Instructions for micro-participation task (treatment delivery here)
Step 5: Practice with micro-participation counting task
Step 6: Micro-participation rounds for issues
Step 7: Treatment group views visibility treatment image page, while control group reviews their responses for the causes

Post-experiment - Survey Questionnaire (20 minutes)
Instructions for completing survey questionnaire
Survey questionnaire
Instructions for collecting payment

Overall, 225 subjects participated across the 13 sessions, providing a strong sample size to analyze and draw conclusions related to RQ3. The sessions ranged in size from 8 to a full capacity of 24 participants, and were run by two different experimenters, as noted in Appendix A. Steps were taken to ensure a common protocol was followed between the two experimenters, though perhaps the biggest difference in delivery of instructions and departure from protocol related to the number of verbal notifications given to remind subjects to avoid rushing through the different parts of the experiment. The next session provides an overview of the internal and external validity of this lab experiment.

3.2.2.1 Internal validity of lab experiment

The internal validity in this experiment is an assessment of the approximate truth of the causal relationship that was identified from the findings of the statistical analysis on the data that was collected. The key objective of this study regarding the impact of public disclosure on behavior yielded particularly unique challenges for designing an experiment that was compatible with the spatial layout of the CESS lab room, the software used to develop the protocol, and the ethical policies pertaining to university experiments. This section provides an overview of each of these constraints, and how they were considered in overcoming the main threats to internal validity that included treatment design, subject bias, and experimenter bias.

There was a high level of control in this lab experiment, and the single treatment statement that was delivered in bold lettering on the instructions page at the beginning of Part II of the experiment was the only difference between the control and treatment

experimental protocols. To ensure subjects did not forget the treatment statement as they moved from issue to issue, a reminder of the disclosure statement was delivered to subjects again for each issue they attempted to engage in micro-participation. As there were no other systematic differences between control and treatment groups, any measured outcome in micro-participation between these two groups was directly attributable to the treatment notification regarding public disclosure of photos upon completion of the experiment.

While it is possible that some subjects among the treatment group may have experienced confusion between the disclosure related message in the treatment statement along with the anonymity guarantees provided in the consent forms, the constant reminder of public disclosure – along with the earlier experience and memory of having had their photos taken – would have mitigated this potential confusion and resulting bias in behavior among treated subjects. Further evidence regarding the clarity of instructions came from a review of the comments left by subjects in the post-experiment questionnaire, where they were offered an opportunity to leave feedback or share thoughts on any aspect of the experiment or their experience with participating. While a number of subjects left positive comments specifically citing the clarity and the organization of the experimental instructions, (compared with their experiences with previous experiments), not a single subject expressed confusion between the anonymity guarantees in the consent form and the disclosure statement in the treatment.

The comments and questions from subjects also yielded insight into the assumptions of the subject regarding the focus of the experiment. There is little evidence

to suggest that subjects ascertained the precise treatment, or the broader objective of the experiment. This is always a danger with experimental design as once a subject determines the experimental objective, this awareness can impact their behavior and performance in ways that bias and confound the results. Instead, there was widespread belief that the experimental goals entailed more of a general opinion poll related to an impending election cycle, rather than the impact of information disclosure and visibility of personally identifiable information on micro-participation. This implies that subjects would have been less likely to have a biased response that was affected by awareness of experimental objectives, which consequently increased the likelihood of more true and sincere responses.

With regards to treatment diffusion among subjects in the control group, there was little risk of contamination since canvas dividers separated computer workstations, and these dividers obscured the view of neighboring subjects. Further, the tempo of action at the time of instructions was quick enough to further mitigate the possibility of a subject turning around in their seat to read the instructions on other computer screens around them to determine if there was a difference in the overall protocol or instructions for the second part of the experiment. The experimenters also did not notice a single instance of subjects peering between computer screens. Overall, while there were a few potential threats to treatment validity, the set of aforementioned design tactics demonstrates that the treatment design was robust enough to assess the causal inference being explored in RQ3.

As with most experiments, there may have been some subject bias that contributed to the performance of subjects within the lab. Firstly, many subjects from the CESS subject pool were serial experimenters who have participated in one or more experiments prior to this study, mostly likely out of financial motivations. This may have made them less willing to authentically consider and engage in any issues in order to maximize their payout, compared with others in the general population (indeed, a threat to external validity too). Mitigating this type of threat to internal validity is extremely difficult in remunerated lab experiments, as is assessing the degree to which it may have affected participation within the study. However, the random assignment applied at the outset of this experiment ensured that an equal number of financially motivated subjects were assigned to treatment and control groups. Further, since the analysis was carried out on a dichotomous value of micro-participation rather than assessing the number of tasks attempted, the bias from lower levels of participation were significantly diminished due to the very low cost of engaging in just a single micro-task.

Potential bias among subject responses may have also derived from participants who were unfamiliar with the political and social issue topics that were queried within the experiment. In anticipation of this, all of the eight issues were selected from the British Government's official petition website around the time and dates of the experiment, and most of the issues selected were topics that were easily accessible. Topics regarding more complex matters such as the economy or trade policies were omitted. In addition, subjects less familiar with democratic procedures, direct democracy, petition-taking and the general experience of participating in the political process may have also been less

likely to answer truthfully or participate in the micro-participation round. However, this potential bias was mitigated in the analysis due to randomized assignment between control and treatment groups, as well as by focusing the analysis on a dichotomous dependent variable regarding micro-participation.

With regards to the learning-bias, subjects who were invited to participate in the experiment were not invited back for another session to ensure there was no bias in their performance or behavior from previous participation. However, there were five walk-outs from the 230 subjects that turned-up to participate. Four of these were due to an explicitly stated discomfort with having their photo taken in order to participate in the experiment, while the fifth subject stated their concern with engaging in an experiment without full details of the names of charities that would receive donations prior to their participation. The missing responses from these first four aforementioned subjects would have biased the overall average treatment affect of information disclosure, as their explicitly stated discomfort with identity capture – in the form of photo-taking – is a trait likely to be associated with concern about having their image shared with others. Indeed, their unwillingness to participate strongly suggests that there was something quite unnerving to them about the photographic visibility element of the experiment, and the potential public disclosure of private opinions that might be included within the experimental design. This discomfort with disclosure – the very focus of this investigation – was made further evident in the post-experiment comments section where one subjected noted: “Didn't like the idea that others in the experiment would see my photo and know things about my choices.”

The potential subject performance bias from the presence of an overseeing experimenter is also worth considering with regards to the potential response bias that it may have instigated. The perception that an experimenter is watching a subject and their every action within a lab setting can have an impact on how they participate (Barmettler et al., 2012). Subjects could feel under pressure to perform or behave in a certain way within the lab setting to either manage their reputation or conform to some notion of normative expectation. This bias highlights the very phenomenon of visibility and behavior that is being assessed in the experiment. To overcome this, extra assurance was verbally given to the subjects regarding the academic nature of the research, the collection and eventual destruction of the data, and the decoupling of that data from a subject's true identity. Random assignment also ensured that this confounding element would be largely diminished in the broader analysis of treatment effect.

In addition to subject bias, there may have been some response bias caused by the experimenters. The design of the experiment was not double-blind: the experimenters were both aware of the experiment's purpose and design, and this knowledge may have biased the format of their instructions, and their responses to questions from participants. The experiment would have higher internal validity had an un-related experimenter been asked to lead and instruct all 13 sessions instead.

To conclude, the overall internal validity was strong to make a causal inference from the data due to the direct control over a variety of potentially confounding variables, and randomized assignment upon the outset of the experiment. Many of these potential biases were considered at the design stage of the experiment, and the final protocol that

was deployed included design elements to mitigate threats to the internal validity of the. As with most lab experiments, however, there are generally far greater threats from external validity and generalizability, which is explored at depth in the next section.

3.2.2.2 External validity of lab experiment

The three main factors that were considered in the experimental design with regard to external validity were the representativeness of the sample with regards to the broader population, the extent to which the lab experience was analogous to the real world experience of democratic participation, and the extent to which the treatment was a good analog to public disclosure and visibility.

The subject group for this experiment was not fully representative of the broader city of Oxford, or the UK. As shown in Appendix G, this sample group was more ethnically diverse, younger, and much more highly educated, demonstrating some of the broader differences between the city of Oxford – where most of the subjects resided – and the UK. This made it difficult to generalize the results to the broader British population, or to other non-British populations. Further, assessment over sub-sample groupings that are more narrowly defined is difficult due to the lower sample size available for analysis – itself a function of the financial constraints of the experimental design and the maximum number of subjects that could be recruited to participate. The demographics of the sample group provides critical insight into understanding the findings from this experiment, as will be discussed in much greater detail in Chapter 7.

The greatest potential threat to external validity for lab experiments beyond representativeness of the subject pool is the extent to which the lab design and setting

diverged from the real world setting – with the greater the divergence, the lesser the applicability to related phenomenon which manifest in the real world. The phenomenon being investigated in RQ3 is the impact of notification of disclosure on political participation, with number counting tasks on a computer screen within a university lab used as a proxy for participatory effort within the real world. There is no way to fully simulate the real world in a lab setting, and so great effort was taken to replicate the process of low-level participatory effort as much as possible that was similar in level of effort to participating in a referendum campaign. To ensure the issues were as timely, intriguing and salient as possible, the topics were selected from a contemporaneous list of petitions on the UK government's petition website, and the wording used followed a similar format to popularly initiated petitions that circulate in either the UK or the American states. Low level forms of political participation necessarily incur a positive cost on a citizen, and so number counting was selected as a similarly low-level effort task similar to the amount of effort that is spent signing the various information fields on a petition sheet. That being said, the online experiment presented later in this chapter was an improvement in real-world applicability.

Finally, despite the external validity issues regarding the subject pool and the highly controlled lab conditions, the treatment effect in form and function was well designed for the purpose of application to the real world. The wording of the information disclosure statement delivered to subjects in the treatment group was similar to the sort of public disclosure notification that an administrative governing institution might include on a petition form in order to inform the public of extant or newly established disclosure

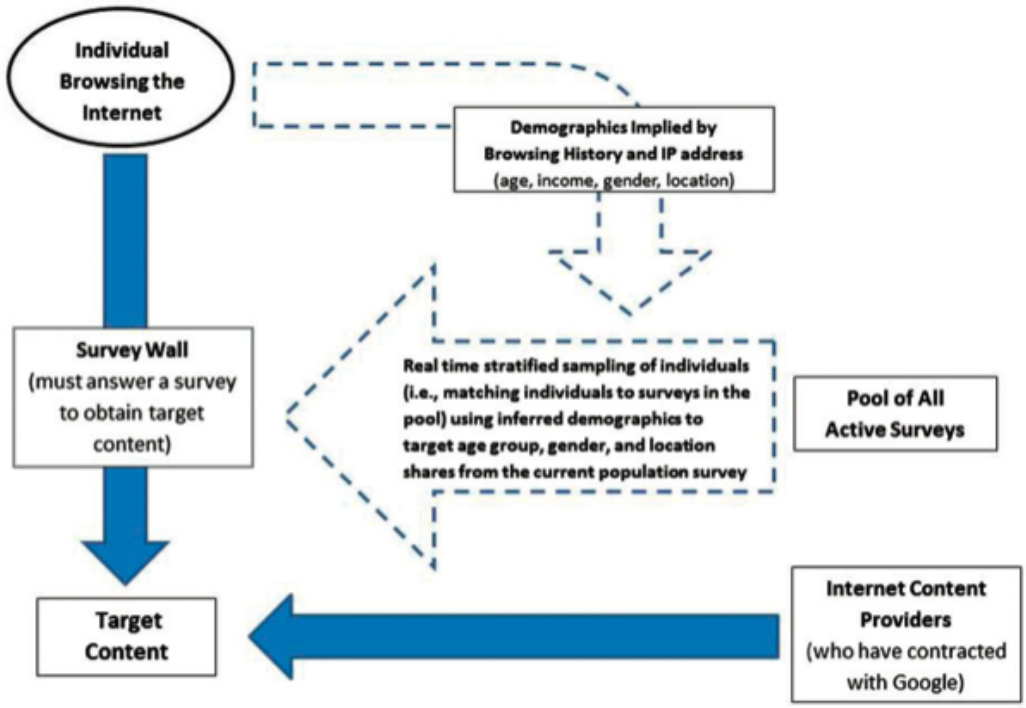
procedures. The biggest difference between the applied treatment in the lab and a broader information disclosure statement on real world petitions was the more narrowly defined domain of visibility, which was constrained to the group present in each lab session. As shown in Chapter 4's case studies, online access to publicly disclosed information in the real world manifests in a much wider domain, and therefore has the potential to yield far greater reprisals for citizens in the real world compared with subjects within the lab. The online experiment discussed in the next chapter mitigated this gap between lab setting and real world experience in signing a petition to participate on behalf of a political issue. As discussed in the next section, the online experiment achieved this by applying a public disclosure statement that focused on other personally identifiable information instead of photographic imagery only, and also framed the degree of visibility more broadly to the vast online world, rather than a group of peers within a small lab setting.

3.2.3 Protocol for the online experiment

The second experiment of this study leveraged the power of an even more externally valid experimental design with access to a much larger and more representative subject pool. As with the lab experiment, this online experiment was also used to investigate RQ3, regarding how information regarding public disclosure impacts political participation, and if this impact varies based on the divisiveness of an issue. This section provides an overview of the protocol that was used, before providing details regarding the internal and external experimental validity.

While the CESS Lab in Oxford was used to host the lab experiment, the online experiment was delivered in the digital domain using Google Consumer Surveys (GCS). GCS is a tool offered by *Google Inc*. for individuals and companies to use survey instruments to gain insight from users. While it is analogous to other survey research companies that offer a digital platform for delivering survey instrument, there are some key differences. GCS does not employ a paid opt-in subject pool or a recruited panel. Instead, it attempts to deliver the survey to online consumers of content publishers, who have agreed to apply a Google 'survey wall' which users interface with in order to access their requested content. Users gain access to their content once they have completed the survey. In return, publishers who were willing to host the survey walls get paid for each completed response. Researchers and other parties who create the surveys pay Google for use of its survey wall delivery system, with a fixed amount for each completed response. The diagram in Figure 3.2 from Santoso et al. (2016) demonstrates the survey wall methodology, as well as its business model dimension.

Figure 3.2 Survey wall methodology for Google Consumer Surveys



Source: Santoso et al., 2016

There are other unique aspects of the GCS that make it different from other web survey delivery enterprises and subject pool companies (Roughton & MacKay, 2017; Schonlau & Couper, 2017). First, its demographics are inferred based on various variables derived from the user's browser history and IP address (McDonald et al., 2013). These inferred demographics are then applied to a stratified-sampling process, where Google attempts to fill each demographic bin across age, gender and location to achieve as close as match as possible to known population parameters, which for the purposes of this study, derived from Washington and California population parameters. Google's own white paper on the validity of their inferred demographics sampling algorithm states

that GCS can be used in place of more traditional based panels without sacrificing accuracy (McDonald et al., 2013). However, this is not a perfect probabilistic sampling method, and studies comparing inferred demographics with inquired demographics have demonstrated that the pools of respondents are not identical (Keeter & Christian, 2012). And while Santoso et al. (2016) find that there is no "*prima facie* case for concluding that GCS's inferred demographics (at least on age, gender, and geography) are so out of line with other information that they should be categorically rejected" they do note that their findings still can not "put to rest doubts caused by the relatively high degree of noise in implied demographics, especially for variables beyond gender and age" (p. 357). More specifically, Santoso et al. (2016) found that 75-80% of respondents self-reported the same gender that was inferred by Google, and about 50% of respondents self-reported the same age category that was inferred by Google. While the online experiment in this study does not analyze demographical characteristics (as there is no equivalent data for the non-response group), the shortcomings of inferring demographics using IP data is worth noting considering when assessing the representativeness of the sample and the implications for external validity.

Random assignment manifests quite differently with GCS, which are worth noting considering the importance of random assignment between treatment and control groups within experimental design. This is largely influenced by the way GCS aims to target a representative subject pool. GCS uses inferred characteristics of online users attempting to access published content to match with national parameters, and then applies a stratified sampling process to target and obtain responses from the proper proportion of

individuals by age, gender, and location that is needed for active surveys (Keeter & Christian, 2012; McDonald et al., 2013). As a result of this survey delivery model, a between-subjects experiment was designed in this online experiment, with two different surveys created for each of the issues of this experiment and delivered to independent samples. In consideration of the focus of this study, the strengths of using GCS far exceeded the weaknesses, rendering it a particularly suitable platform for this one-question survey experiment, and previous evidence-based research has concluded that GCS is a useful platform for survey experiments that have a limited number of questions like this one (Roughton & MacKay, 2017; Santoso et al. 2016).

Experiment protocol

This survey experiment was targeted specifically to users inferred to be from the US states of California and Washington – the same states explored in the case studies chapter. While the lab experiment assessed eight issues, this online experiment used only four issues, classified as either more or less divisive topics within the California and Washington population pools. To increase likelihood of topic relevance and salience, these issues were derived and adapted from the White House Petitions website (http://petitions.whitehouse.gov). The issues – along with the petition prompts, are provided in Figure 3.3.

Figure 3.3 Four topics and prompts used in online experiment

MORE DIVISIVE ISSUES

Same-sex marriage

Some people now want to ban same-sex marriage in your state by holding a referendum so that citizens can veto the law. If asked, would you sign such a petition to ban it?

Immigration

Some people want to have illegal immigrants deported by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

LESS DIVISIVE ISSUES

Aviation safety

Some people want to establish better flight safety standards by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

Anti-slavery

Some people want to establish more effective anti-slavery laws by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

Each of these issues was delivered as a one-question survey, and two separate surveys were written for each question to create a control and treatment vignette. The visibility treatment that was applied included a disclaimer regarding the online accessibility of public records for referendum campaigns in the states of California and Washington. This bold font, red-lettered treatment statement was the only difference between the control and treatment protocols, as illustrated in the control group survey in

Figure 3.4 and the treatment group survey in Figure 3.5. The survey questions did not ask for a real signature from a user, but instead asked whether or not the user would be willing to support an issue if faced with a real survey, as a proxy for popularly initiated petitions that were regularly circulated in these states.

Figure 3.4 Template for Control Vignette Surveys

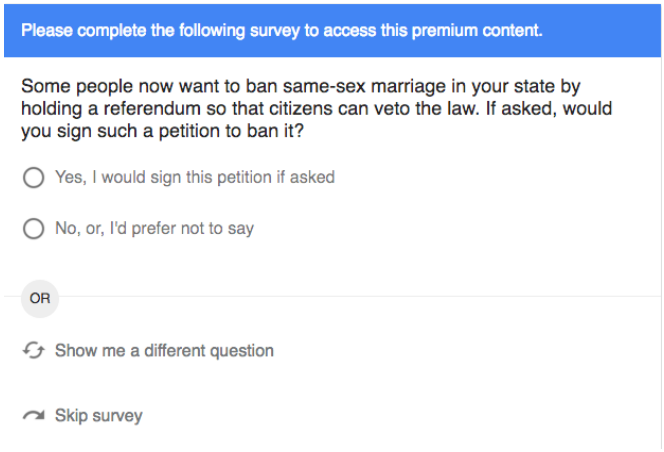
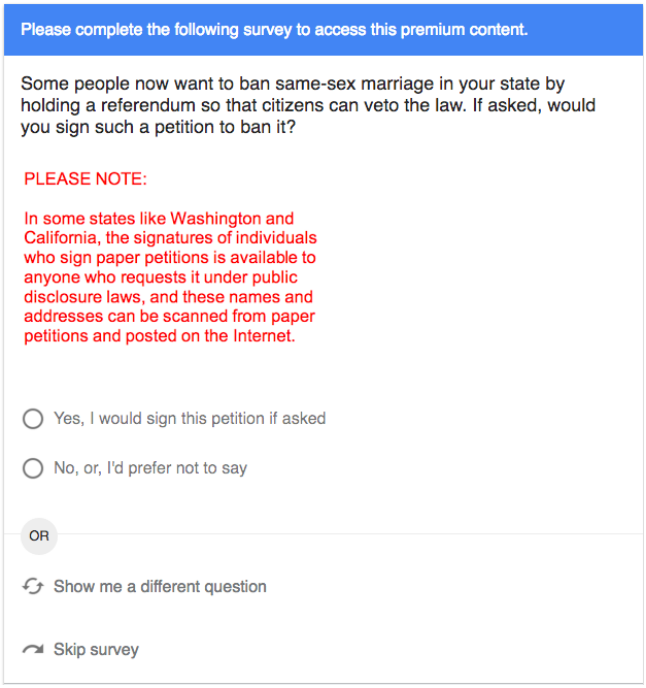


Figure 3.5 Template for Treatment Vignette Surveys



The dependent variable that was measured in this experiment was the participation rate in the survey, which was calculated as the proportion of the total number of subjects who participated in the survey (who had indicating they would sign or not sign a survey), to the total number of subjects that were presented with a survey. This latter figure is referred to within the GCS platform as the "Number of Impressions," which is the total number of times the survey was offered to a subject from the population. A total of 106,137 subjects formed the sample size in this experiment, and differences in participation rates between the control and treatment groups were tested using a similar statistical inference that was applied to assess the findings of the lab experiment. This included difference-in-proportion hypothesis testing, confidence interval constructions, and logistic regression modeling.

The experiment took ten days to retrieve the necessary number of completed survey responses. Prior to being deployed, the experiment received CUREC approval for ethical compliance from the University of Oxford, as well as approval from GCS who employ their own internal requirements for surveys, regulating content that can be deemed too offensive or controversial. A summary of the experimental validity is provided in the next section, while results of the analysis are provided in Chapter 6.

3.2.3.1 Internal validity of online survey experiment

Compared with the lab experiment, this online experimental design manifested a higher degree of external validity – although there was much less control over confounding variables. This section first discusses considerations for internal validity including treatment design and subject bias, before presenting an overview of external validity.

The design and delivery of the treatment was motivated by an attempt to diminish or mitigate the usual threats to internal validity like treatment diffusion and learning bias. The treatment statement was worded in simple and clear language, and formatted in bold red lettering to render it a distinct element within the overall treatment vignettes that made it less likely to go unnoticed. Furthermore, there is strong evidence from response time data to show that the treatment statement was read and considered by subjects in the treatment groups. If subjects were to simply click an option at random in order to proceed to the published content they were originally seeking before interfacing with this online survey, it would cause a considerably inaccurate outcome in the treatment effect measurement (Berinsky et al., 2014; Santoso et al. 2016). Fortunately for this study, GCS measured the response times for all subjects who participated in the survey which was used to provide some check for this threat, which was calculated as the amount of total time a subject spent between the moment they first interfaced with the survey question, to the moment they indicated their position on an issue by selecting an option. The average time for the treatment group was 28.2 seconds – approximately six seconds longer than the response time for the treatment group among subjects who chose to participate in the survey. This is the approximate amount of time it would take to read the short treatment statement. Additionally, the findings in Chapter 6 provide the full results of a difference in means hypothesis test, which show strong evidence at the 99% confidence level to reject the null hypothesis that the average response time for the treatment group was equal to or less than that of the control group. As the rest of the experiment was identical

in design between both groups, the significant increase in time suggests that the treatment was successfully delivered to subjects in the treatment group.

Perhaps the most important consideration of treatment validity with regard to GCS's approach to survey delivery is with regards to random assignment. As Santoso et al. (2016) note, GCS will initially deliver surveys at random (within any set geographic or demographic parameters), however if the first set of incoming responses do not match the needed characteristics of a targeted demographic, then it will adjust dynamically in order to target more individuals whose inclusion will help achieve demographic requirements. However, since heterogeneous treatment effects on demographic traits were not the focus of this study, this aspect of GCS's delivery methodology was less threatening to the internal validity of this study focusing on the causal effect of a disclosure statement on participation in the experiment.

Regarding other potential challenges to internal validity, there was no interaction between the experimenter and the individual subjects as there was in the lab experiment, so there were no serious threats from experimenter bias on response in the online experiment. There was also little concern regarding treatment diffusion, since it was unlikely that multiple subjects could have interfaced with this experiment in a manner that would have allowed them to compare control and treatment vignettes.

In terms of survey response, the overall participation rates for this study were much lower for this online experiment than for other surveys delivered through GCS (McDonald et al., 2013). This was somewhat unexpected, as the single-question design was expected to have a lower cost barrier than multi-question surveys (Roughton &

MacKay, 2017). While the overall participation rate of approximately 11% is significantly higher than that for most Internet intercept surveys which is less than 1% (Lavrakas, 2010) and in the range of response rates for telephone surveys which ranges from 7-14%, (Pew, 2011), it is lower than the response rates for a series of one-question experiments carried out by Santoso et al. (2016), where response rates between 25-30% were achieved. This response rate is also lower than the 15% average response rate for Internet panels (Gallup, 2012), and also much lower than the average survey response rate for surveys conducted through the GCS platform (including multi-question surveys), which is 23.1% (McDonald et al., 2013). It is difficult to identify the reason for the low response rate in this survey, as it was assumed that topic salience was high and the framing of the question was simple and straightforward. While it's tempting to assume the non-response was due to the discomfort raised from the disclosure statement – indeed the very hypothesis being tested in this experiment – the difference in non-response rates between control and treatment groups was minimal (even if it was proven to be statistically significant, as will be shown in Chapter 6). This subject bias also raises concerns for external validity in terms of generalizability of results to the broader population, which is discussed in the next section.

3.2.3.2 External validity of online survey experiment

The most important threats to validity from this online experiment – particularly in consideration of not only the focus of this study but also the application of GCS's delivery platform – were representativeness of the sample, the online experience

compared with the real world participatory setting, and the validity of the treatment design.

The sample group in this experiment was quite different from that used in the lab experiment, and also not entirely representative of the broader American population. It was targeted towards individuals in California and Washington, and could only reach Internet users who were attempting to access one of the publishing websites that had a contractual agreement with Google to host surveys from GCS. However, GCS does include an algorithm to try to obtain the most representative group possible within the state's online user population in terms of age, sex, and income group (McDonald et. al, 2013). Though, as noted earlier in this chapter, there are considerable shortcomings in the accuracy of Google's inferred demographics, (Santoso et al., 2017), and this makes it difficult to make claims about the accuracy of the representativeness of the sample compared with the general population in CA and WA. Furthermore, demographic details such as age and gender are not available for subjects who did not participate in the experiment, making it impossible to assess the representativeness of the sample group that did participate from the broader group of individuals who chose not to participate. That being said, it's worth noting that previous researchers that did have access to the demographic details of non-participants have not found differences between the non-participants of control and treatment surveys (Santoso et al., 2016).

This online experiment applied a survey design that was similar in form and function to typical petitions that are popularly initiated and circulated in both online or offline domains. The key difference was that this online experiment inquired about the

likelihood of participation in a hypothetical petition-signing scenario that a subject may face, rather than directly circulating actual petitions within these jurisdictions where a threshold of participation could precipitate actual changes to state statutes in the form of a referendum (or even legislative response to a sizable threshold of signatures). However, the experience invoked within this online experiment is in fact quite similar to the decision citizens face when they are asked to sign a popularly initiated petition in any of the American states that offer this indirect form of direct democracy. Popularly initiated petitions – even when meeting a threshold of signatures – do not directly mandate changes to statues. Instead, they merely offer the possibility for a citizen to indicate their interest to facilitate an official referendum at some future date where an actual consequence of participation may manifest. That being said, a popularly initiated referendum to enact change cannot transpire in the absence of a popularly initiated petition, and this experience of an individual deciding to participate in the simulated petition in this online experiment corresponds to the experience of participating in the indirect political process in the American states that offer popularly initiated referendums.

As with the lab experiment, the treatment that was designed and delivered in this online experiment was similar to the sort of small-print legal disclaimer that would be noted on an official petition form within American states that offer procedures for popularly initiated referendums. The design of the treatment was also designed to test whether a similarly worded disclaimer regarding online access to public records could be recommended to law and policymakers depending on the observed impact on

participation in this experiment, and in consideration of the severity of reprisals from online access to petition signatures that has been documented in Chapter 4 of this study.

3.3 Conclusion

This chapter has provided details of the mixed-methods research design of this study, including the supporting methodology and protocol for evidence collection and analysis for both the case studies and experiments. The three research questions posed in this study regarding the developments and reprisals of open online access to public records (RQ1 and RQ2) and the impact of a public disclosure on political participation (RQ3) are explored through a robust multi-case analysis, a controlled lab experiment with 225 subjects, and an online experiment with over 100,000 subjects. This chapter shows how the case study approach was a powerful way to gather real world evidence from historical cases where the precise phenomenon of interest manifested. The chapter also demonstrates why the experiments designed in this study were an effective approach to assessing the impact of public disclosure notification, and whether the impact varied based on issue divisiveness or the perceived opinions of others. The next three chapters will present both the evidence and empirical findings derived from this research, beginning first with the findings from the case studies in Chapter 4.

4 Case studies of online access to public records in California and Washington

> *"Citizens shouldn't have to choose between being involved in the democratic process and subjecting themselves to acts of vengeance."*
>
> -Tim Chandler, 2009[21]

This chapter presents two case studies of modern referendums in the US to better understand the role of online access to public records in popularly initiated referendum campaigns. While the experiments in Chapter 5 and Chapter 6 provide empirical evidence for RQ3 regarding the impact of public disclosure notification on political participation, this chapter focuses on how public disclosure databases have been used to expand visibility, and to what extent they've been used to facilitate reprisals against individuals and organizations that have participated in referendum campaigns, as noted in RQ1 and RQ2:

> **RQ1**: How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns, and what are the driving motivations of individuals and organizations involved with facilitating this expanded visibility?

[21] Tim Chandler was an attorney representing the *Alliance Health Fund* in support of Proposition 8.

> **RQ2**: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?

The two cases presented in this chapter are popularly initiated referendums from California and Washington, where proponents in both cases were attempting to limit same-sex marriage rights. As noted in Chapter 3, data for the case studies was derived from interviews with key activists, evidence from court hearings and legal testimonies, blog postings, media reports, and an assessment of online databases including both original databases published by the state as well as repurposed databases produced by private citizens and campaign activists, news outlets and non-partisan transparency organizations. The case studies are presented in the same format beginning first with a contextual overview of the campaign, before providing a summary of statewide policies and procedures regarding the regulation of popularly initiated referendums. Each case study concludes with a review of how online access to public records of personally identifiable information was used and reformulated (RQ1), and the impact it had for individuals who were involved (RQ2). After presenting the case studies, a broader comparative analysis is put forth with a focus on similarities and differences in context, statewide disclosure law and policy regarding online access to public records, the repurposing of digital public records, motivations driving the repurposing of public records, and the reprisals of online public records faced by citizens. This chapter concludes with lessons learned from the two case studies for designing the experiments presented in Chapter 5 and Chapter 6.

4.1 Case #1: Proposition 8 in California

Of the 24 American states that have laws enabling the use of referendums for their citizens, California has one of the strongest traditions of implementing this procedure, when considering how often its citizens have used this instrument of direct democracy. Between 1912-2015, a total of 1,922 initiatives were titled and circulated, with 363 (18.9%) qualifying for the ballot, and 123 (33.9%) of those being approved by voters.[22] In November 2008, Proposition 8 was just one of twelve propositions that were on the California state ballot, with a total of twenty-one propositions held in that year alone ranging from gambling revenues to animal rights regulations to alternative fuels investments.

The California law that enabled initiatives and referendums procedures was codified in 1911, allowing for citizens to create, amend, or strike down statutory and constitutional laws, and could also be used for recalling elected leaders (Waters, 2003). While there were referendums prior to 1911 in California, they could not be initiated by citizens through the petition process; instead, they could only be placed on a ballot by the state legislature (Waters, 2003). The standing law enabling citizens to propose referendums is outlined in Article II, Section 8 of the California state constitution. Along with the establishment of citizen-initiated referendums, a standard procedure for petition design has also been established, with sections defined in the previous citation of the state

[22] Summary data regarding total number of California initiatives through December 2015 was retrieved from http://www.sos.ca.gov/elections/ballot-measures/resources-and-historical-information/history-california-initiatives/

Constitution, and further guidelines established in Sections 100-106 and 9000-9018 of the California Elections Code.[23]

The first step of this popularly initiated referendum procedure involves crafting the initiative. In California, proposed measures must address only one subject, and may not conflict directly with another competing initiative. In practice, petition measures are simple, direct and concise. Simple wording breaks down barriers to access, and enables a broader subset of the population to understand and participate in the process, as the usual decision-making heuristics like party cues and media coverage extant in electoral ballots are often less clear with ballot measures. Beyond the substance of the measure, formatting details of the actual petitions that will be circulated are clearly defined, including details like font size and margin spacing.

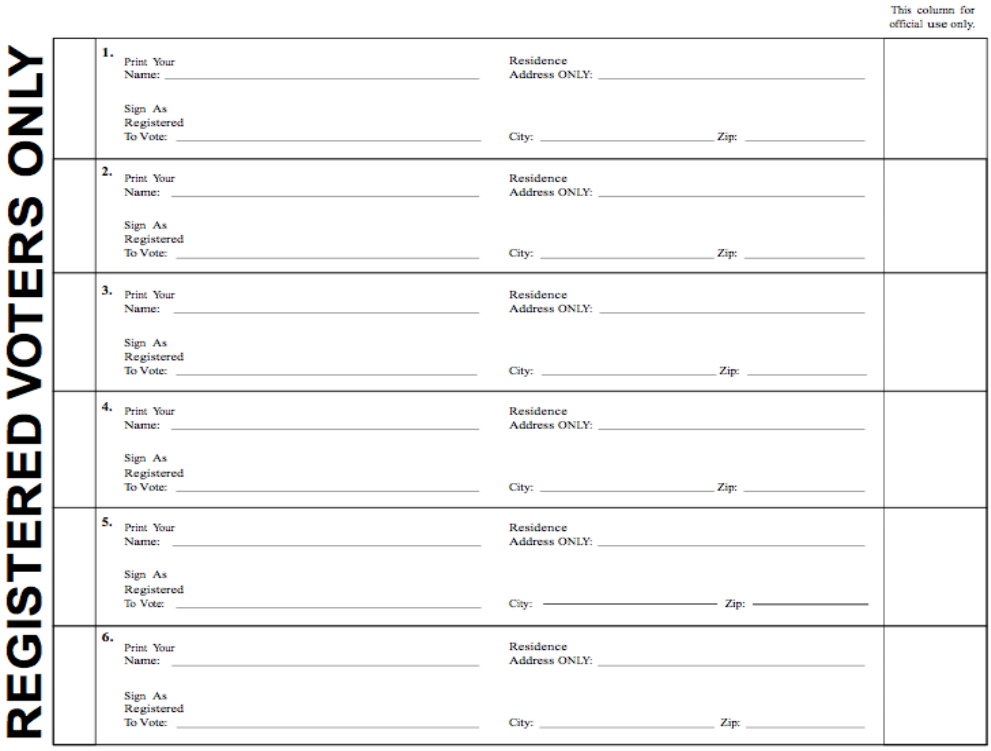
The next steps in the process are initiating and circulating the petition. In California this requires the petition proponents to submit the text of their proposed ballot measure to the state Attorney General's office, along with a $200 USD deposit, which is only refunded if the measure qualifies.[24] Upon a 30-day public review period where the proposal can be reviewed to provide input for the Attorney General's office, the Attorney General then provides a brief 100-word summary along with a title, and officially qualifies the ballot for circulation within the state. Proponents may then go about gathering signatures on the pages of their ballot, or employ volunteers or even paid staff

[23] California Elections Code Section 100-106 outlines most of the requirements regarding petitions within the initiative process. This code was retrieved from http://www.leginfo.ca.gov/cgi-bin/displaycode?section=elec&group=00001-01000&file=100-106

[24] See California Election Code, Section 9001.

to carry out the process. A template for popularly initiated petitions is illustrated in Figure 4.1.

Figure 4.1 Sample petition for popular initiatives in California



The California initiative process that gave rise to this new tactic of paid-circulation in the early 20th century has developed into a robust professional campaign industry that specializes in meeting signature thresholds and geographic distribution requirements within narrow statutory time frames (Waters, 2003). The circulation process still transpires offline, as state law does not permit electronic signatures. Though

as of 2016, this issue is continuously being contested, and future state policy with regards to electronic signatures for popularly initiated petitions remains unclear.[25]

In California, the threshold for signatures that must be reached is based on a percentage of the total number of votes in the most recent gubernatorial election (as well as the type of ballot). The number of signatures that must be collected is 8% of this figure for constitutional amendments, and 5% for statutes or veto referendums.[26] While many other jurisdictions across the states and around the world have geographic distribution requirements for signatures, this is not the case for California – signatures can come from anywhere in the state in order to achieve the aggregate threshold. In practice, far more signatures than the actual threshold are gathered and submitted, as the subsequent verification in referendum states yields nearly 25-35% of submitted signatures to be invalid for a variety of reasons.[27] Signers of these popularly initiated referendum petitions in California must be registered to vote in the state, and this registration must be valid at the time the signature is collected. Furthermore, petition circulators – whether paid or not – must be qualified state voters (this is not necessarily a requirement in other states).

Verification procedures are codified in law to ensure fraudulent signatures are excluded. Fraudulent signatures can come in many forms, including duplicate signatures, signatures of citizens who do not reside at the address listed, and even signatures of

[25] Following a legal challenge, Utah is the only state in America that permits electronic signatures for petitions in the referendum process. For more details see http://ballotpedia.org/Electronic_petition_signature

[26] See California Constitution, Article II, Section 8 (b)

[27] A range of validity rates across referendum states is available at https://ballotpedia.org/The_Signature_Check_(Equation_Format)

formerly qualified voters who have since deceased. While professional petition drive management companies – like the firm hired in the Proposition 8 initiative – can mitigate the likelihood of a circulator accepting an invalid signature, they are not flawless, and still susceptible to collecting invalid signatures.

Signature verification begins once the petitions are submitted to the county clerks of the counties in which the signatures were collected. The entire list of signatures is not fully verified for fraudulent entries. Instead, only a random sample of signatures from each county is reviewed, crosschecking printed names with addresses against voter registration files. The number of signatures in the random sample is equal to 500 or 3% of the collected signatures in that county – whichever is greater.[28] The percentage of signatures correctly verified is then used to project the overall percentage of verified signatures. If this projected figure of the total number of signatures positively verified at the aggregate level across all counties meets or exceeds 110% of the total number of signatures required to qualify the initiative, then the ballot automatically qualifies. If this projected total is less than 95% of the signatures required, then it is considered to have failed. If this projected total falls somewhere within 95-110%, then the Attorney General orders each county to carry out a full check by verifying all signatures on their petitions.

To complete the referendum process, California law requires only a simple-majority vote on the day of the election, with citizens provided with only two options: yes – to pass, and no – to reject. In the case of a failed proposition, there is no state law regulating how soon citizens can re-attempt to get the identical failed measure on the

[28] See California Elections Code, Sections 9030-9035.

ballot again by re-initiating the referendum process. If passed, measures generally take effect the day after the election, not withstanding judicial challenges.[29] Proposition 8 in California did pass, though only by a narrow margin as discussed in the next section, which provides background details of this specific case.

4.1.1 Background of case

The background of California's Proposition 8 on same-sex marriage passed in November 2008 begins nearly a decade earlier with the passage of Proposition 22 in March 2000. This earlier proposition specified that only marriage between a man and a woman would be valid or recognized in California.[30] It was a statutory initiative, rather than a constitutional amendment, thereby requiring fewer signatures to reach the ballot. Later in February 2004, the Mayor of San Francisco circumvented Proposition 22 by ordering city and county courts to begin issuing marriage licenses to same-sex couples who applied, re-igniting the same-sex marriage debate again across the rest of the state along with various legal challenges, culminating in a case before the California Supreme Court in May 2008. The court ruled in a 4-3 decision that Proposition 22 violated the equal protection clause of the state's constitution.[31] As a result, marriage between members of the same sex became not only valid and recognized by the state – but also protected by the state constitution. This judicial decision triggered same-sex marriage opponents to leverage

[29] See California Constitution Article II, Section 10 (a)
[30] Details of California's Proposition 22 from 2000 are available at http://vigarchive.sos.ca.gov/2000/primary/propositions/22.htm
[31] *In re Marriage Cases*, 43 Cal. 4th 757 (2008).

the power of the well-established popular initiative process and amend the constitution to once again eliminate the right for members of the same-sex to marry.

The popular initiative campaign officially began in October 2007, when five Californian citizens submitted the full text of an initiative (that would later be re-named Proposition 8) to the Attorney General's office along with a filing fee of $200 USD, to notify the state of their intention to begin circulating their petition and gathering signatures to amend the state constitution. The text of this initiative was identical to Proposition 22 passed 8 years earlier – though it differed on one key point: it was being re-proposed as a constitutional amendment, rather than an ordinary statute. The text in Figure 4.2 highlights the section of constitutional law proponents were seeking to amend.[32]

Figure 4.2 Text of California Proposition 8 from 2008

SECTION 1. Title

This measure shall be known and may be cited as the "California Marriage Protection Act."

SECTION 2. Article I, Section 7.5 is added to the California Constitution, to read:

Sec. 7.5. Only marriage between a man and a woman is valid or recognized in California.

As a constitutional amendment, this petition required 694,354 valid petition signatures – 8% of the total votes cast in the most recent gubernatorial in November 2006 – to qualify for the ballot. The proponents of this petition employed a petition drive

[32] The full text of the initiative is available at http://vigarchive.sos.ca.gov/2008/general/title-sum/prop8-title-sum.htm

management company – *Bader & Associates, Inc* – to gather the necessary signatures.[33] The use of such companies is standard in California petition drives, and this particular company was hired for two other state propositions that year. The cost for gathering the requisite number of signatures for Proposition 8 was $882,900 USD, equaling a cost of approximately $1.27 USD per required signature to get same-sex marriage from a small-scale petition drive to an official statewide referendum for citizens to decide.[34]

Once collected, petitions sheets were then submitted to the Attorney General, who confirmed in June 2008 that 1,120,801 signatures were submitted, which then initiated the verification process. During this mandated verification process, officials from each county within the state which had citizens listed on the petition were required to verify 500 signatures or 3% of the number of signatures filed from their county alone – whichever figure was greater. 763,790 projected valid signatures were required in order to meet the 110% threshold, and avoid a full verification count, as stipulated in the California Elections Code.[35] This threshold was met before all 58 counties completed their verification process, with 764,063 signatures projected as valid. When considering the counties that completed the verification process, the number of valid signatures ranged from 70.0% to 91.9%, demonstrating the critical role of verification procedures.[36] In California, invalid signatures are not counted towards the total, while duplicate

[33] This figure from *Bader and Associates* (along with further details about the petition drive management company) was retrieved from https://ballotpedia.org/Bader_%26_Associates,_Inc.
[34] Ibid
[35] The official press release noting the verification of signatures and threshold requirement was retrieved from http://admin.cdn.sos.ca.gov/press-releases/2008/DB08-068.pdf
[36] The verification figures were published on the Secretary of State's website, and an archived file of this document was retrieved from http://web.archive.org/web/20080605103301/http://www.sos.ca.gov/elections/pend_sig/init_sample_1298.pdf

signatures are 'penalized' in the final projected figure of valid votes using a statutory formula that weights the value of each duplicate signature in the sample even greater in the overall raw count (in many other states, duplicate signatures are simply not counted).[37]

Later re-titled by the Attorney General as "Eliminates Right of Same-Sex Couples to Marry" instead of the originally proposed title "California Marriage Protection Act," the proposition ultimately passed in November 2008. The result was 7,001,084 (52.2%) voting 'yes' on the proposition, and 6,401,482 (47.8%) voting 'no.' Consequently, the majority of voters who voted 'yes' were able to pass the initiative to amend the California Constitution to eliminate the right of same-sex couples to marry, and provide that only marriage between a man and a woman be valid or recognized in the state of California.

The same-sex marriage issue was a highly divisive topic amongst the American public in 2008, and Proposition 8 proved to be a similarly divisive issue amongst California's registered voters. Contributions were sent from all over the state and across the country in both support and opposition for this ballot measure, with each side raising more than $40,000,000 USD, as noted in Figure 4.3.

[37] For details on how duplicate signatures are included in the formula, See California Code of Regulations, Title 2, Section 20531.

Figure 4.3 Contributions raised in support and opposition of CA Proposition 8

Campaigns for Proposition 8	Amount raised (USD)	Number of contributions
Support for Prop 8	41,079,400.41	47,395
Opposition to Prop 8	47,841,436.13	101,670
Total	88,920,836.54	149,065

Source: Maplight. Accessed 20th February 2016. Retrieved from http://maplight.org/california/power-search

While tens of thousands of these contributions were small individual donations, a number of them exceeded $1,000,000 USD, received from wealthy donors on both sides of this issue. In the state of California, all contributions above $100 USD were required to be disclosed, and financial contributions could come from both individuals as well as organized committees, which were also required to register their status with the state. With regards to committee donations, non-Californians could participate by financing committees that supported or opposed the referendum, though only citizens who were registered to vote in the state of California were legally entitled to sign popularly initiated petitions and vote in state-wide referendums. As shown later in this chapter, the online public records of campaign finance information provided by the State had been used to significantly enhance visibility of donors for the 'Yes-on-8' campaign.

4.1.2 California public records law and policy

There are two sections of state law in California that regulate disclosure in popularly initiated referendums: laws that regulate petitions and signatures, and laws that regulate

campaign finance. As with many other American states, California had a well-established Public Records Act throughout the duration of this case study, enabling Freedom of Information Requests for citizens to access information related to government activity. A crucial element of this state Public Records Act was an exception that limited access to lists of signatures from popularly initiated referendums to state officials involved in the verification process, as well as proponents of the initiative in instances when the threshold requirement was not met (ostensibly as a check against not only fraud, but also county and state governments). This was a key legal element of the California case that differed in the Washington case, as will be explored later in this chapter. The next section will review the two areas of law regulating access to public records of petition signatures and campaign finance information in popularly initiated referendum campaigns.

4.1.2.1 Petition signatures

The disclosure of public records regarding petition signatures was significantly more restricted than the disclosure of campaign finance records, which limited online access and consequently the repurposing of online public records databases. In California's legal framework governing referendums, popularly initiated petitions have disclosure laws regulating three instances of initiating a petition: the original initiators of a petition, those circulating a petition, and those signing a petition. Elections Code Section 9000-9018 provides the regulations that apply to initiative and referendum measures affecting the

constitution that Proposition 8 was seeking to amend.[38] As noted in Section 9002, "the Attorney General shall initiate a public review process for a period of 30 days" of submitted documents for a proposed initiative measure by "positing the text of the proposed initiative measure on the Attorney General's Internet Web site." California required six state residents to begin the ballot-proposal review process, and in addition to names, residential addresses were also required. This was the first instance of online public disclosure that was mandated by law, and related to only the legally defined proponents. As noted in Section 9608, these names are kept on file with the State for "not less than eight months after certification of the results of the election for which the measure qualified...or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the election official." Despite this regulation, in the digital age, these names of the Proposition 8 proponents were widely republished across the Internet and easily accessible long after the minimum requirement for which they were held on official government file.

The next instance of disclosure regulation relates to petition circulators during the signing stage. Circulators may be the original campaign proponents, other volunteers, or even paid-circulators hired from petition-drive companies – which are now the norm rather than the exception in the state of California due to the extensive threshold requirements for signatures and economies of scale pertinent to signature collection. As noted in Section 9607, those soliciting signatures are prohibited from using the signatures

[38] This section of state regulatory law should not be confused with regulations applying to county, municipal, or district-wide referendums, which although similar in structure and effect, will not be covered here. These regulations can be found in Division 9, Chapters 2-4 of the California Elections Code, which, along with the rest of the California Elections Code cited for state referendums, were retrieved from http://www.leginfo.ca.gov/.html/elec_table_of_contents.html

"for a purpose other than qualification of the proposed measure for the ballot." Signed declarations promising to adhere to this are required by all circulators, and kept on file for 8 months after the election for which a ballot qualifies, as with proponent names. While circulators are not required to sign or share their identity with potential signers, there is a disclaimer on petitions sheets that notes that the petition may be circulated by a paid signature gatherer or a volunteer, and that citizens have the right to ask when propositioned for a signature. As Section 104 of the Elections Code notes, the printed name and full address of the circulator are required to be disclosed to election officials, which are a matter of public record and therefore in the digital era can receive much greater visibility with online disclosure. In the case of Proposition 8, not only are circulator names available from each county, but so too were the details of the paid petition-drive companies.

The final and most prominent instance of disclosure of public records regulation for popularly initiated referendums relates to the full set of signatures collected for a petition. As noted in Section 9020 (a) of the Elections Code, for a signature on a popularly initiated petition to be considered valid, it must include a signature, printed name, residential address in the state of California including street and number along with city or community. These signatures are used by each of California's counties for purposes of verification, as described in Section 105, and checked against voter registration records within respective counties. If the information provided in the individual signature section on the petition is either 1) incomplete or 2) does not match the voter's registration details, then the signature is considered invalid. However, these

signatures are prohibited from being made public, and therefore cannot be accessed offline or online. Instead, only final results of the verification process are presented for the public record. In the case of Proposition 8, the Secretary of State's Office posted a 'News Release' on 2nd June 2008 noting the results of the verification process, as noted in a section of the release provided below[39]:

> In order to qualify for the ballot, the marriage definition measure needed 694,354 valid petition signatures, which is equal to 8% of the total votes cast for governor in the November 2006 General Election. The initiative proponents submitted 1,120,801 signatures in an attempt to qualify the measure, and it qualified through the random sample signature check...
>
> ...A measure can qualify via random sampling, without further verification, if the sampling projects a number of valid signatures greater than 110% of the required number. This measure needed at least 763,790 projected valid signatures to qualify by random sampling, and it exceeded that threshold today with 764,063 projected valid signatures (2008).

In addition to this aggregate verification result, more granular data was provided at the county level, with each county posting the number of signatures verified against residences registered in that county.[40] However, none of the signatures from the aforementioned verification procedures were a matter of public record. This meant that not only were they prohibited from being posted on the Secretary of State's online database alongside the campaign finance information for various Propositions – but they were also exempt from Freedom of Information Requests under the Public Records Act.

The Public Records Act for the state of California, stated in Government Code Section 6250-6276.48, was originally established in 1968. The general mission of the Public Records Act is to provide access to information in possession of public agencies:

[39] The posted 'News Release,' identified as DB08:068, was retrieved from http://www.sos.ca.gov
[40] The full verification results for all 58 California counties in the case of Proposition 8 can be retrieved in spreadsheet format from http://ww.sos.ca.gov

"public records are open to inspection at all times during the office hours of the...agency and every person has the right to inspect any public record, except as...provided, [and to receive] an exact copy" of an identifiable record unless impracticable."[41] Section 6250 further notes: "In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." The section of California government code that deals directly with prohibiting petition details is Section 6253.5, which states:

> Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the **petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor** (sic)... However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court. (Emphasis added)

This was an important legal distinction in the case of Proposition 8 in California, as it contrasts with Washington's Public Records law which did not provide an exemption for popularly initiated petitions in statewide referendums. Contrastingly, California law did

[41] A summary of the Act, including what is and what is not covered, is available on *the First Amendment Project* website, which was retrieved from http://www.thefirstamendment.org/publicrecordsact.pdf

mandate online access to campaign finance records of popularly initiated referendum campaigns, as discussed in the next section beginning with an explanation of the state's Political Reform Act concerning transparency and public disclosure.

4.1.2.2 Campaign finance information

Campaign finance regulation is regulated by California's Political Reform Act. The history of California's Political Reform Act began in the early 1970s, when Watergate and the resignation of President Richard Nixon motivated a number of reformers to organize a campaign to mitigate corruption by increasing transparency throughout the state.[42] The Act was proposed and passed as Proposition 9 in 1974, and justified the need for campaign finance regulation by noting in Section 81001 that "the influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate" and that "the wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions." As noted in Section 81002, the Act aimed to make receipts and expenditures in campaigns "fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited." The Act regulates campaigns that are established to support elections and ballot measures, contributions limits for those campaigns, and disclosure requirements for the public record.

[42] The details of this Act's history is posted on the California Fair Political Practices Commission website, which can be retrieved from http://www.fppc.ca.gov/about-fppc/about-the-political-reform-act.html

As noted in Section 84107, any committee which is primarily formed with the purpose of supporting or opposing ballot measures qualified from popularly initiated petitions must register, and further file quarterly campaign statements (30 days after each quarter of the calendar year, as noted in section 84202.3). The disclosure threshold, as indicated in Section 84211, was $100 USD, which was specified as the cumulative amount given by a single person for a single campaign during a single campaign cycle. The disclosure information required for the public record regarding individuals who had contributed $100 USD or more were full name, street address, occupation, employer or business name, and the date and amount received by a committee (cash contributions above $100 USD were prohibited, as were anonymous contributions totaling $100 USD in a calendar year).

While the original Act of 1974 was both progressive and comprehensive, its original authors could not have anticipated the development of the Internet, and what online access to digital databases containing personally identifiable information from public records could enable. As a result, the Act was amended in 1997 to include a key subsection entitled "Online Disclosure" (Sections 84600-85615), noting that "advances in technology have made it viable for disclosure statements and reports required by the Political Reform Act to be filed online and placed on the Internet, thereby maximizing availability to the public." The online database was mandated to be published in an easily understood format and free of charge, with provisions made for the relevant office or agency to provide assistance to members of the public seeking access to the information when requested. Street names and house numbers were required for state

records, however the state was prohibited from posting these items online. The evidence presented later in this case will show that this prohibition did not prevent the publication of online databases which were able to link data from the online public records database of campaign contributions together with street names and house numbers data made available in other public records websites.

This 'online disclosure' amendment also included time deadlines for larger contributions made to campaigns: contributions of $1000 USD or more in the 90 days before an election day were required to be reported online within 24 hours, as noted in Section 85309. As will be discussed later, this timing requirement was a critical element that enabled campaign activists to focus their attention on only the largest donors, and almost in real-time – something that was never before possible. It's also worth noting that many donations are received far larger than this threshold, as there are no limits to spending in referendum campaigns in California, unlike with candidate elections. Regardless of amount, all contributions were required to be made available on the online database for at least ten years after submission, after which it was then to be archived by the state (and still made available to anyone requesting information through the provisions of the California Public Records Act). However, other websites that have re-published this data are not mandated to adhere to these aforementioned timelines for information removal, and therefore the data can still be a visible part of the public record online long after the ten-year posting deadline has passed.

As this section has shown, California's legal mandate for providing online access to public records is well established, though it explicitly excludes petition signatures, and

explicitly includes campaign finance information. However, these laws do not regulate who can access public records information, or how public records information can be used once posted online. This legal mandate which regulated availability but not use enabled the myriad of ways the data was used and repurposed in the case of Proposition 8. As the next section will show, the key players that used and repurposed the data that was published in these digital databases in the case of Proposition 8 were either campaign activists, news media outlets or non-partisan transparency organizations.

4.1.3 Use and repurposing of public records databases

The open access to public records regarding campaign finance for Proposition 8 raises the question as to who are the main audiences and users of these online databases, and what drives the motivations behind the ways in which they re-purpose this data to enhance visibility in some way. This section answers this question by first providing details about the original publication of online databases by the State, before presenting the findings regarding the various players that used and repurposed this data.

To comply with the California Political Reform Act along with its subsection regarding online access to public records, the Secretary of State published and regularly updated an online donor database containing details of donors to both sides of the Proposition 8 campaign. California's elections code required campaigns that had organized in support and opposition to a ballot measure to disclose both individuals and committees who made contributions above a threshold of $100 USD (La Raja, 2014). This mandatory disclosure was ostensibly designed to share the power of scrutiny and

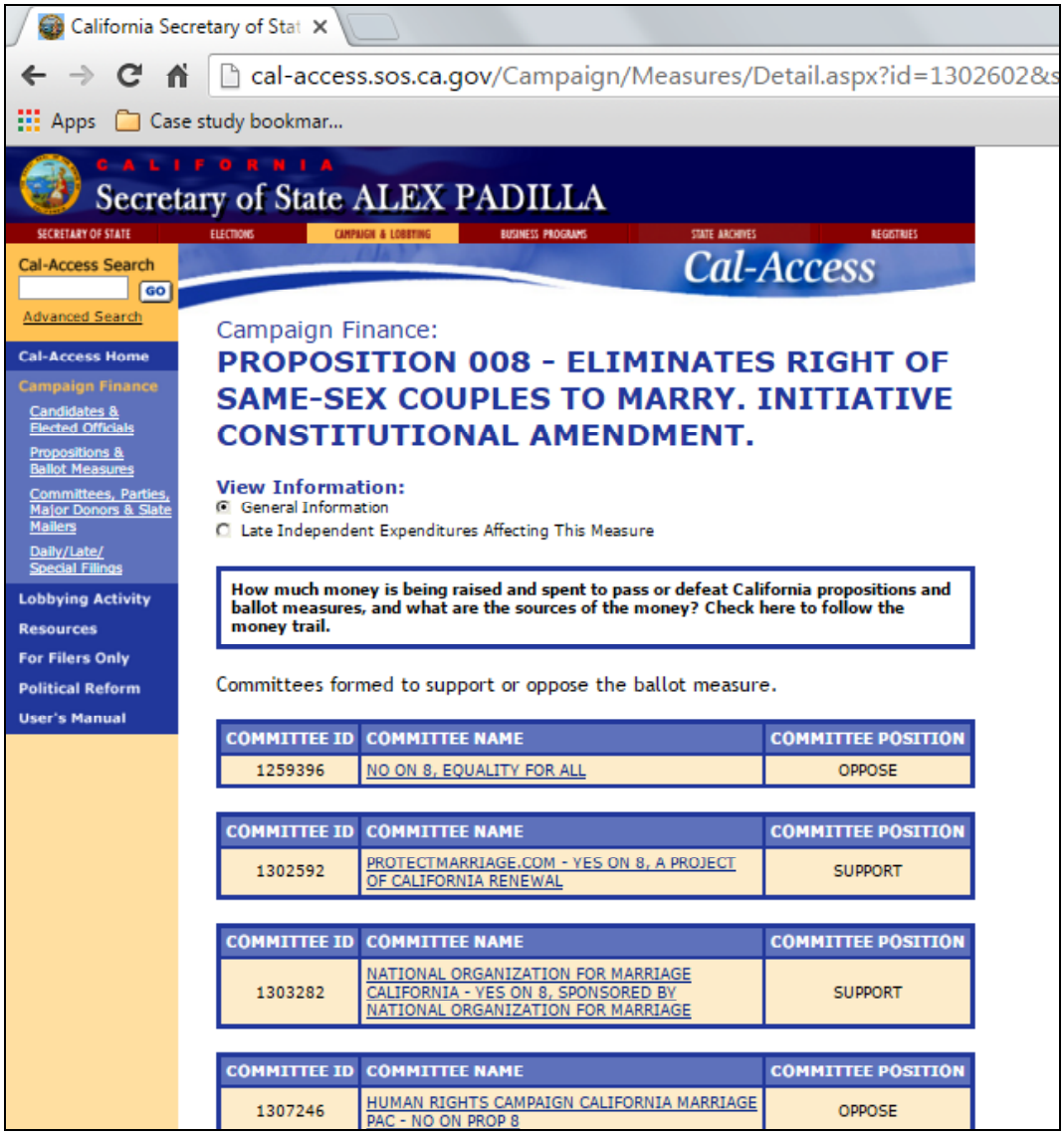
oversight with the public. While access to public records of campaign donations above the disclosure threshold had been available for decades, its accessibility in the pre-digital age was much more limited, as was the ability to use and repurpose this data in an efficiently and effectively. Understood within Fung's (2013) framework for information transparency, the availability element has remained unchanged while the accessibility element has increased considerably.

California provided access to campaign finance information on a web portal hosted on the Secretary of State's government domain.[43] The title of this Internet portal was "Cal-Access" and their stated mission on their website was to provide "financial information supplied by state candidates, donors, lobbyists, and others." The referendum process was included within this domain, and the website offered a "Power Search" function that provided "quick access to useful summary information at the contributor, candidate, ballot measure and campaign committee levels with options for sorting and further manipulating the data," as noted on their website. While in candidate elections supporters could contribute funds to either a candidate or a committee supporting a candidate, in referendums all contributions were made directly to committees that have registered to campaign for or against a referendum. Proposition 8 inspired 27 committees to form either for or against extending same-sex marriage rights, and so all donations were made to one of these campaigns. Figure 4.4 provides a screen capture of the online public records of campaign contributors for Proposition 8. As illustrated in the screen

[43] The web address for this public records database is http://cal-access.sos.ca.gov/.

capture, this state-administered online database provided committee names and positions, with committee names hyperlinked to more detailed financial information.

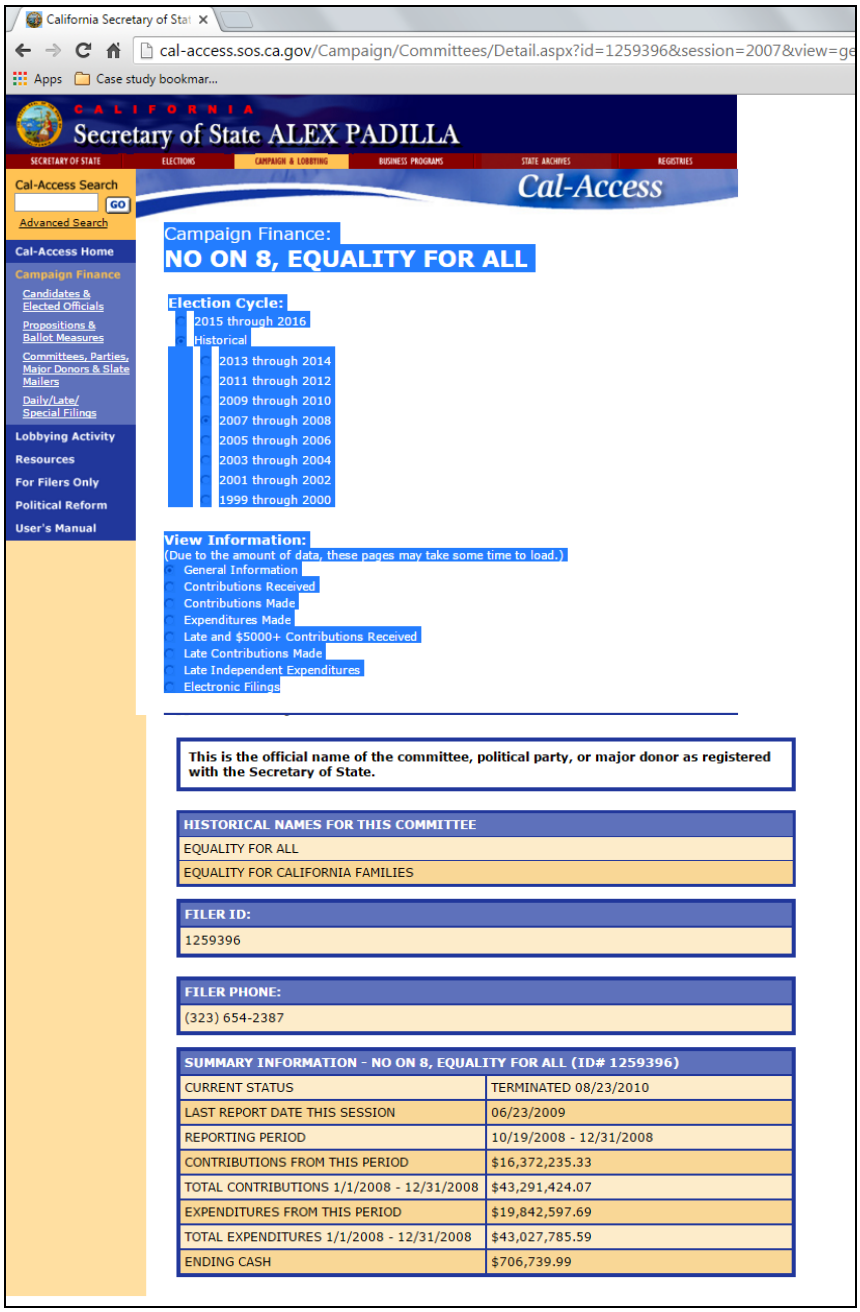
Figure 4.4 California Secretary of State online database of campaign donors



Source: Cal Access database. [Screen capture]. Accessed 20th February 2016. Retrieved from http://cal-access.sos.ca.gov

When a user selected one of the hyperlinked committees, a new page opened containing aggregate details about contributions and expenditures, as illustrated in Figure 4.5.

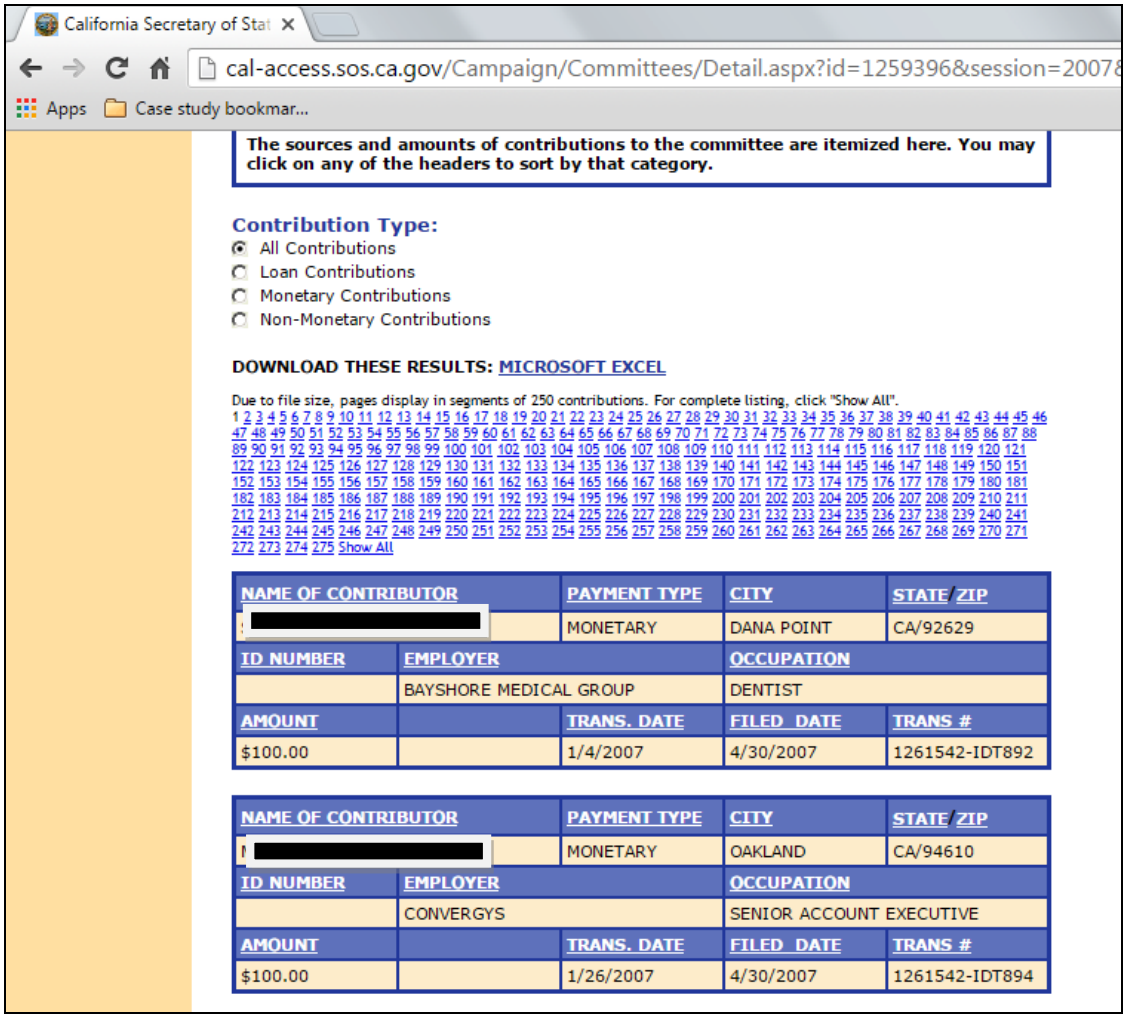
Figure 4.5 Campaign finance details for "Equality for All" Committee



Source: Cal Access database. [Screen capture]. Accessed 20th February 2016. Retrieved from http://cal-access.sos.ca.gov

The summary data on this page was still at the broader committee level. However, the menu above the summary page provided options to view and scrutinize details at the individual contributor level, as shown in Figure 4.6.

Figure 4.6 Individual Contributions Received for "Equality for All" Committee[44]



Source: Cal Access database. [Screen capture]. Accessed 20th February 2016. Retrieved from http://cal-access.sos.ca.gov

[44] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

These more detailed pages provided records of contributor names, amounts, payment type, city, state, and zip code, in addition to employer details. As illustrated in Figure 4.6 the "Equality for All" campaign – the most financially powerful of all the committees advocating against the passage of Proposition 8 – had 275 pages of contributors in this database aggregated from multiple filings which were submitted to the state for disclosure at regular quarterly intervals – including filings made after Election Day.

This full database was further provided for download in spreadsheet format as a Microsoft Excel file, which enabled easier processing and analyzing of the data offline, where it could be crossed or integrated with other datasets to create new insights based on the motivations and objectives of the individual or organization involved. Access to these downloadable spreadsheet files – like with the online public records portal – was not restricted by the state of California, and as noted before there were no laws regulating how downloaded data could be used or repurposed. This made it significantly easier for individuals and groups to download, process, and republish or repurpose this data, which amplified the magnitude of visibility of the original public record regarding contributors to both sides of the Proposition 8 campaign. The next three sections will assess these digital reproductions by campaign activists, news media outlets and non-partisan transparency organizations and present evidence that was gathered from interviews, court cases, blog postings, media reports, and a comprehensive investigation of repurposed databases derived from state-sanctioned public records.

4.1.3.1 Campaign activists

A few months before the November 2008 referendum a site called *Californians Against Hate* was founded by a prominent California activist and political consultant named Fred Karger.[45] The motivation behind this website was undoubtedly to bring greater visibility to the State-disclosed financial backers of Proposition 8, as noted in the mission statement on the organization's website:[46]

> "Californians Against Hate was founded in July 2008, just after Proposition 8 qualified for the November 4th ballot. **We wanted to draw attention to the major donors to the Yes on 8 campaign** [emphasis added]. These opponents of same-sex marriage spent over $2 million just to qualify this constitutional amendment to take away our newly acquired freedom to marry. If these individuals, businesses, and organizations are so adamant in their desire to turn back the clock and take away our civil rights, then the gay community, our families and our friends will fight back.
>
> We have posted over 800 names of those who gave $5,000 and up (many way up) on our "Dishonor Roll." This can be found on the home page of our web site: www.californiansagainsthate.com. **We want to make sure that our millions of friends and allies throughout the United States know exactly who contributed vast sums of money against us** [emphasis added].
>
> Californians Against Hate is organized as a California nonprofit public benefit corporation, exempt from taxation under section 501(c)(4) of the Internal Revenue Code. It was completely independent and not affiliated with the official campaign committee opposing Proposition 8, Equality for All – No on 8. **Our funding comes from individuals who believe that the truth should be known about those who funded their campaign of hate** [emphasis added]."

This website leveraged the digital databases to amplify publicly disclosed names, contribution amounts and workplace details. Karger – who had then spent a few years as a gay rights activist – used disclosed details from the state to facilitated boycotts against individuals and businesses that had contributed towards the campaign in favor of

[45] *Californians Against Hate* has since changed its name to *Rights Equal Rights.* The original name is used throughout this study.
[46] Retrieved from the *Californians Against Hate* website: http://www.californiansagainsthate.com/about/

prohibiting same-sex marriage through the passage of Proposition 8. In addition, his website, www.californiansagainsthate.com, listed a *Dishonor Roll* to disclose the details of all major donors who contributed more than $5,000 USD by collecting public information from the California Secretary of State's Office along with information related to the business interests of the largest donors. The *Dishonor Roll* also included contact details of the associated businesses. Karger made his motivations clear by further stating: "individuals and businesses gave a vast amount of money to take away our equality, and we want you to know who they are." The contact details stopped short of listing the home phone numbers or private residential details. Karger declared in an interview that this was by design, as he did not want to encourage harassment or harm against individuals that were listed as big donors. The long list he published included not only individuals of fame and public prominence, but also registered organizations and businesses, as illustrated in Figure 4.7. A footnoted citation at the bottom of this *Dishonor Roll* page linked directly back to the California Secretary of State Campaign Finance website, demonstrating the authenticity of the original source. Figure 4.8 illustrates a closer view of the 'Dishonor Roll' graphic, including hyperlinks for additional details regarding those listed.

Figure 4.7 The Dishonor Roll on the Californians Against Hate website



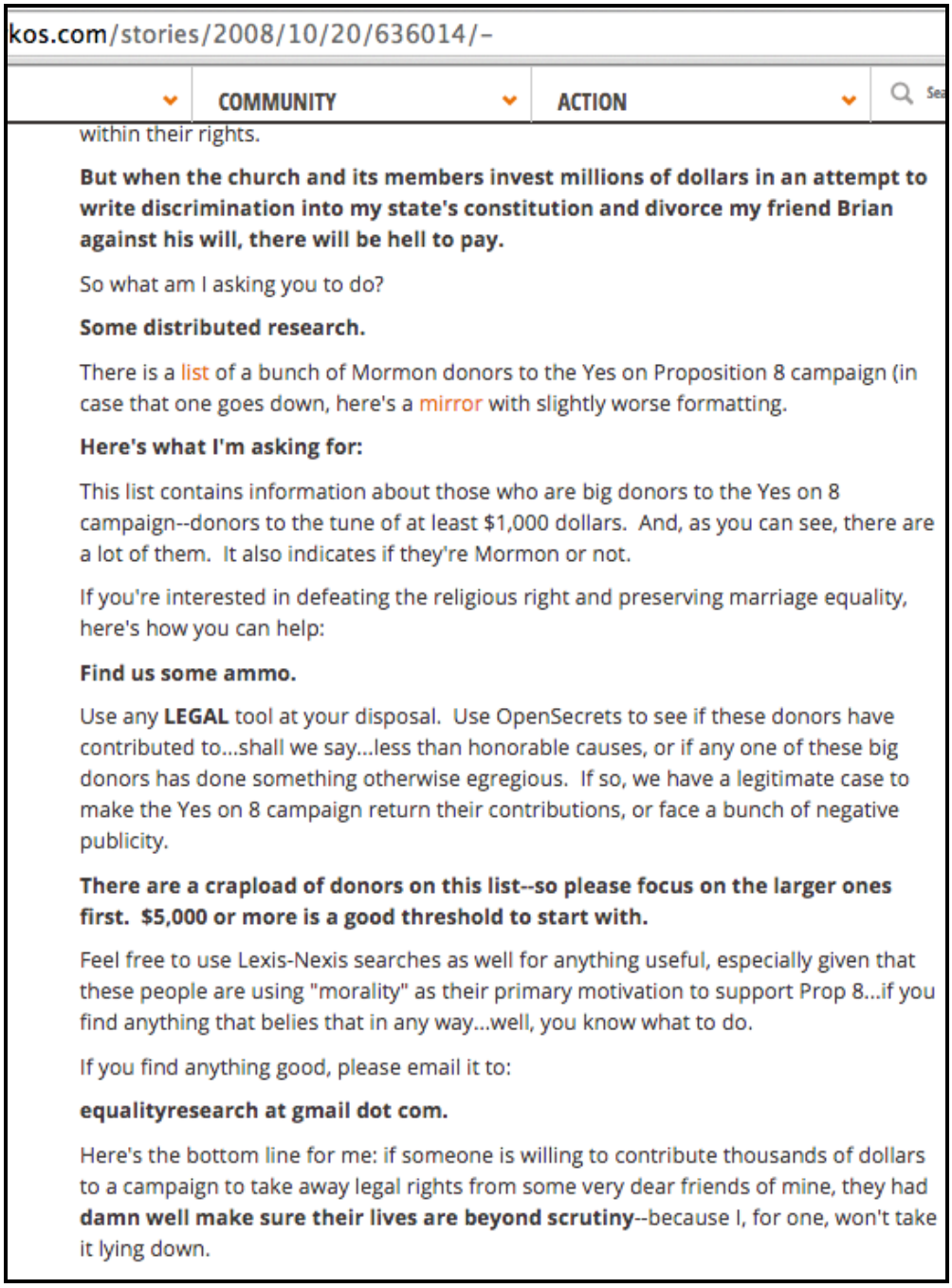
Source: Californians Against Hate Dishonor Roll. [Screen capture]. Accessed 20th February 2016. Retrieved from http://www.californiansagainsthate.com/dishonor-roll/

Figure 4.8 'Dishonor Roll' of Proposition 8 Supporters



Through his own investigation into the funding of Proposition 8 – particularly with regards to contributions being received from individuals and organizations from outside of California, Karger soon became suspicious of an organized campaign backed by the Mormon Church which was headquartered in Utah, a nearby western state. He began examining other records that were indexed through Google, including donor records in other Mormon-favored campaigns and alumni records of graduates of Brigham Young University (a prominent Mormon university in the US) (Youn, 2013). As more evidence of the Mormon Church's influence came to light, an activist named Dante Atkins from Daily Kos made a call for an online distributed research effort in order to more effectively scrutinize the massive databank of information that was available (Atkins, 2008). As shown in a screenshot of the Daily Kos website in Figure 4.9, the call to action highlighted the role of Mormons, and encouraged readers to carry out 'distributed research' to identify individual Mormons and use the Internet to gather further information that was connected to those Mormons which could be used to facilitate a campaign of 'negative publicity.' The posting was made two weeks prior to the referendum, and focused on those who contributed $1000 USD or more, and in particular those above the $5000 USD threshold.

Figure 4.9 Daily Kos 'call to action' blog post



kos.com/stories/2008/10/20/636014/-

COMMUNITY ACTION

within their rights.

But when the church and its members invest millions of dollars in an attempt to write discrimination into my state's constitution and divorce my friend Brian against his will, there will be hell to pay.

So what am I asking you to do?

Some distributed research.

There is a list of a bunch of Mormon donors to the Yes on Proposition 8 campaign (in case that one goes down, here's a mirror with slightly worse formatting.

Here's what I'm asking for:

This list contains information about those who are big donors to the Yes on 8 campaign--donors to the tune of at least $1,000 dollars. And, as you can see, there are a lot of them. It also indicates if they're Mormon or not.

If you're interested in defeating the religious right and preserving marriage equality, here's how you can help:

Find us some ammo.

Use any **LEGAL** tool at your disposal. Use OpenSecrets to see if these donors have contributed to...shall we say...less than honorable causes, or if any one of these big donors has done something otherwise egregious. If so, we have a legitimate case to make the Yes on 8 campaign return their contributions, or face a bunch of negative publicity.

There are a crapload of donors on this list--so please focus on the larger ones first. $5,000 or more is a good threshold to start with.

Feel free to use Lexis-Nexis searches as well for anything useful, especially given that these people are using "morality" as their primary motivation to support Prop 8...if you find anything that belies that in any way...well, you know what to do.

If you find anything good, please email it to:

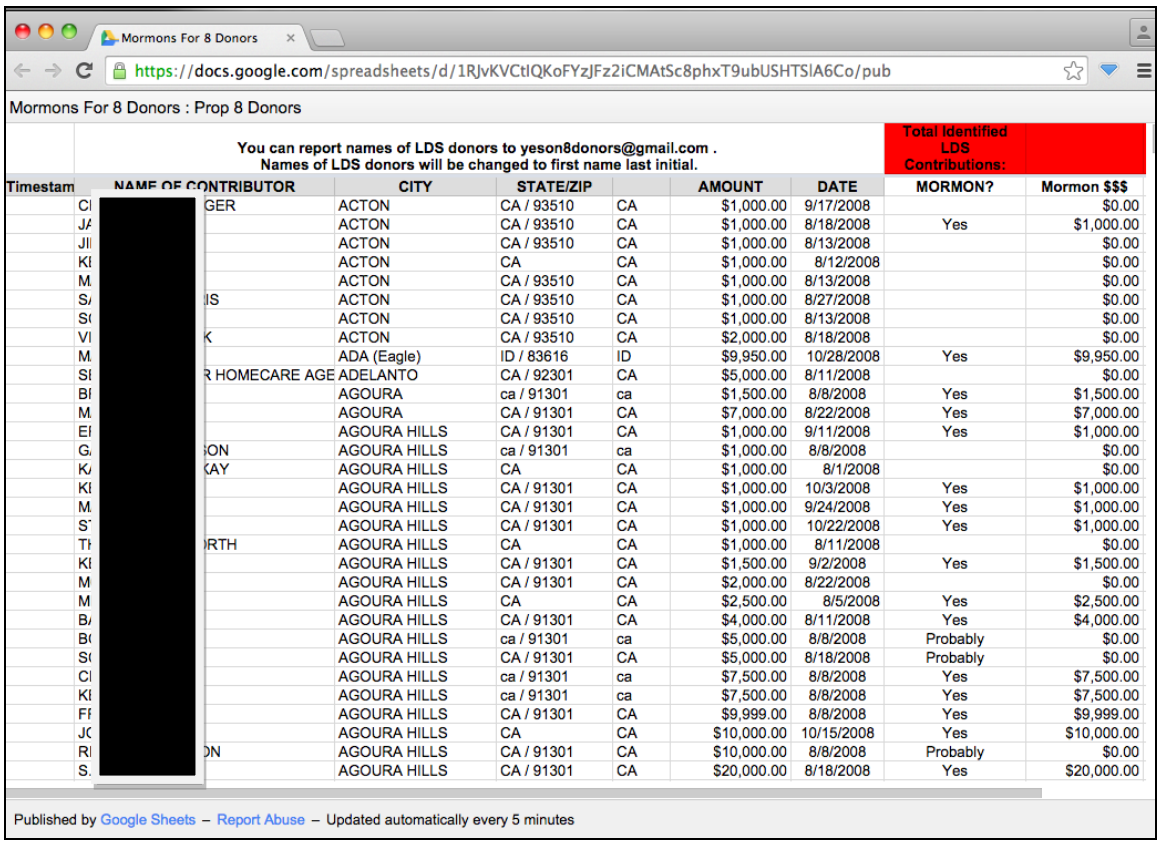
equalityresearch at gmail dot com.

Here's the bottom line for me: if someone is willing to contribute thousands of dollars to a campaign to take away legal rights from some very dear friends of mine, they had **damn well make sure their lives are beyond scrutiny**--because I, for one, won't take it lying down.

Source: Atkins, D. (2008 October 20). How you can defeat prop 8 and preserve marriage equality. *Daily Kos*. [Blog post]. Accessed 20th February 2016. Retrieved from https://www.dailykos.com/stories/2008/10/20/636014/-

The Daily Kos activist's call to action also included a link to a spreadsheet of the disclosed information, which was regularly updated when new information regarding the Mormon affiliation of included individuals was confirmed, as illustrated in a screenshot of the database provided in Figure 4.10.

Figure 4.10 Online Database of Identify Mormon Donors to Proposition 8[47]



Mormons For 8 Donors

https://docs.google.com/spreadsheets/d/1RJvKVCtlQKoFYzJFz2iCMAtSc8phxT9ubUSHTSlA6Co/pub

Mormons For 8 Donors : Prop 8 Donors

You can report names of LDS donors to yeson8donors@gmail.com .
Names of LDS donors will be changed to first name last initial.

Total Identified LDS Contributions:

Timestam	NAME OF CONTRIBUTOR	CITY	STATE/ZIP		AMOUNT	DATE	MORMON?	Mormon $$$
	[redacted]	ACTON	CA / 93510	CA	$1,000.00	9/17/2008		$0.00
		ACTON	CA / 93510	CA	$1,000.00	8/18/2008	Yes	$1,000.00
		ACTON	CA / 93510	CA	$1,000.00	8/13/2008		$0.00
		ACTON	CA	CA	$1,000.00	8/12/2008		$0.00
		ACTON	CA / 93510	CA	$1,000.00	8/13/2008		$0.00
		ACTON	CA / 93510	CA	$1,000.00	8/27/2008		$0.00
		ACTON	CA / 93510	CA	$1,000.00	8/13/2008		$0.00
		ACTON	CA / 93510	CA	$2,000.00	8/18/2008		$0.00
		ADA (Eagle)	ID / 83616	ID	$9,950.00	10/28/2008	Yes	$9,950.00
		ADELANTO	CA / 92301	CA	$5,000.00	8/11/2008		$0.00
		AGOURA	ca / 91301	ca	$1,500.00	8/8/2008	Yes	$1,500.00
		AGOURA	CA / 91301	CA	$7,000.00	8/22/2008	Yes	$7,000.00
		AGOURA HILLS	CA / 91301	CA	$1,000.00	9/11/2008	Yes	$1,000.00
		AGOURA HILLS	ca / 91301	ca	$1,000.00	8/8/2008		$0.00
		AGOURA HILLS	CA	CA	$1,000.00	8/1/2008		$0.00
		AGOURA HILLS	CA / 91301	CA	$1,000.00	10/3/2008	Yes	$1,000.00
		AGOURA HILLS	CA / 91301	CA	$1,000.00	9/24/2008	Yes	$1,000.00
		AGOURA HILLS	CA / 91301	CA	$1,000.00	10/22/2008	Yes	$1,000.00
		AGOURA HILLS	CA	CA	$1,000.00	8/11/2008		$0.00
		AGOURA HILLS	CA / 91301	CA	$1,500.00	9/2/2008	Yes	$1,500.00
		AGOURA HILLS	CA / 91301	CA	$2,000.00	8/22/2008		$0.00
		AGOURA HILLS	CA	CA	$2,500.00	8/5/2008	Yes	$2,500.00
		AGOURA HILLS	CA / 91301	CA	$4,000.00	8/11/2008	Yes	$4,000.00
		AGOURA HILLS	ca / 91301	ca	$5,000.00	8/8/2008	Probably	$0.00
		AGOURA HILLS	CA / 91301	CA	$5,000.00	8/18/2008	Probably	$0.00
		AGOURA HILLS	ca / 91301	ca	$7,500.00	8/8/2008	Yes	$7,500.00
		AGOURA HILLS	ca / 91301	ca	$7,500.00	8/8/2008	Yes	$7,500.00
		AGOURA HILLS	CA / 91301	CA	$9,999.00	8/8/2008	Yes	$9,999.00
		AGOURA HILLS	CA	CA	$10,000.00	10/15/2008	Yes	$10,000.00
		AGOURA HILLS	CA / 91301	CA	$10,000.00	8/8/2008	Probably	$0.00
		AGOURA HILLS	CA / 91301	CA	$20,000.00	8/18/2008	Yes	$20,000.00

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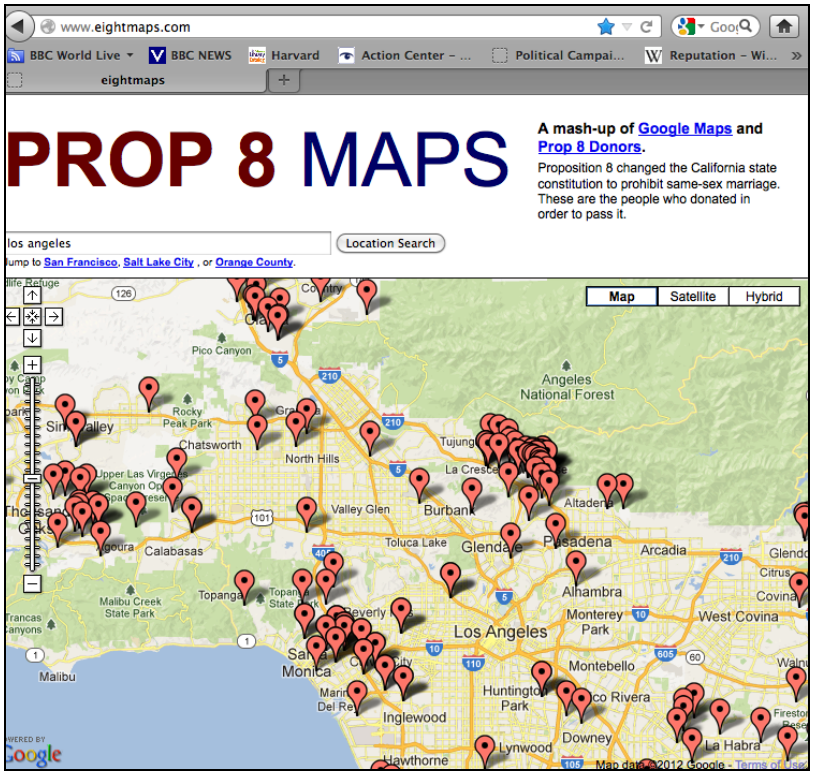
Source: Mormons for 8 Donors. [Screen capture]. Accessed 20th February 2016. Retrieved from https://docs.google.com/spreadsheets/d/1RJvKVCtlQKoFYzJFz2iCMAtSc8phxT9ubUSHTSlA6Co/pub

[47] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

This campaign to identify Mormons was also waged by Mormons themselves who disagreed with the Church's standing on same-sex marriage. A group named "Mormons for Proposition 8" was created by a Mormon lawyer named Nadine Hansen with the purpose of identifying members of the Church who contributed towards the passage of Proposition 8. Hansen's organizing mirrored the distributed research campaign called by Atkins in the Daily Kos, asking individuals to identify suspected Mormons that had been listed in the state of California's online public records database as contributors in favor of Proposition 8. When possible, Hansen herself relied on other public records and clues available through Google to "look for indicators of Mormon Church membership" (Youn, 2013). One important difference in the motivation between Hansen and Atkins was that Hansen was more interested in understanding the extent of Mormon contributions, rather than singling out individual donors and facilitating negative publicity for specific individuals. For this reason she changed surnames to initials in order to mitigate potential retaliation" (Youn, 2013). The public records database of financial contributors to the Proposition 8 campaigns published by the state of California included 6,585 contributions exceeding $1000 USD. Hansen's distributed research website eventually concluded that 51% of these contributions came from Mormons or people thought to be Mormons (Youn, 2013). Youn (2013) notes that the amplification of visibility facilitated by activists resulted in Mormons bundling their donations to a post office box set up by the Church to facilitate fundraising and campaign contributions – suggesting that individual Mormons were indeed concerned about their reputation and the reprisals that might come from being connected to banning same-sex marriage in California.

In addition to the Karger, Atkins and Hansen campaigns to collect and repurpose public records data, the next most ambitious initiative to collect and repurpose and republish public records from the Proposition 8 campaign was a project titled *Prop 8 Maps*. *Prop 8 Maps* spliced together the public records database of contributors with *Google Maps* to develop a familiar user-friendly visualization of the public record, as illustrated in Figure 4.11. The repurposed map allowed users to search by neighborhood and address zip code, and also offered users a satellite view of a target residence or building.

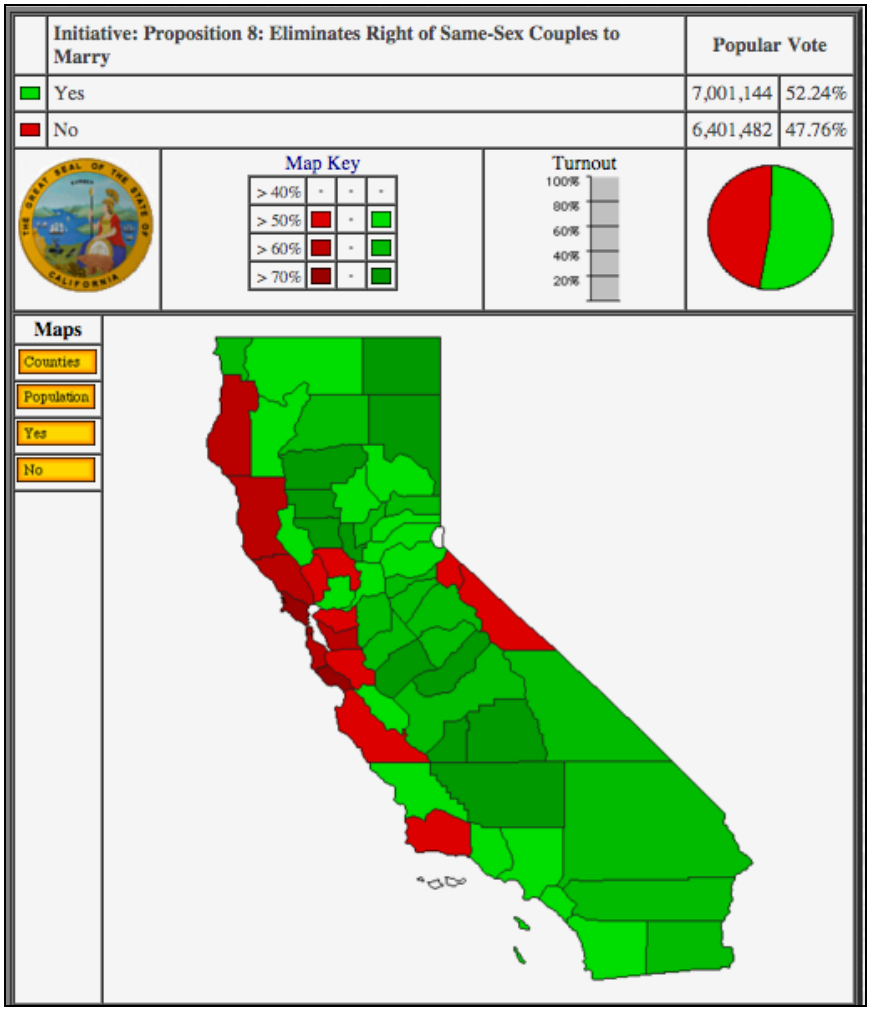
Figure 4.11 Google Map identifying Proposition 8 Donors



Source: Prop 8 Maps. [Screen capture]. Accessed 20th January 2014. Retrieved from www.eightmaps.com

The site's creators were and still remain anonymous, though there are clues available to deduce the motivation behind the repurposing of the public records data on this site. The site went live in January 2009, approximately two months after the referendum in November 2008 when the Proposition 8 campaign emerged victorious, and it only included records of individuals who had made contributions towards campaigns in favor of passing Proposition 8. The website was also created during a time when there was considerable backlash against those who had supported the campaign to limit same-sex marriage within the State, which had long been known for its progressive policies, laws and citizens – as well as the largest gay population in the US (Plunkett, 2014). For many years the city of San Francisco had been known as the "gay capital of the world" (Plunkett, 2014). The citizens of the Bay Area, along with affluent areas of Los Angeles – which includes Hollywood – had largely supported same-sex marriage. More granular data supports this reputation, with voting results for this referendum showing that many counties in these regions were in fact skewed heavily in opposition to Proposition 8 as illustrated in Figure 4.12, where darker red shades indicate a higher percentage of citizens who voted against Proposition 8. The map shows that the skewed distributions of opinion were largely between regions, rather than within regions, reflecting the divisiveness of the issue at the broader state level, rather than at the regional neighborhood level, where there was greater homogeneity regarding same-sex marriage norms.

Figure 4.12 County voting results for Proposition 8



Source: Proposition 8 2008 Initiative General Election Results. *US Elections Atlas.* Accessed 20th February 2016. Retrieved from http://uselectionatlas.org/RESULTS/state.php?fips=6&year=2008&f=0&off=67&elect=0

The *Prop8 Maps* website provided an easy user-friendly platform for users to zoom-in and identify not only patterns of support, but also to single out individuals whose support went against a prevailing regional social norm regarding the acceptance or disapproval of same-sex marriage, and consequently Proposition 8. This unprecedented use of state- disclosed public records was heavily cited by mainstream media outlets and

in blog posts throughout the state and across the country, and this publicity further exacerbated the degree of visibility for those who supported the Proposition 8 campaign, undoubtedly to a degree never anticipated or envisaged by individuals and organizations who had contributed towards the passage of Proposition 8. While news media outlets also expanded visibility of public records regarding Proposition 8, their motivations contrasted sharply with campaign activists as the next section will show.

4.1.3.2 News media outlets

The most prominent news media outlets that used and repurposed public records data in the case of Proposition 8 were based in California. Even prior to the digital age, mainstream outlets had been the main player willing to spend the time and resources to painstakingly sift through paper records in search of famous individuals or suspicious patterns that would inform and entertain their audience with intriguing stories. But with California's new online database, these outlets could more easily access this information, and use their online presence and audience base to further publicize original and repurposed public records, as seen in the case of Proposition 8. The most prominent media outlet to extrapolate and repurpose the data from Proposition 8 public records was *The Los Angeles Times.* The website of this long-standing media outlet – representing both the fifth largest newspaper in the US by circulation figures and also the largest American metropolitan newspaper at the time of the referendum in 2008 (Audit Bureau of Circulations 2008) – offered a more user friendly database than that provided by the Secretary of State's website, and included graphics in addition to raw data as illustrated in Figure 4.13.

Figure 4.13 Los Angeles Times online database of Proposition 8 donors



Source: Proposition 8 Database. Los Angeles Times. [Screen capture]. Accessed 20th February 2016. Retrieved from http://projects.latimes.com/prop8/results/

The search function in this database made it much easier to sort details by state of residence – making it easier to determine how much money for the campaign originated from sources outside the state of California. Publicizing the details of all donors – including small-scale contributors – is indeed something that no traditional media outlet could have published prior to the Internet, and the idea of a small-scale individual donor from a jurisdiction outside the state of California having their name turn up in one of America's most prominent news outlets, along with their attitude towards a contentious social issue like same-sex marriage rights, represents a phenomenon that could not have been conceived of prior to the digital age. This database was also indexed by search engines like *Google*, and so individual listings could be accessed from search results

containing the names of listed individual – even if the original search was otherwise unrelated to the Proposition 8 campaign or campaign finance details. This indexing that was built into the code by the Data Desk at the *Los Angeles Times* further expanded the visibility of public records in this referendum. However, unlike the activist campaigns noted in the previous section, the *Los Angeles Times* information portal did not maintain a politically motivated mission behind their project beyond informing the public of information that was already made available by the state, but in a more accessible and user-friendly format. This was a motive shared by non-partisan transparency organizations who also used and repurposed the original state-administered online public records.

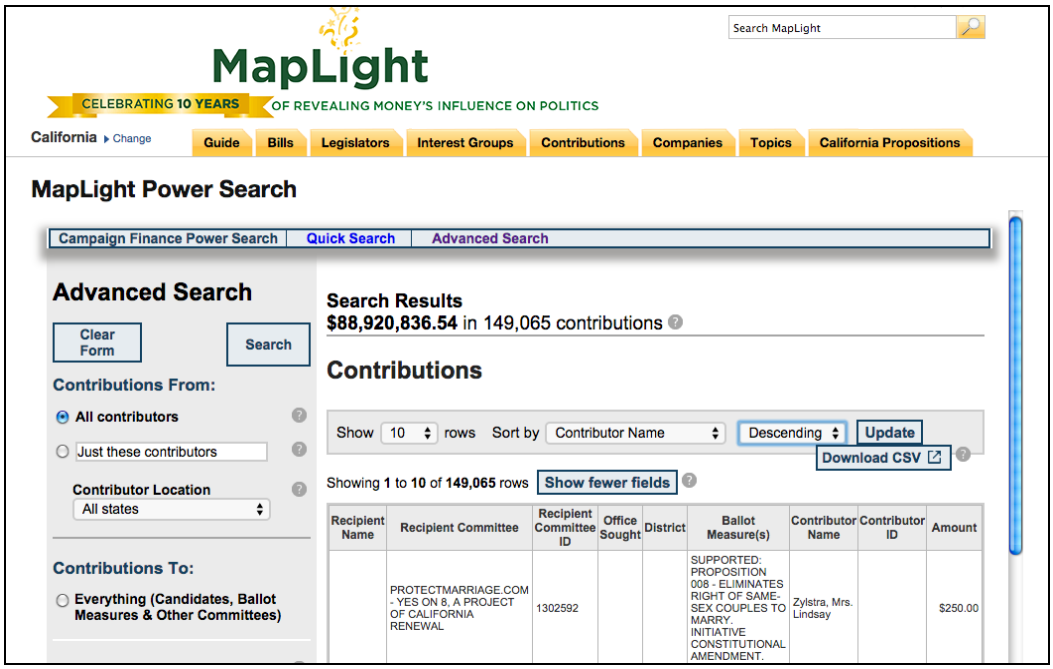
4.1.3.3 Non-partisan transparency organizations

In addition to campaign activists and news media outlets, the final category of major players that used and repurposed online databases provided by the State of California in the case of Proposition 8 were non-partisan transparency organizations. Most of these organizations were watchdog agencies – a term that is defined by the *Center for Media and Democracy* as "usually non-profit groups that view their role as critically monitoring the activities of governments, industry, or other organizations and alerting the public when they detect actions that go against the public interest."[48] *MapLight* and *Follow the Money* were the two most prominent watchdog agencies in this case. As noted on their website, *MapLight's* mission was to reveal "campaign contributions to state-level

[48] The definition of 'watchdog agency' is available on the *SourceWatch* website published by the *Center for Democracy and Media*, and was retrieved from http://www.sourcewatch.org/index.php/Watchdog_organizations

candidates, ballot measures, and recipient committees as well as independent expenditures affecting state-level candidates and ballot measures."[49] Similar to the news media database, this website aimed to make the visibility data provided by the state more user-friendly and easier to sift through, as illustrated in Figure 4.14. It also made the online database available for download in comma separated values (.CSV) format to further ease the process of downloading and re-using their data by any other use for any other purpose.

Figure 4.14 Proposition 8 donors listed on MapLight watchdog database



Source: California. *MapLight*. [Screen capture]. Accessed 20th February 2016. Retrieved from http://maplight.org/california

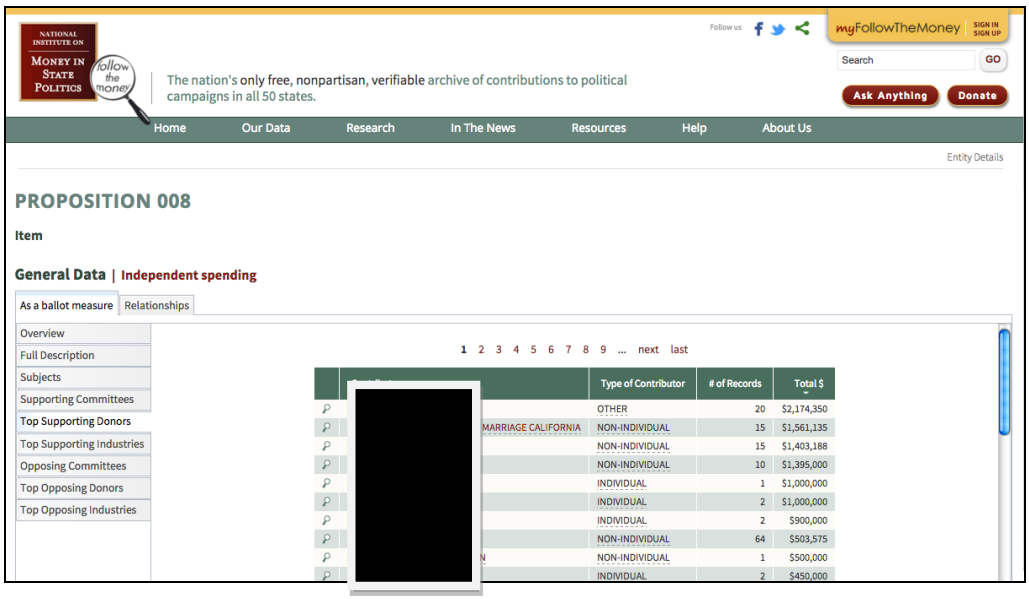
The *Follow the Money* project – an initiative of the National Institute on Money in State Politics organization – had a similar mission to promote "an accountable democracy by

[49] The *MapLight California* web portal is available at http://maplight.org/california

compiling comprehensive campaign-donor, lobbyist, and other information from government disclosure agencies nationwide and making it freely available."[50] They claim to be the nation's "only free, nonpartisan, verifiable archive of contributions to political campaigns in all 50 states," and further claimed that their database was intended to "inform public debate on state policy issues." In the case of Proposition 8, the *Follow the Money* public records portal included hyperlinks for contributors, as shown in a screenshot of the database in Figure 4.15. When selected, these hyperlinks of individuals, organizations and businesses would provide all information that was available from public records databases regarding contributions made in other campaigns. These categories of other data are visible in the left-side column in Figure 4.16, and include total contributions recorded, contributions to candidates, contributions to party committees, contributions to other ballots measure committees, contributions to political action committees (PACs), as well as information about past employers and occupations.

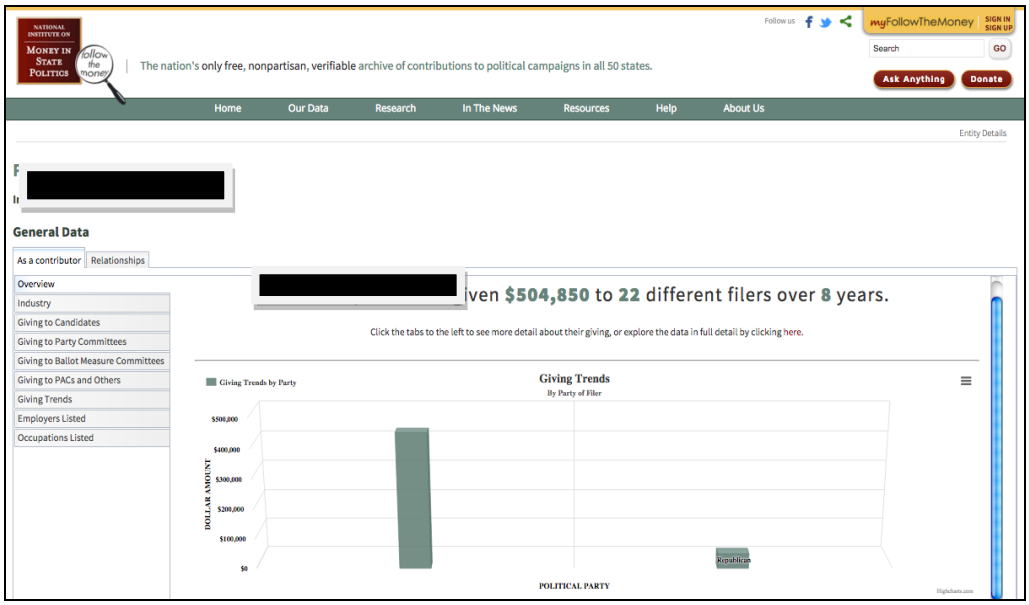
[50] The *Follow the Money* web portal is available at http://www.followthemoney.org

Figure 4.15 Follow the Money's Online Database of Proposition 8 Donors[51]



Source: Proposition 8. *Follow the Money*. [Screen capture]. Accessed 20th February 2016. Retrieved from http://www.followthemoney.org

Figure 4.16 Follow the Money's Online Database of Individual Contributor Profiles



Source: Proposition 8. *Follow the Money*. [Screen capture]. Accessed 20th February 2016. Retrieved from http://www.followthemoney.org

[51] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

The *Follow the Money* database's hyper-linking feature was a unique element not directly available in the original state public records. This design element enabled users to assess other pieces of data connected to one of Proposition 8's contributors funding history, and formulate an aggregate profile of political preferences that was otherwise obscured in the pre-digital era. Neither this watchdog agency, nor any of the aforementioned websites and organizations facilitating visibility online, breeched any laws in publicizing information listed in public records. However, these key players did have a role in dramatically expanding visibility of identifiable information, and this expanded visibility helped facilitate some reprisals for individuals and businesses – as well as a lawsuit against the Secretary of State, which is discussed in further detail in the next section.

4.1.4 Reprisals and lawsuits

To gain insight into RQ2 regarding the reprisals of the use and repurposing of online databases of public records, this section presents reprisals from political participation that included harassment of individuals, boycotts for businesses, as well as reprisals for the State of California in the form of a legal action.[52] As noted in *Protectmarriage.com v. Bowen* (2011), reprisals faced by citizens whose names and contributions in favor of Proposition 8 were listed in online public records databases ranged considerably between an increase in conflicts with friends, families and neighbors and more serious reprisals such as vandalized private property and death threats. On the less threatening end of

[52] All reprisals noted in this section are derived from evidence presented in *Protectmarriage.com – Yes on 8. v. Bowen*, Case No. 2:09-cv-00058-MCE-DAD. While the case included examples of reprisals for more than 50 individuals, none of the victims' real names are disclosed in the court docket.

reprisals, there were reports of unsolicited phone calls, emails and letters voicing disagreement with positions in support of Proposition 8, as well as flyers that circulated identifying and denouncing contributors that had supported Proposition 8. On the more serious end, there were reports of death threats, physical assaults, and mailed envelopes containing 'white suspicious powder.' Some of these forms of reprisals may have been executed using access to personally identifiable information, residential addresses, and/or telephone numbers listed in public records databases. Re-purposed public records platforms like *Prop 8 Maps* conveniently provided the names and addresses of supporters, and anyone could search their zip code or neighborhood to find supporters of Proposition 8. This set of details could also be matched against other public records data like online telephone directories to execute harassment and death threats through phone calls.

There is evidence of other reprisals that were faced by supporters of Proposition 8 including the vandalizing or theft of 'Yes on 8' bumper stickers and yard signs, and broken windows of houses along with spray painted messages stating 'Bigots Live Here.' Individuals also reported vandalized cars, which included vehicles that had broken windows, were scratched and keyed, or cars that were covered in flour and eggs. However, these types of reprisals did not require the sort of personally identifiable data that was published in online public records databases. Instead, the individuals who were on the receiving end of these types of reprisals could have easily been identified in terms of residence and private property by their own accord. These individuals had no qualms about publicly advertising their private opinion regarding this divisive issue, as evidenced

by their self-administered car bumper stickers and yard signs put on display for neighbors. Therefore, reprisals faced by this category of citizens in the case of Proposition 8 do not represent the type of reprisals that are being investigated under RQ2, as they could manifest easily in the absence of online access to public records databases.

Beyond theft, vandalism and harassment, some supporters of Proposition 8 felt forced to resign from their positions, including the artistic director of Sacramento's California Musical Theatre, Scott Eckern, as well as the director of the Los Angeles Film Festival, Richard Raddon (Youn, 2013). Both of these individuals faced heavy criticism after the online discloser of their support for Proposition 8 was highlighted and amplified by activists (Youn, 2013). Their names had not only shown up in list-entry format in campaign finance databases, but also in geographic-mapping format posted on the *Prop 8 Maps* website. They were not big donors however, and therefore were not targeted by Fred Karger and his *Californians Against Hate* group.

There is much clearer evidence of reprisals faced by organizations and businesses that supported Proposition 8 with financial contributions. Businesses that were targeted were usually owned or managed by individuals who had made contributions towards Proposition 8. The reprisals ranged from negative publicity in the form of negative reviews posted online to organized picket-lines and boycotts. These businesses were from a broad range of industries that included ice cream shops, dentist offices, movie theatre chains, restaurants and storage companies. Generally speaking, only the businesses of the very largest contributors were targeted, and the strongest boycott campaigns were organized against Amway, the Manchester Grand Hyatt Hotel, more than

30 A-1 Self Storage facilities, Bolthouse Farms and Garff Automotive. Each of these boycotts was organized and spearheaded by Karger's *Californians Against Hate* website. The "Dishonor Roll" webpage illustrated in Figure 4.8 included contributors who had donated between $400,000 and $1,420,000 USD. Each of these contributors were hyperlinked to not only more details about the dates and amounts of individual donations, but also short, informative biographies of the donors, or backgrounds about the related businesses and organizations.

There is evidence that shows that a number of these boycotts were successful in getting companies to distance themselves from the 'Yes-on-8' campaign contributions. In one case, Karger and his website were credited with getting Bolthouse Farms – described as "among the largest producers of fresh-cut carrots in the world and the maker of juices and smoothies sold in food haunts and upscale markets" – to not only cease donations to the Yes-on-8 campaign, but to publish various written statements distancing themselves from the donations of the company's namesake founder, William Bolthouse (Laganga, 2008). On a statement posted on the *Californians Against Hate* website, Karger cancelled the boycott after Bolthouse Farms' chief executive provided "a compelling perspective which clearly demonstrates the separation between Bolthouse Farms and...its founder...and provides us with confidence that Bolthouse Farms is committed to working productively with the [lesbian, gay, bisexual, and transgender] community" (Laganga, 2008). Bolthouse Farms even cited the *Californians Against Hate* website in their own statement regarding their joint reconciliation, and commitment to

"showing respect and integrity" to their employees, vendors and customers (Laganga, 2008).

In addition to Bolthouse Farms, Ken Garff Automotive – which owned more than 50 car dealerships across six states – also responded to the boycott with a departure from the donations made to the Yes-on-8 campaign by its namesake Garff family matriarch in the amount of 100,000 USD. The boycott was called off after only two weeks, with Karger noting: 'It's a wonderful situation...a happy ending' (Semerad, 2009, p. 1). The car company agreed to "formally adopting 'a non-discriminatory company policy" (Semerad, 2009, p. 1).

The Garffs were a prominent Mormon family in the state of Utah – where a considerable number of contributions in favor of passing Proposition 8 to prohibit same-sex marriage in the neighboring state of California were sourced. Consequently, the Mormon Church and affiliated temples were also the target of harassment. While residents in Utah were barred from placing signatures on the popularly initiated petition to get Proposition 8 onto the ballot in California, they could still contribute towards the campaign, and according to the State of California's online campaign finance database, nearly 80% of more than 1000 contributions from residences listed in Utah were in favor of Proposition 8. An activist campaign found that many of these donations were from known Mormons in Utah – along with Mormons in other states as well (Atkins, 2008). A further estimate concluded that approximately half of the $40,000,000 USD raised for the 'Yes-on-8' campaign was collectively donated from Mormons (McKinley & Johnson, 2008). Here again Karger used his *Californians Against Hate* platform to call for

boycotts against the Mormon Church. Mormon temples were targeted for protests, and individual Mormons faced death threats and physical assaults and other forms of public hostility including broken windows, graffiti and vandalism of temples (Youn, 2013). At the broader level, the Church received considerable negative publicity regarding their role in the campaign that became clear as a result of online disclosure, and notably "took no visible part in opposing the legalization of same-sex marriage in Maine, Maryland, and Washington, nor in the 2012 same-sex marriage ballot initiatives in four other states" (Youn, 2013).

The reprisals experienced by individuals, businesses and organizations were used to bring forth a lawsuit against California's Secretary of State regarding public records access. A leading committee for the successful 'Yes-on-8' campaign called *Protect Marriage* filed a lawsuit in January 2009 in the United States District Court for the Eastern District of California, seeking the preliminary injunction of the aforementioned California election law which required donors of $100 USD or more to be disclosed by campaign committees on both sides of a popularly initiated referendum. This case – known as *ProtectMarriage.com v. Bowen* – was mostly concerned with the final filing statement of the final quarter of the Proposition 8 campaign, which would have been due on 31st January 2009. The plaintiffs included the *National Organization for Marriage California* – another prominent group leading the campaign to ban same-sex marriage – as well as *John Doe #1* – a representative of major donors in favor of passing Proposition 8, which is cited as having contributed in excess of $10,000 USD. The defendants included the Secretary of State of California, Debra Bowen; the Attorney General of

California, Kamala D. Harris, as well members of the California Fair Political Practices Commission, which was responsible for overseeing the state's aforementioned sunshine laws.

The plaintiffs in this case had issue with Government Code Sections 84200 and 84211 that mandated the details of disclosure, as well as the $100 USD threshold for reporting, having claimed that as a result of their support for the Proposition, as well as the mandatory online disclosure, they had been "subjected to threats of violence, harassment and reprisals." As the case file notes, they further alleged that the $100 USD threshold was unconstitutional, and that post-election reporting requirements and failure to purge reports post-election were unconstitutional as well.[53] The plaintiffs cited a number of instances of reprisals faced by various contributors for the Yes-on-8 campaign to demonstrate the likelihood of future reprisals as a result of public disclosure requirements.

In arguing their case for injunction, the plaintiffs tried to demonstrate that harassment and threat of harassment of Proposition 8 supporters violated their First Amendment rights guaranteeing free speech and assembly, which required anonymity in order to freely exercise in such a divisive campaign. A campaign manager for the leading plaintiff, Protect Marriage, stated: "Some gay activists have organized Web sites to actively encourage people to go after supporters of Proposition 8... And giving these people a map to your home or office leaves supporters of Proposition 8 feeling especially vulnerable. Really, it is chilling" (McKinley, 2009, p. A12). James Bopp Jr., one of the

[53] Protectmarriage.com v. Bowen., 830 F. Supp. 2d 914 (9th Cir. 2011).

lawyers who argued for the plaintiffs' case, claimed "The cost of transparency cannot be discouragement of people's participation in the process...The highest value in the First Amendment is speech, and some amorphous idea about transparency cannot be used to subvert those rights" (McKinley, 2009, p. A12). Another attorney representing the Proposition 8 Campaign, Tim Chandler, made a similar argument on grounds of democracy, stating: "Citizens shouldn't have to choose between being involved in the democratic process and subjecting themselves to acts of vengeance" (Egelko, 2009). This echoed comments made by a Proposition 8 activist, who stated that the purpose of the various online campaigns was not simply to buttress transparency, but instead to "shine the spotlight on Mormons who donate to Yes On 8...they hope to discourage Mormons from donating by exposing them to smear efforts like those urged by the Daily Kos" (Goodman & Goodman, 2008).

The defendants argued that much of the evidence provided in support of the above cases of reprisals was hearsay. The Court – in a majority opinion written by US District Judge Morrison C. England, Jr., ultimately decided against the Plaintiffs, declaring most of the depositions and other statements from various John Does as hearsay, and noting that there was 'minimal probability of the occurrence of irreparable harm to Plaintiffs, or their contributors, and because the balance of interests, including the public's interest, weighs against it, Plaintiff's Motion for Preliminary Injunction is denied."[54] This decision in favor of the State of California enabled the Secretary of State to fulfill its duty

[54] Protectmarriage.com v. Bowen., 830 F. Supp. 2d 914 (9th Cir. 2011).

under the disclosure statues of the California Public Records Act, and disclose the final filing statement in their online database.

Unsatisfied with the judgment of the California District Court – and emboldened by a similar legal challenge filed in the state of Washington – the plaintiffs filed an appeal with the US Court of Appeals for the Ninth Circuit, which had jurisdiction for cases originating in California. The plaintiffs – now appellants – still felt that the $100 reporting threshold as well as the final post-election filing requirement mandated by the Public Record Act were 'facially unconstitutional in the context of ballot initiatives.[55] The appeals panel affirmed the District Court's majority judgment and held that "the government's interest in disclosing contributions to ballot initiative committees was not merely a pre-election interest." On the as-applied challenge regarding the appellants' request for injunction to purge all previous disclosures, the panel further noted this was 'non-justiciable,' as the records had long been available on the Internet and in hard copy and any attempt to remove them to 'provide relief' would be considered moot.[56] The judgments of both the District and Appeals Court affirmed the sanctity of the California Public Records Act, and the important role access to public records of campaign finance information has in not only candidate elections – but also popularly initiated referendums.

The legal proceedings highlight a key theme in this case – that most of the reprisals were directed at those who opposed same-sex marriage, rather than those who supported it. However, there was one notable campaign by the backers of the referendum to bring

[55] Case No. 11-17884 was retrieved from http://cdn.ca9.uscourts.gov/datastore/opinions/2014/05/20/11-17884.pdf
[56] Ibid

visibility to donors of the pro-same sex marriage camp. The *ProtectMarriage.com* group – the very same plaintiff in the aforementioned lawsuit – wrote letters to big donors who had supported same-sex marriage, and threatened to make their pro-same-sex marriage contribution visible if they didn't make a similar size donation to *ProtectMarriage*.com (Bates, 2009). A copy of this letter is available in Appendix H. The third page of the letter illustrates the type of visibility they were aiming to carry out in order to inflict negative social sanctions. The threatening letters eventually became public, and ultimately harmed the reputation of the broader Yes-on-8 campaign (Bates, 2009; Karger, 2017).

While the courts recognized the impact online access to public records had in enabling a number of reprisals against supporters of Proposition 8, they were not convinced that online disclosure was fully to blame. This raises the question of whether another case can provide clearer links between reprisals and the role of online public records databases. While this set of legal proceedings in California only concerned the disclosure of campaign finance information, it's also worth exploring another case study that includes not only access to campaign finance details, but also the disclosure of petition signatures. The state of Washington is one such state that meets both of these criteria, providing another similar case, but differing on the legal mandated enabling disclosure of petition signatures in addition to campaign contributions for popular referendums campaigns.

4.2 Case #2: Referendum 71 in Washington State

As with California, the state of Washington also has a long history of popularly initiated referendums. The Washington Right to Initiative and Referendum Amendment was added to Article II of the State Constitution in 1912. It was passed by ballot, having been referred to the citizens by the state legislature, where it was overwhelmingly approved by 71% of voters. The new statute empowered citizens to reserve "the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by legislature."[57] This power of the people did not extend to directly initiating constitutional amendments, however, as Californians were able to do.

Washington law enabled two types of initiatives and two types of referendums. Initiatives could be proposed to either the people (directly), or the legislature (indirectly), while referendums were proposed and voted on by citizens to approve or reject a bill, act, or law that had already been passed by the legislature. The latter category included both referendum measures – which are laws recently passed by the legislature that are placed on the ballot because of petitions signed by voters – and referendum bills – which are laws proposed by the legislature and passed down to the people for approval.[58] Referendum 71 was a referendum measure, as it referred to a bill that had been passed in

[57] Article II, Section 1 of the Washington State Constitution is available at http://leg.wa.gov/LawsAndAgencyRules/Pages/constitution.aspx

[58] This taxonomy is explained on the Washington Secretary of State's website: http://www.sos.wa.gov/elections/initiatives/statistics.aspx

2009, which motivated a group of citizens to organize a petition with enough signatures to force the bill onto the ballot for citizens to formally approve or reject.

The first step of getting a referendum measure to the ballot in Washington takes place after a target bill or law has been voted on by the legislature. As noted in Title 29A, Chapter 72, Section 010 of the Revised Code of Washington (RCW 29A.72.010), any citizen that is registered to vote in the state of Washington can file for a referendum with the Secretary of State, along with a filing fee of $5.00 USD, and sworn affidavits regarding voter registration. The wording of the referendum bill must follow a standard formula codified into law, allowing voters only two options: two approve or reject. If the wording is approved, the proponent – referred to as the sponsor – then has responsibility for printing and circulating petition sheets. The regulations for these petition sheets are strict, noting that not more than 20 signatures can be on a single sheet (RCW 29A.72.100) – further implying that electronic signatures are not valid, as in California. The required identifiable information for each signer includes name, address, city and county for the location in which the signer is registered to vote (RCW29A.72.130).

In addition to the text of the referendum and the lines for signatures, there are also a few disclaimers and warning statements regarding fines and punishment for anyone signing twice, signing without being a legal voter, or making false statements (RCW29A.72.140). The number of signatures that is required on a petition for a referendum is equal to or exceeding four percent of the votes cast for the office of governor at the previous gubernatorial, for which it may then be submitted to the Secretary of State for filing and signature verification (RCW29A.72.150). In 2009, this

four percent figure was 120,114. Like California, Washington also does not have distribution requirements for signature collection, meaning the threshold of signatures could be met by any collection of citizens within the state. Petitions could be circulated by either the proponents, volunteers or paid signature gathers hired from petition-drive management companies who according to state law are not required to be Washington residents.

The verification process in Washington is overseen by the Secretary of State, rather than being the responsibility of individual counties, as in the case of California. Random sample statistical methods are permitted to determine the number of valid signatures, and representatives of both the advocates and opponents of the proposed referendum may act as witnesses and observe as state employees attempt to check signatures on petitions against voter record files to verify validity (RWC 29A.72.230). If the threshold of signatures is deemed to have not been met then all signatures are checked. If the threshold number of signatures is met, then the referendum measure is approved to go on the ballot at the next general election day. There are only two options for voters – approve or reject – and only a simple majority number of votes is required to determine the outcome of the measure (though at least one third of voters voting must cast a vote for the referendum for it to be approved – a stricter requirement not seen in California). If approved, the measure takes effect 30 days after the election. While these administrative procedures for popularly initiated referendums are similar to those in California, the notable difference arises in the public disclosure statutes, which is discussed at length later in this chapter.

4.2.1 Background of case

While Proposition 8 in California was a popularly initiated referendum, Referendum 71 was a popularly initiated *veto* referendum. Proponents wanted to leverage the referendum process to give citizens the power to approve or reject a legislatively-passed bill. The bill in question was Senate Bill 5688 proposed in 2009, which was passed by the Senate on 10th March, and the House on 15h April, and finally signed by the Governor on 18th May in that same year. The full text of Senate Bill 5688 exceeded 100 pages, and was largely concerned with expanding rights, responsibilities and obligations accorded to state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, while also noting that 'a domestic partnership is not a marriage.'

Opponents were upset with its passage and felt that the legislature had gone too far in amending the traditional legal definition of – and rights conferred to – marriage, and moved forward with exercising their right to attempt and veto the bill by gathering enough signatures to place a referendum on the ballot. The text of the ballot for Referendum 71 that was presented to citizens on both the petition and at the ballot box on Election Day is illustrated in Figure 4.17:

Figure 4.17 Text of Washington Referendum 71

"The legislature passed Engrossed Second Substitute Senate Bill 5688 concerning rights and responsibilities of state-registered domestic partners and voters have filed a sufficient referendum petition on this bill.

This bill would expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, except that a domestic partnership is not a marriage."

Should this bill be:

[ ] Approved
[ ] Rejected

In May 2009, Larry Stickney – campaign manager for the Protect Marriage Washington campaign – filed 137,881 signatures with the Secretary of State for verification. Four months later in September 2009, 122,007 signatures – enough to exceed the threshold requirement that year – had been accepted (87.6% of signatures submitted).[59] Throughout the verification process, both advocates and opponents of the petition (and referendum) exercised their right to observation, and physically stood watch over the shoulder of those tasked with verifying the signatures. While the law did not allow these observers to copy down signature details, the final petition lists were ultimately part of the public record, and, unlike in California, available through a Freedom of Information request. In the six months between the day the signatures were submitted and the referendum, the full details of these signatures were made visible, and a series of legal proceedings to halt this disclosure transpired, which continued long beyond the day of the referendum.

On 3rd November 2009, Referendum 71 was one of two measures on the ballot. It passed with 53.15% of voters approving Senate Bill 5688, upholding the law that had been passed earlier in the year by the State legislature to extend the rights, responsibilities and obligations accorded to same-sex and senior domestic partners to that provided for opposite-sex married spouses. Unlike in the case of Proposition 8 in California, this vote went against the outcome the petition's main proponents had been advocating for, and – unlike with the passage of Proposition 8 – was deemed as a major step forward for same-sex couples residing in Washington.

[59] Verification details were retrieved from the Washington Secretary of State Blog at http://blogs.sos.wa.gov/FromOurCorner/index.php/2009/09/reed-certifies-r-71-to-fall-ballot/

The total amount of contributions made for both sides of Referendum 71 was on several orders of magnitude less than that in California's Proposition 8's record-breaking figures. $2,176,550 USD was raised in support of passing the measure, while only $494,892 USD was raised in opposition. Like with California, committees had formed on either side of the referendum to collect and spend contributions for their respective campaigns. The total amounts raised and contribution figures are noted in Figure 4.18:

Figure 4.18 Contributions made in support and opposition to Washington Referendum 71

Campaigns for Referendum 71	Amount raised (USD)	Number of contributions
Support for R-71	2,176,550	6,041
Opposition to R-71	494,892	899
Total	2,671,442	6,940

Source: Referendum 71. *Follow the Money*. Accessed 20th February 2016. Retrieved from http://www.followthemoney.org/entity-details?eid=10246793

These contributions were made by individuals, businesses and organizations, and unlike in the case of California's Proposition 8, were generally derived from Washington-based entities. Each side of the ballot measure had two committees receiving and spending contributions: *Washington Families Standing Together* and *Human Rights Campaign Approve Referendum 71* in support, and *Protect Marriage Washington* and *Vote Reject on R-71* in opposition. The details of the contributions made to all four of these committees were subject to mandatory disclosure under Washington's Public Records Act, as discussed in the next section.

4.2.2 Washington public records law and policy

Washington has well-established disclosure laws, for which they have been highly acclaimed. In a ranking of state disclosure laws, Washington ranked first out of all fifty American states in 2008 (Grading State Disclosure, 2008).[60] More specifically, they are also ranked first in the US for their electronic filing program, as well as disclosure content accessibility, and third in the US for campaign disclosure laws and online contextual and technical usability.[61] The Washington State Public Disclosure Law was passed in 1972, two years before California's Public Records Act, and at a time when so-called 'sunshine policies and public disclosure laws were being enacted across the US. This Public Records Act is contained in Sections 001-904 of RCW Title 42, Chapter 42.56.[62] Washington's code defines the 'public record' in RCW 42.56.010 to include "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics;" with 'writing' further defined as:

> handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data

[60] The "Grading State Disclosure 2008" report was retrieved from http://www.campaigndisclosure.org/gradingstate/wa.html
[61] The "Grading State Disclosure 2008" report was retrieved from http://www.campaigndisclosure.org/gradingstate/wa.html
[62] The text of the Washington Public Records Act was retrieved from http://apps.leg.wa.gov/rcw/default.aspx?cite=42.56&full=true

> compilations from which information may be obtained or translated (RCW 42.56.010).

This law raises the question as to whether or not petition signatures are liable for disclosure, considering they represent a very different conception of government and lawmaking, whereby citizens can participate directly in lawmaking – an act traditionally reserved for elected leaders in representative forms of democratic government.

4.2.2.1 Petition signatures

Washington's Public Disclosure Law had a number of exceptions categorized and detailed throughout Title 42. However, petitions signatures were not among its exceptions, as they were in California's Public Disclosure Act. In other words, requests could be made for the full set of signatures on the petition sheets because no section of the Public Records Act explicitly prohibited its disclosure. In addition to exceptions, the Act contains a note regarding a person's right to privacy in RCW 42.56.050, declaring that a person's right to/of privacy is invaded or violated "only if disclosure of information about the person: (1) would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public." Other exemptions include information that could "violate personal privacy or vital government interests" – which can be redacted from records that are sought, as noted in RCW 42.56.210. These were key provisions of the Act that were tested in the legal proceedings against the state that will be presented later in this chapter. Another notable exception is the prohibition on the use of public records that are requested for commercial purposes, as noted in RCW 42.56.070 (9). Practically

however, this does not prevent those from using publicly available data for commercial purposes.

With regards to online access, the original Public Records Act of 1972 had a number of updates with the intention of keeping up with the digital age, with one section noting: “The internet provides for instant access to public records at a significantly reduced cost to the agency and the public. Agencies are encouraged to make commonly requested records available on agency web sites. When an agency has made records available on its web site, members of the public with computer access should be encouraged to preserve taxpayer resources by accessing those records online" (RCW 42.56.520 Notes: Finding-2010 c 69). The various updates did not include specific requirements for providing petition signatures online. Instead, this set of public records had to be requested through offline procedures, and could be received in the form of digital compact disks. There were no laws that prevented the online uploading and repurposing of the digital content from these compact disks, which is precisely what happened in the case of Referendum 71.

4.2.2.2 Campaign finance information

The full set of campaign finance requirements is maintained and regulated by the Washington State Public Disclosure Commission, which oversees the application of the aforementioned Public Records Act.[63] Like many states with referendum procedures, contributions must be funneled through officially registered ballot committees who

[63] The Washington State Public Disclosure Commission is published on the state’s Public Disclosure Commission website, and was retrieved from http://www.pdc.wa.gov/archive/filerassistance/manuals/pdf/2014/Political.Committee.Manual.2014.pdf

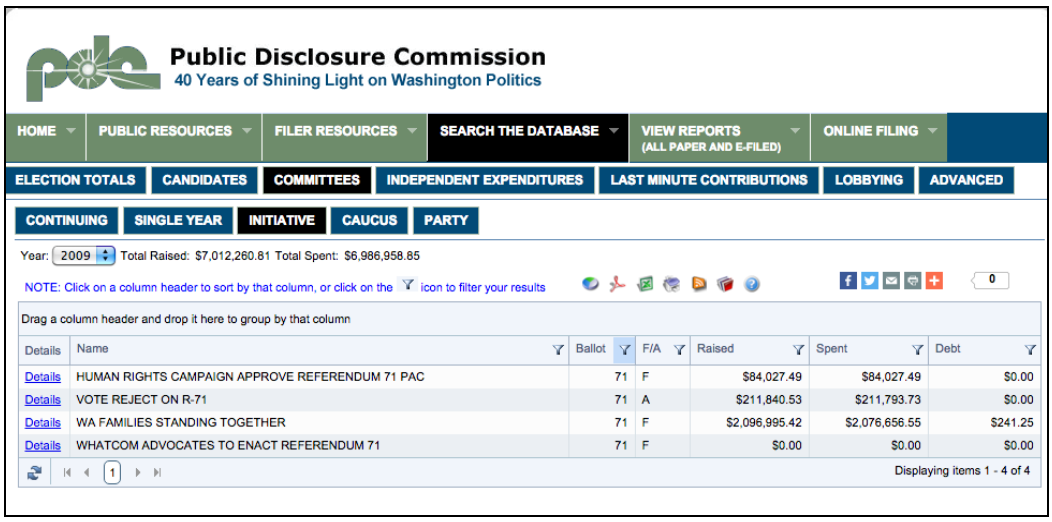
support or oppose a respective ballot measure, regardless of whether the measure in question is an initiative or referendum. All contributions above $25 USD in total are required to be reported by committees, along with donor names and residential addresses. Further identifiable details including employer and occupation are only required if contributions exceeded $100 USD total. Furthermore, a committee's account books must be made available to anyone who wants to see them, for any reason other than commercial purposes as noted in the Public Records Act. To facilitate this law, the Commission developed a digital policy for committees to enter their contributions information into software that was available free of charge to assist with record keeping and reporting, which enabled the state to maintain up-to-date filings. Individual level data was often voluntarily disclosed for contributions as low as $1 USD – below the $25 threshold – in the case of Referendum 71. However, on the other end of the financial spectrum, there was a lawsuit filed by the campaign against the passage of Referendum 71 to not only lift the limit on donations to out-of-state political action committees, but to also allow for exemptions from disclosure required in the final 21 days before November election day (campaign finance limits did not allow contributions above $5,000 to out-of-state committees in the final 21 days before a vote, as noted in the Political Committee Manual). This request for exemption demonstrates the importance of fundraising in the final few days and weeks prior to a ballot vote, when much of the campaign money will be spent. While the plaintiffs who opposed the passage of Referendum 71 lost the legal challenge regarding disclosure, they won their challenge regarding the donor limit

threshold for ballot measure committees in a ruling made in December of 2011 in the case of *Family PAC v. McKenna et al.* in the Ninth Circuit Court of Appeals.

4.2.3 Use and repurposing of public records databases

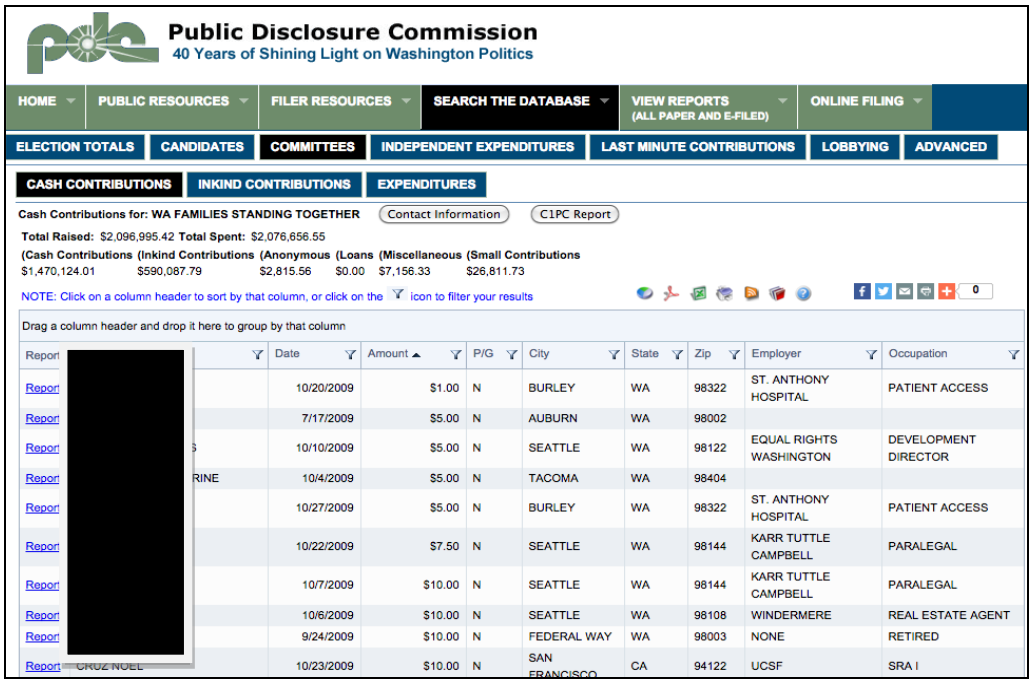
In adherence with its Public Records Law, Washington published public records of campaign finance information in an online database, but not petition signatures. The latter were instead published online by third parties that had exercised their legal right to access the records in digital format recorded onto compact disks. The online database for campaign finance information was published by Washington's *Public Disclosure Commission*. The Public Disclosure Commission had an open-access and user-friendly database for Referendum 71 as illustrated in Figure 4.19, which shows information at the committee-level. Users could to search among individual level data by first navigating through committees onwards to individual contributor pages, as illustrated in Figure 4.20. As with Proposition 8, users could input direct searches by name, employer, location, or simply explore all those listed for each committee for each campaign on both sides of the referendum measure. These databases were further indexed and retrievable through search engines websites, using different personably identifiable elements of an individual in the search query. This indexing made it possible for users to interface with and access campaign finance details of individuals whom they had been searching for regardless of what may have motivated the original search engine inquiry.

Figure 4.19 Campaign level data for R-71 on Public Disclosure Commission Database



Source: Public Disclosure Commission. [Screen capture]. Accessed 20th February 2016. Retrieved from http://www.pdc.wa.gov/MvcQuerySystem/Committee/initiative_committees?year=2009

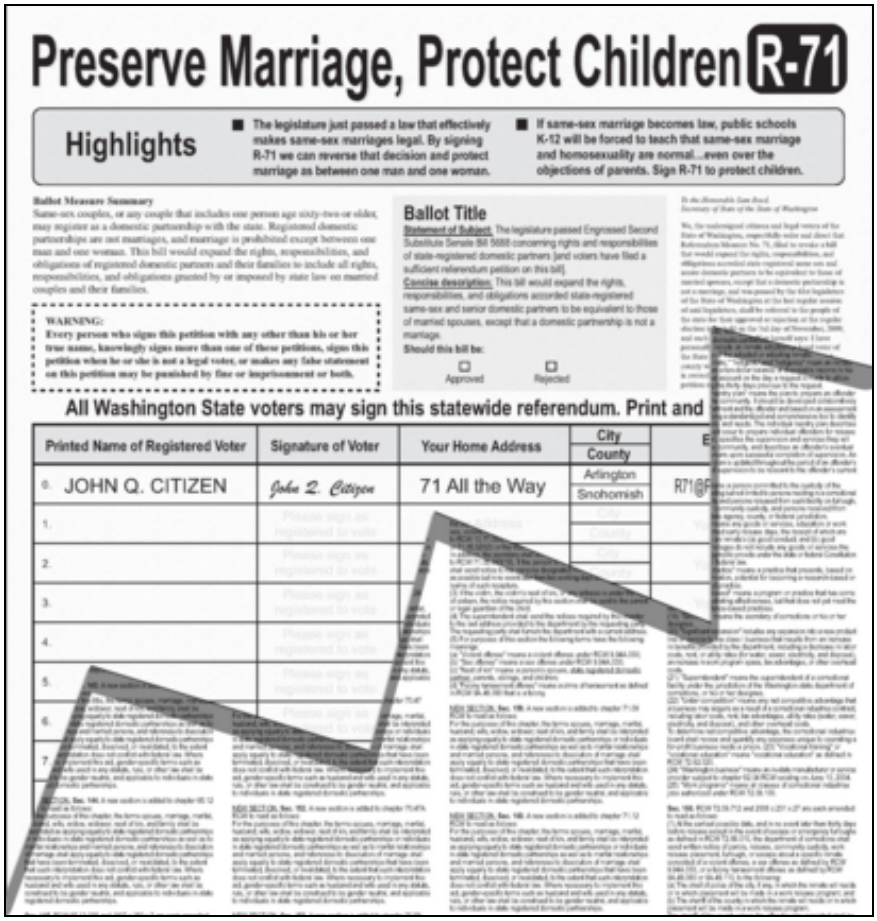
Figure 4.20 Individual level data for R-71 on Public Disclosure Commission Database[64]



[64] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

No analogous databases for petition signatures were published by the state. These records were instead digitized in the form of scanned image files for each petition sheet, as illustrated in Figure 4.21.

Figure 4.21 Referendum 71 petition sheet



Source: R71 Petition. [Screenshot]. Accessed 20th February 2016. Retrieved from http://blogs.secstate.wa.gov/FromOurCorner/wp-content/uploads/2009/06/r71illyustration1.jpg

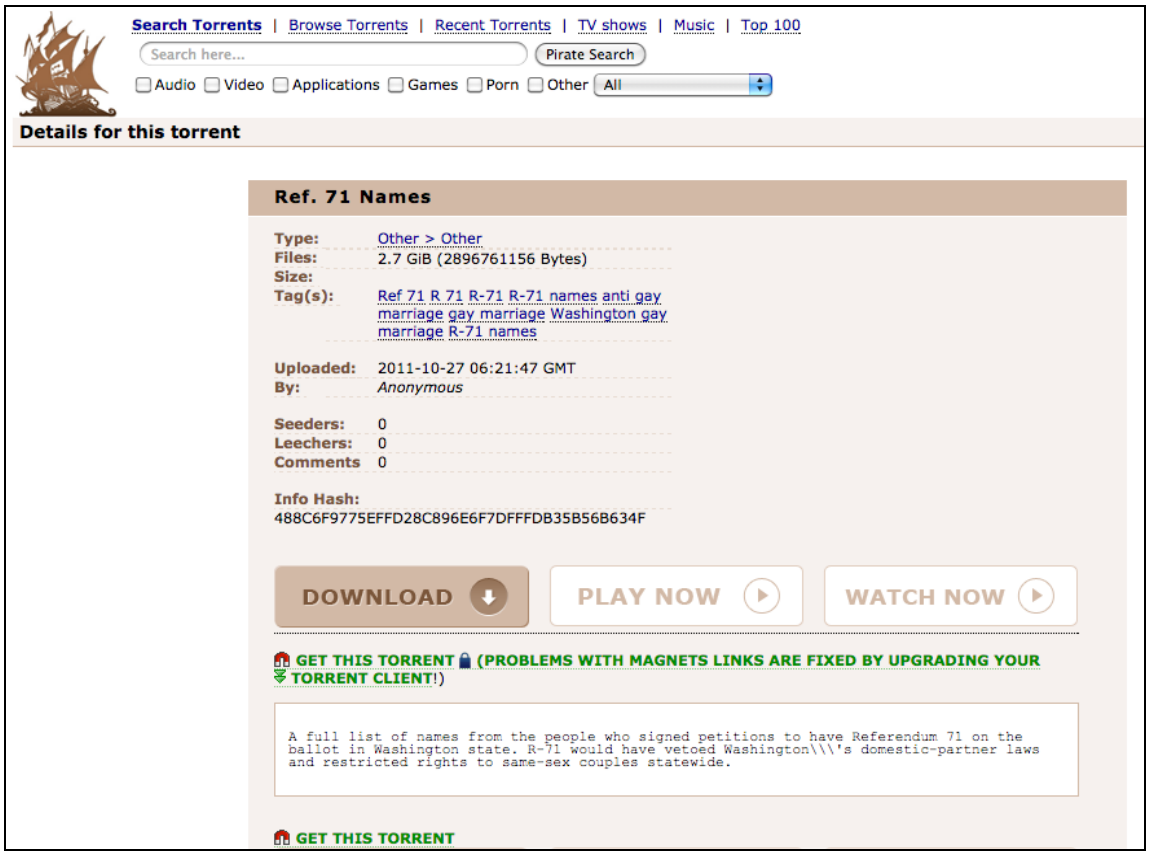
While these sheets included printed names, signatures, and home addresses including city and county and email addresses, they were not indexed in spreadsheet format like the campaign finance information, making the use of this data for developing insight far more

difficult. Campaign activists instead took up this cumbersome task, as the next section will show.

4.2.3.1 Campaign activists

Campaign activists in favor of same-sex marriage rights were highly motivated to gain access to the petition signatures that initiated Referendum 71. While anyone could access the petition sheets upon request, it's impossible to know the identity of those who did make requests, as this information is not available for the public record. Overall, the Office of the Secretary of State is reported to have released a total of 30 DVDs containing the full set of signatures spread across thousands of pages in digital format (Cartier, 2011). Of the 30 people who made direct requests from the state, it's possible that a few were interested private citizens without a connection to a news organization, activist campaign, or non-partisan watchdog agency, especially when considering the low cost of access at $16 per DVD (Cartier, 2011). Copies of the DVDs were eventually uploaded to torrent sites, allowing anyone to download a complete copy of the petition sheets without incurring significant financial costs. Figure 4.22 provides a screenshot of an advertisement for the file that was listed on *Pirate Bay* torrent website. The files were also made available on *Media Fire*, where it had reached the maximum number of downloads at the time (Cartier, 2011).

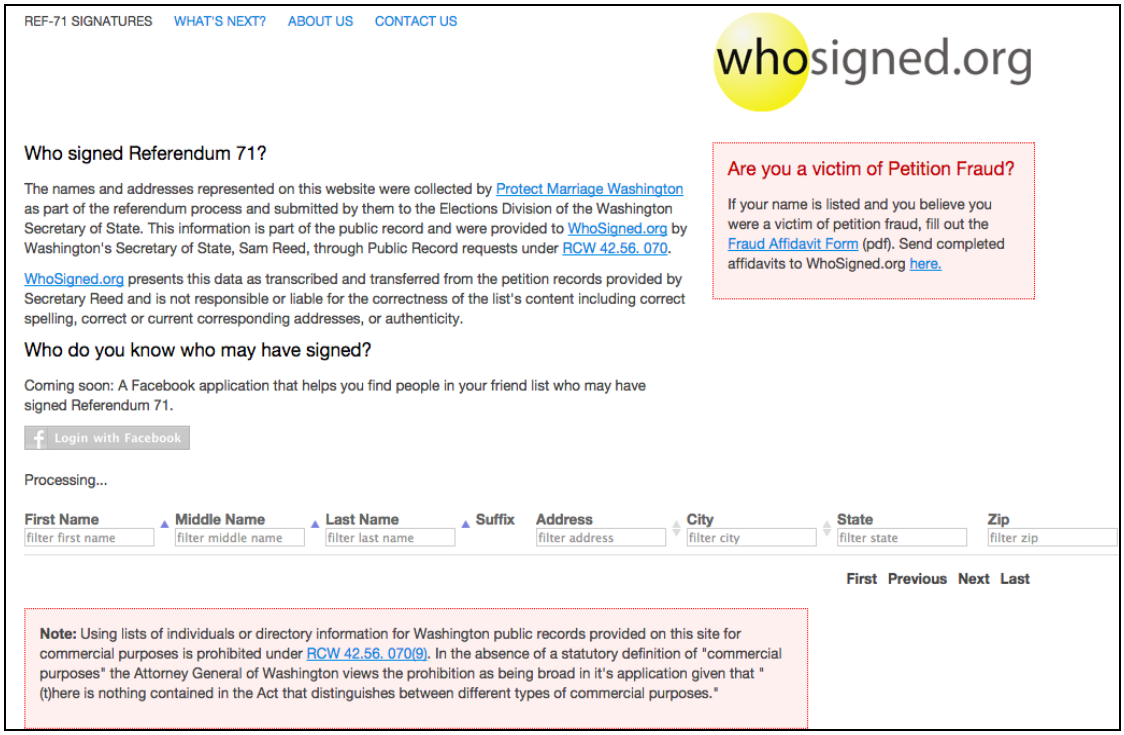
Figure 4.22 Petition signatures available for download on Pirate Bay torrent site



Source: Ref. 71 Names. *Pirate Bay*. [Screen capture]. Accessed 5th January 2016. Retrieved from https://thepiratebay.xn--fiqs8s/torrent/6774526/Ref._71_Names

The collection of scanned images from the petition sheets were eventually converted into a spreadsheet format, making them far easier to sort and search. The two most notable websites that hosted these repurposed databases were WhoSigned.org and KnowThyNeighbor.org. A screenshot of the WhoSigned.org platform is provided in Figure 4.23.

Figure 4.23 WhoSigned.org homepage providing access to signers of Referendum 71



Source: WhoSigned.org. [Screen capture]. Accessed 20th February 2016. Retrieved from http://whosigned.org/

This online database allowed visitors to search by first, last, or middle name, address, city or zip code, and was aiming to further integrate the database into the Facebook online social network so that users could see who – if any – amongst their friends had names that matched those on the petition (Westneat, 2012). The activist motive against the originally proposed referendum is made emphatically clear in the 'About Us' section of the website, which states:

> We believe that the civil rights of minorities should not be put to a popular vote and be made subject to the sentiments of the majority.
>
> We believe that in a ballot initiative and referendum system where popular votes subject minorities to the whims of the majority the importance of transparency is paramount.
>
> We believe the process for initiative and referendum petitions that maintains discrimination or seeks to strip away equal rights, protections, and status for Washington State residents must meet a high standard of transparency to ensure a fair and open discussion in the public forum.

In addition to noting their group's core beliefs about why popular votes through the initiative and referendum process should not be used in establishing the civil rights of minorities, they go on to state the site's purpose beyond its general transparency role: "To help drive conversations between the Washington State residents being asked to sign petitions that would strip away equal status and protections, and the individuals, couples, and families they know who would be affected by that signature."[65] Brian Murphy, the founder of the *WhoSigned.org* group, stated the following goals for bringing visibility to Referendum 71 signatures on their website (Mardod, 2009):

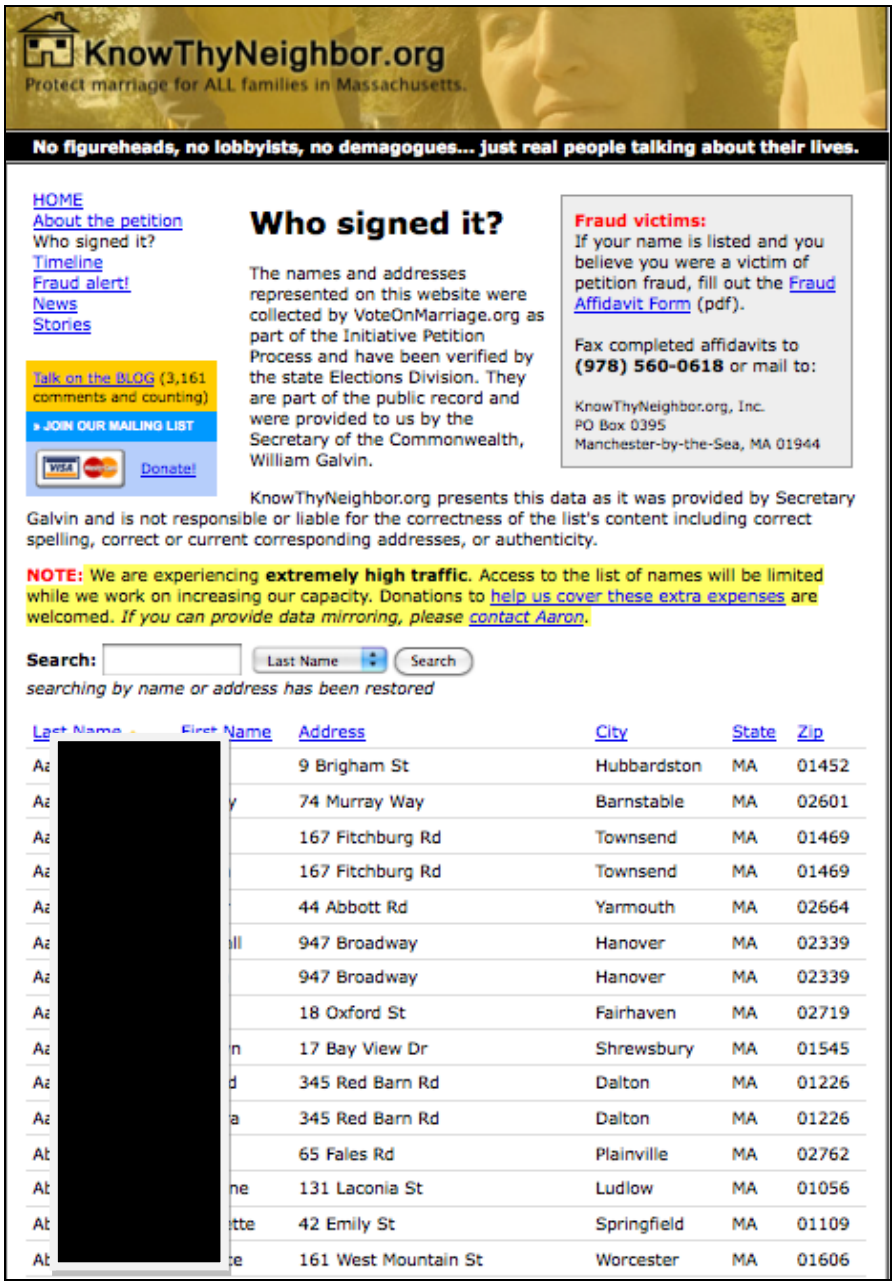
> Once signature petitions for initiatives and referendums are submitted and verified by the Secretary of State they are part of the public record. When signatures for Referendum 71 have been verified WhoSigned.Org will:
>
> -Work to make this public record signature information accessible and searchable on the internet.
>
> -Flag the 3% signature sample that is certified by the Elections Division of the Secretary of State.
>
> -Provide Washington State Voters with a way to check that the public record of their advocacy is correct.
>
> -Provide Washington State Voters with a way of reporting when their signature has been recorded either fraudulently or in error.

[65] The 'About Us' section of the WhoSigned.org website was retrieved from http://whosigned.org/about

In an interview with Murphy, he stated that he did not aim to cause intimidation or harassment, but instead wanted to facilitate conversations between people – particularly family and friends whose views might not otherwise be known amongst a family or social group (Murphy, 2016 February). The most significant difference between Murphy's visibility campaign in Washington and Karger's boycott campaign in California is that Karger specifically narrowed his focus to only the biggest donors, while Murphy was publishing the details of all petition signers regardless of their level of involvement in the referendum campaign.

KnowThyNeighbor.org had a similar activist motivation that aimed to enable citizens to know which of their neighbors signed petitions against expanding rights and privileges to same-sex couples. Before Referendum 71, this online platform had been active in facilitating open access to public records of petition signatures in a number of other states considering same-sex marriage initiatives and referendums including Oregon, Massachusetts, Florida and Arkansas (Parry et al., 2012). Their online database was designed in an easily searchable format as illustrated in Figure 4.24. The founder of this site, Tom Lang, mentioned in an interview that he was also motivated to drive more conversations in the public sphere, rather than facilitate intimidation or harassment (Lang, 2016). The states included on his website represent nearly a fifth of US states with provisions for popularly initiated referendums, and demonstrate that the phenomenon of public records databases with petitions signatures being published online manifests across a wide range of political regions in the US, and not just Pacific coast states like Washington.

Figure 4.24 KnowThyNeighbor.org database for an anti-same-sex marriage petition in Massachusetts[66]



KnowThyNeighbor.org
Protect marriage for ALL families in Massachusetts.

No figureheads, no lobbyists, no demagogues... just real people talking about their lives.

HOME
About the petition
Who signed it?
Timeline
Fraud alert!
News
Stories

Talk on the BLOG (3,161 comments and counting)
» JOIN OUR MAILING LIST
Donate!

Who signed it?

The names and addresses represented on this website were collected by VoteOnMarriage.org as part of the Initiative Petition Process and have been verified by the state Elections Division. They are part of the public record and were provided to us by the Secretary of the Commonwealth, William Galvin.

Fraud victims:
If your name is listed and you believe you were a victim of petition fraud, fill out the Fraud Affidavit Form (pdf).

Fax completed affidavits to **(978) 560-0618** or mail to:

KnowThyNeighbor.org, Inc.
PO Box 0395
Manchester-by-the-Sea, MA 01944

KnowThyNeighbor.org presents this data as it was provided by Secretary Galvin and is not responsible or liable for the correctness of the list's content including correct spelling, correct or current corresponding addresses, or authenticity.

NOTE: We are experiencing **extremely high traffic**. Access to the list of names will be limited while we work on increasing our capacity. Donations to help us cover these extra expenses are welcomed. *If you can provide data mirroring, please contact Aaron.*

Search: Last Name Search
searching by name or address has been restored

Last Name	First Name	Address	City	State	Zip
Aa	[redacted]	9 Brigham St	Hubbardston	MA	01452
Aa		74 Murray Way	Barnstable	MA	02601
Aa		167 Fitchburg Rd	Townsend	MA	01469
Aa		167 Fitchburg Rd	Townsend	MA	01469
Aa		44 Abbott Rd	Yarmouth	MA	02664
Aa		947 Broadway	Hanover	MA	02339
Aa		947 Broadway	Hanover	MA	02339
Aa		18 Oxford St	Fairhaven	MA	02719
Aa		17 Bay View Dr	Shrewsbury	MA	01545
Aa		345 Red Barn Rd	Dalton	MA	01226
Aa		345 Red Barn Rd	Dalton	MA	01226
Ab		65 Fales Rd	Plainville	MA	02762
Ab		131 Laconia St	Ludlow	MA	01056
Ab		42 Emily St	Springfield	MA	01109
Ab		161 West Mountain St	Worcester	MA	01606

Source: Who Signed it? Massachusetts. [Screen capture]. Accessed 5th May 2013. Retrieved from http://www.knowthyneighbor.org

[66] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

The use of petition signatures by campaign activists in Washington and other states raises the question regarding the actions of news media outlets and non-partisan transparency organizations. It turns out that while campaign activists mainly focused on repurposing public records of petition signatures from Referendum 71, non-partisan transparency organizations were more engaged with campaign finance information, with news media outlets playing the smallest role in using and repurposing public records information.

4.2.3.2 News media outlets

News organizations were much less active in the case of Referendum 71 compared with Proposition 8. There was no single large mainstream news organizations that developed a repurposed online platform for campaign finance information, as the *LA Times* did with the Proposition 8 campaign. Though they did often cite various big-name donors on each side of the campaign, acting in their traditional role of "investigative journalist." With regards to petition signatures, a smaller news outlet that publishes a community newspaper freely distributed in Seattle, Washington called *Seattle Weekly* posted a link to a downloadable file of petition signatures on the *Pirate Bay* torrent site.[67] They did not develop their own searchable databases due to the laborious effort the task entailed, as noted in a blog posting by the staff writer who posted the link who stated that the files were too "horribly un-user friendly" (Cartier, 2011, p. 1). The files uploaded to the state-distributed DVDs were image files of scanned petition sheets in "tagged image file

[67] The *Seattle Daily* article containing the link was retrieved from http://www.seattleweekly.com/dailyweekly/2011/10/ref_71_washington_anti-gay_mar.php

format" (.tiff) – making them not only difficult to easily analysis and sort, but also too large of file sizes to host themselves. Non-partisan transparency organizations were less restricted than small media outlets, and contrastingly were able to host their own searchable platforms.

4.2.3.3 Non-partisan transparency organizations

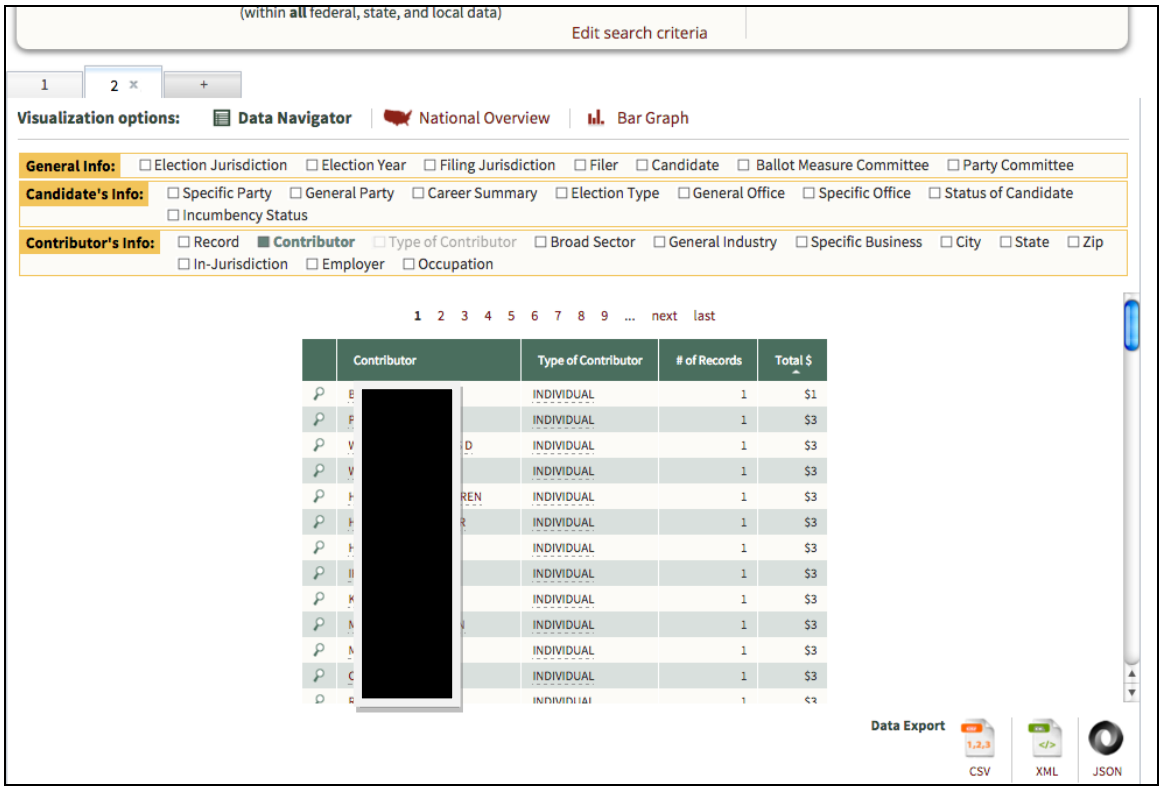
In the case of Referendum 71, non-partisan transparency organizations did not re-publish petition sheets, despite having the capacity to do so. However, at least one watchdog agency is on the record for having requested a DVD of the full petition from the Secretary of State: the *Washington Coalition for Open Government*. This organization has a mission of advocating "for the people's right to access government information," and notes their independent, non-partisan and non-profit status on their website.[68] While they provided a number of resources through their website about the State's Public Record and Freedom of Information Acts alongside tactics for how to contact state and local governments, they stopped short of posting the petitions sheets – or even direct links to those petition sheets. Instead, non-partisan organizations like the Washington Coalition for Open Government and others were far more active in their traditional role of bringing visibility to campaign finance details.

In the case of Referendum 71, *Follow The Money* was the most prominent non-partisan transparency organization providing an online database, similar to that provided in the case of Proposition 8 in California. This organization has a mission for bringing

[68] The mission statement of the *Washington Coalition for Open Government* is available on their website which can be retrieved from http://washingtoncog.org/

transparency to ballots and candidate campaigns in all fifty US states, unlike with *MapLight*, another non-partisan political organization that only published databases of campaign finance records from California and Washington. As Figure 4.25 shows, contributions as low as $1 USD were listed, and full data files could be downloaded in convenient and easy to process CSV, XML, or JSON format, to enable easier sorting and sifting through the data for anyone looking to bring visibility to patterns in funding, or export the data for their own re-purposing.

Figure 4.25 *Follow The Money* database of individual donors to Referendum 71[69]



Source: Referendum 71, Top Supporting Donors. *Follow the Money*. [Screen capture]. Accessed 20th February 2016. Retrieved from http://www.followthemoney.org/entity-details?eid=10246793

[69] The names of individual contributors have been purposely blacked out in all screenshots of databases throughout this thesis, though they are fully visible on the original online database from which they were captured.

The data fed into these non-partisan watchdog agency websites derived from the official records provided by the Secretary of State, as mandated by the Public Disclosure Law of Washington. As in the case of Proposition 8, the increased visibility from re-purposed public records of individuals who had participated in the Referendum 71 contributed to a number of reprisals for citizens, as well as a lawsuit against the State's Public Disclosure Commission as noted in the next section.

4.2.4 Reprisals and lawsuits

Compared with Proposition 8, there were far less claims of reprisals in the form of boycotts for organizations and businesses in the case of Referendum 71. There is however evidence that proves that the online publication of petition lists did lead to light reprisals in the form of unsolicited contact for individuals who had signed the original initiative. One example is a letter-writing campaign led by an activist who harvested names and email addresses from the disclosed petition lists to write personal messages about his desire to marry his same-sex partner. Paul Thomasson, a gay resident from Seattle, wrote thousands of letters and emails to individuals, declaring "You don't know me...but you may soon be in a position to have an effect on my life" (Westneat, 2012). Thomasson wrote these letters to encourage signers to oppose a new referendum that was initiated to overturn same-sex marriage in Washington. His assumption was that most people who would have signed the original petition for Referendum 71 in 2009 would likely also be supportive of passing a new Referendum (R-74) in 2012 that would approve a bill that had legalized same-sex marriage (Westneat, 2012). There were no

laws that prohibited the harvesting and re-use of identifiable information in this manner. This set of reprisals, along with the state's provision of access to petition lists, resulted in a lawsuit against the state of Washington. At the same time, it's difficult to measure the impact this letter writing campaign had, or the degree to which it could have contributed to future chilling effects on participations in some form – a variable that will be assessed in the experimental chapters of this study.

While the public records lawsuit in the case of California's Proposition 8 was concerned with campaign finance disclosure, the legal action taken in the case of Washington's Referendum 71 was concerned with petition signatures. This set of legal challenges was titled *Doe v. Reed*, and included appeals and reached the Supreme Court of the United States. The challenge was made against the state in July 2009 by *Protect Marriage Washington* – which was not only the proponent of the original petition to force a referendum measure on the Senate Bill that had extended same-sex marriage rights, but also an official committee representing the No-on-71 campaign. They asked for a temporary restraining order to avoid the release of petition signatures, which campaign activists from the Yes-on-71 campaign had threatened to make highly visible in public. Their argument for exempting the petitions from disclosure was on grounds of risk of harassment.[70] While the state's Public Disclosure Commission ruled that the petitions were indeed a matter of public record, in September 2009 the federal judge presiding over the case issued the restraining order, prohibiting the state from disclosing the names. Unsatisfied with the federal judge's ruling, the state appealed the case with the Ninth

[70] The arguments of the Supreme Court trial were retrieved from http://www.supremecourt.gov/oral_arguments/argument_transcripts/09-559.pdf

Circuit Court of Appeals – the same circuit court in the Proposition 8 case that has jurisdiction over the all of the Pacific coastal American states. In October 2009 this appeals court reversed the previous court's ruling, and sided with the State of Washington in permitting the disclosing of the petition sheets.

However, before the petition signatures were released, the Supreme Court placed a temporary block on the disclosure, upon their own hearing of the case following another appeal. In the meantime, Election Day passed and Referendum 71 was approved by a sizable majority of the state. The following summer in June 2010, the Supreme Court ruled 8-1 in favor of Washington's Public Records Act, enabling the disclosure of petitions in principle, though allowing the plaintiffs to pursue an exemption in this specific case considering its unique circumstances. The plaintiffs indeed exercised their right to a second legal challenge with the lower district court, which it lost – along with further appeals in higher courts. In conclusion, in the case of Washington the various courts ruled that there was not enough evidence of harassment or reprisals presented to merit grounds for exemption. The findings from this case study support this judgment by the court regarding the minimal number of reprisals, and the lack of serious threat or cases of unlawful harassment arising from disclosure.

4.3 Summary of findings

The extensive details provided in the aforementioned cases are meant to not only contextualize the popularly initiated referendums within California and Washington, but

also present the evidence required to carry out a comparative analysis of how access to online databases containing identifiable information regarding participatory acts has transpired in the digital age in two jurisdictions that are at the forefront of public records disclosure regimes. While Proposition 8 and Referendum 71 had a number of common features with regards to context and arguments made on either side of the disclosure debate, they differed on a few key points regarding public records laws and policies and the resulting visibility, as outlined in the next section.

4.3.1 Background of cases

California and Washington are Western coastal American states with a long tradition of direct democracy procedures, which are codified into their Constitutions as provisions for initiatives and referendum procedures. While California's population was more than six times as large as Washington State's in 2012, both California and Washington were estimated to have an equal percentage of LGBT identifying members of their adult populations (4%) that same year (Gates & Newport, 2013). Furthermore, in 2010 both states ranked in the top-10 for total number of same-sex couple households.[71] Along with most other states ranking high in terms of self-identifying LGBT members and same-sex households, they were amongst the first with both state citizens and state legislatures seeking to extend marriage rights and responsibilities to same-sex couples. However, each of the varying attempts across both states were met with strong popular opposition, and this opposition manifested in both states in the form of popularly initiated

[71] Figures from the US Census data on same-sex couples was retrieved from http://www.census.gov/hhes/samesex/data/decennial.html

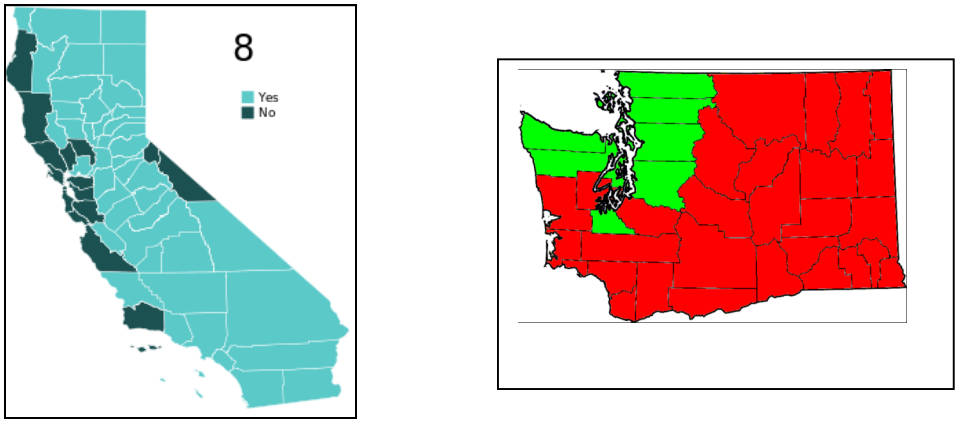
referendums seeking to limit or reverse rights for same-sex couples. This highlights the complexity and nuance in defining the political majority and political minority in these states, as the majority winner of the referendum does not necessarily represent the political majority in many regions of their respective states.

Both California and Washington State also had similar policies for how citizens could initiate a referendum through a procedure that included gathering petition signatures, undergoing verification, and ultimately reaching the ballot on Election Day. However, there was an important distinction in how same-sex opposition groups initiated ballots in their respective states. In California, Proposition 8 was an attempt by citizens to define same-sex marriage to ensure the state could no longer make attempts to grant marriage rights and responsibilities to same-sex couples, as the former Mayor of San Francisco had attempted. Washington's Referendum 71 however was an attempt by citizens to veto legislation that had already passed that had granted rights and responsibilities to same-sex couples. Despite this difference, the initiatives were quite similar in the intent of the proponents who penned the original petitions, with each group feeling similarly disenchanted by their elected representatives, fearing what they deemed would lead to the destruction of traditional marriage.

Both sets of proponents were able to get enough signatures on time and have their petitions successfully verified, though the campaign in California transpired one full election year (with a referendum held in November 2008) prior to the campaign in Washington (with a referendum held in November 2009). Despite getting the required number of signatures to support their ballots, the results of Election Day were quite

different: the anti-same-sex marriage proponents in California triumphed, while anti-same-sex marriage proponents in Washington failed. Californians had voted to approve Proposition 8 to ban same-sex marriage by a margin of 4.5%, while Washingtonians had voted to approve the Senate Bill to extend rights to same-sex marriage couples by a margin of 6.3%. The vote tally was regionally polarized, with coastal counties in both states taking a pro-same-sex marriage rights stance, and more rural inland counties voting against marriage rights for same-sex couples, as illustrated in Figure 4.26.

Figure 4.26 California and Washington county results for same-sex marriage ballot[72][73]



With only two choices on the ballot, the voting results were bound to be polarized without any options for a compromising middle choice, as is the case with two-option referendums. However, what is notable in the distribution of votes is the degree of regional polarization, showing just how divided the states were on the issue. The maps

[72] In the California Map, light blue indicates counties with a majority vote in favor of Proposition 8 and banning same-sex marriage, while in the Washington map, green indicates counties with a majority vote in favor of Referendum 71 to extend rights to same-sex couples. In other words, light blue California counties and red Washington counties both illustrate regions with a majority of anti-same-sex marriage sentiment.

[73] These images were captured from the Wikimedia Commons: California map retrieved from: https://upload.wikimedia.org/wikipedia/commons/thumb/6/61/CA2008Prop8-NoColor.svg/250px-CA2008Prop8-NoColor.svg.png
and Washington map retrieved from
https://upload.wikimedia.org/wikipedia/commons/6/65/Referendum_71_Results.png

suggest that those against same-sex marriage were far more likely to have neighbors harboring similar opinions if they live inland, or in rural areas, while the opposite could be said for residents living along the largest cities located in the bays and coastal areas of both states. There are certainly some caveats to this generalization, as seen with San Diego and Los Angeles. Practically speaking, the regional differences in a pre-digital era could enable a citizen to hide behind a cloak of obscurity and not have to worry about potential negative sanctions that could results from greater visibility if they happened to reside in a region that did not represent their private views. As will be demonstrated in the next section, there were also many common features of public records laws in both states, with the key exception relating to accessibility to petition signatures.

4.3.2 Public records law and policy

California and Washington State have both been lauded by disclosure watchdog organizations for their public disclosure laws and policies, which at the time of the referendums ranked among the best in the US (Grading State Disclosure, 2008). Their respective public disclosure acts were both established within similar national contexts of the Nixon administration in the early 1970s, when many other states were also developing their own 'sunshine laws.' Both of these states also have long-standing traditions in the use of the initiative and/or referendum to establish, amend or veto state laws (or recall elected leaders). However, California disclosure law differed from Washington in one key aspect – the exemption they made with regards to public records: providing access to the details of those who sign petition lists for popularly initiated referendums. Their

respective public disclosure commissions differed in opinion with regards to the protections that ought be provided for petition signers, highlighting the different underlying assumptions of the role of a signer. This exemption is explicitly noted in the California Public Records Act in Government Code Section 6253.5. No analogous exemption is explicitly noted in Washington's Public Records Act. In fact, when Washington faced a challenge on their petition disclosure policy in *Doe v. Reed (2010)*, they fought back determinedly to re-affirm the importance of disclosure for popularly initiated petitions, even in consideration of the potential and real reprisals that could and did transpire.

4.3.3 RQ1: Use and repurposing of public records, and driving motivations

The evidence outlined from the Proposition 8 and Referendum 71 case studies provides powerful insight into RQ1 and RQ2, and to what extent the online databases of the digital age enabled the expansion of visibility and facilitation of reprisals. Since the establishment of the initiative process in California and Washington states, physical in-office inspection and document retrieval was the key mechanism triggering visibility as a consequence of disclosure policies, in adherence with the states' Public Records Acts. However the development of digital technology and online access policies enabled revolutionary and unprecedented forms of use and repurposing of data in both California and Washington – a phenomenon that was exacerbated in highly divisive same-sex marriage referendum campaigns. Both states were the primary source providers of

information disclosed by ballot campaigns, and in both cases, the data from these online databases was provided in dedicated user-friendly online databases. Both states enabled sorting and search functions, making it easier to find information or patterns that would otherwise be obscured within the lists. Both states went even further in providing the databases in various downloadable formats to further diminish the barriers to access and analysis among members of the public and other interested parties. These additional features not only far exceeded the minimal requirements of disclosure as defined by their own respective regulatory commissions, but also demonstrated the open-government approach the state governments have taken towards supporting public disclosure. Though this support for disclosure did have limits in the case of California with regards to petition signatures – an unusual finding considering the state's top-ranking in transparency grading schemes, placing just behind Washington on most transparency-enhancing measures (Grading State Disclosure, 2008).

In both Proposition 8 and Referendum 71, there were many instances of campaign activists, news organizations and non-partisan transparency organizations accessing and republishing state-disclosed public records. While media outlets and transparency organizations facilitated transparency equally for both sides of the campaigns, campaign activists in both cases were instead driven by political motives. The most notable instances in the case of Proposition 8 were the Prop8 Maps and Californians Against Hate websites, which created the *Dishonor Roll* list of names and facilitated organized boycotts of businesses connected to the largest donors. While the activist campaign in California only concerned donors and the Washington activist's campaign concerned

signers, they both had one crucial detail in common – both sets of activists were ostensibly on the side of pro-same-sex marriage campaigns. While anti-same-sex marriage activists had access to the financial disclosure databases in both states, there was only one notable case of the political majority group attempting to identify contributors and facilitate negative social sanctions, as evidenced by the letter writing campaign of ProtectMarriage.com (reproduced in Appendix H). Indeed, no 'No-on-8' mapping visualizations were created. In both contexts, it can be assumed that identifying and organizing boycott campaigns wasn't considered to be a useful tactic. For this reason, both lawsuits against California and Washington were by plaintiffs affiliated with the anti-same sex marriage campaigns.

One of the emerging themes from the case research was an understanding of just how critical disclosure thresholds and reporting requirements were for activists, news outlets and transparency organizations. Karger (2017) strongly emphasized this change in public disclosure law as one of the game-changing elements of his campaign prior to the vote on Proposition 8, as he could focus all his attention on researching just the backgrounds of a small number of contributors that had given more than $1000 USD – particularly in the weeks just before the vote when campaigns receive and spend the majority of their funds. His disclosure activism ultimately led to counter donations to the No-on-8 campaign, demonstrating the power of his boycott campaigns to facilitate action. The reporting deadline also aided his eventual discovery of the role of the Mormon Church in the Proposition 8 campaign, and the sheer portion of donors living beyond California's borders.

With a better understanding of how online records were used and repurposed, this raises the question of the motivations driving the behavior of the three key players. The cases show that news outlets and transparency organizations were motivated to facilitate information transparency of all those involved in the referendum process who meet threshold conditions. Much of these motivations support Dahl's (1989) normative democratic criteria for an informed and enlightened population. However, the motivations behind campaign activists were more complex. They shared the same political positions, though they differed in tactics. Karger in California focused his attention on facilitating boycott campaigns against the biggest donors, while Murphy in Washington (as well as Lang in Massachusetts, Arkansas, and Florida) were driven by a goal to facilitate conversations amongst family and friends. Karger focused mainly on businesses and organizations, while Murphy and Lang broadened their focus to all petition signers. This resulted in very different types of negative reprisals experienced by individuals and business, which yields considerable insight for RQ2.

4.3.4 RQ2: Reprisals facilitated by online access to public records

Both cases demonstrated evidence of negative reprisals and specifically reprisals for those had signed a petition in favor of Referendum 71, and for those who had contributed donations against same-sex marriage rights in both cases. More of these reprisals were documented in the California case, perhaps due to the significantly greater amount of contributions that had been made which were record-setting for a referendum, and a well-organized and publicized boycott campaign that focused on a small subset of large

donors. Another reason may have been the more divisive nature of same-sex marriage within California compared with Washington. While there were claims of reprisals besides boycott including picketing and protests, unsolicited phone calls and emails, theft and vandalized property, and even physical assault and death threats against individuals, it is difficult to draw a direct link to online databases and digital public records as the main catalyst in most of these cases, as many of these aforementioned forms of reprisals could have been facilitated even in the absence of digital technology.

Both California and Washington's Secretary of States also faced reprisals in the form of a lawsuit aimed at their public records policies. The series of separate legal proceedings concerning state-mandated disclosure for Proposition 8 and Referendum 71 were similar in a number of ways. Notably, the plaintiffs who brought forth the lawsuits in both disclosure cases were advocates for the same side of the campaigns in both states, in favor of curtailing same-sex marriage rights. In fact, the same lawyer – James Bopp, Jr. – had led arguments in both cases against the respective state Attorney Generals, amongst others, seeking exemptions from disclosure. Interestingly enough, these lawsuits were against states that were used to being praised for having robust public disclosure laws and policies in the US, rather than criticized. In both sets of lawsuits, the adjudicating courts ultimately sided with the State defendants, noting that the evidence brought forth regarding reprisals was weak, based on heresy, or simply not significant enough to override the state interest in maintaining robust public disclosure regimes. The Supreme Court, with their majority decision 8-1 in favor of the defendants, did leave open the possibility that a future case in which there were more serious possibilities (or

actual instances) of threat or harm could be permitted an exemption from disclosure. Chapter 7 will further discuss these findings in synthesis with the findings from the experiments in Chapter 5 and Chapter 6 providing insight into RQ3, and include a set of policy recommendation for California and Washington, as well as other states with broad provisions for online access to public records containing personally identifiable information.

4.4 Conclusion

Following the previous chapter which provided an explanation of case study methodology along with its value for assessing the use and repurposing of online public records regarding political participation, this chapter has provided a summary of two case studies from the US: Proposition 8 in California and Referendum 71 in Washington. The review of these two cases demonstrates new uses of online public records, and further highlights the extent of reprisals for citizens, businesses and organizations. The cases further show that the American courts in these jurisdictions generally favor public records disclosure laws and policies for popularly initiated referendums over privacy and anonymity, and maintain a high threshold for exceptions and exemptions. While the two case studies contain evidence to suggest that online access to public records matters to citizens and businesses, it does not explain if notification regarding these online public records policies will having chilling effects on participation in popularly initiated referendums. These remaining questions are explored in Chapter 5 and Chapter 6.

5 Findings from a lab experiment on the impact of public disclosure on political participation

> "*Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman*."[74]
>
> -Louis D. Brandeis, 1913[75]

While the case studies provided in Chapter 4 were designed to explore the first two research questions RQ1 and RQ2 regarding the development and consequences of online access to public records in two case studies, the lab experiment discussed in this chapter was designed to investigate how notification of online access to public records policies could impact participation, as noted below in RQ3:

> **RQ3**: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

[74] Brandeis, 1913, p. 4

[75] Louis D. Brandeis served as an Associate Justice of the US Supreme Court from 1916-1941.

This experiment complements the findings from the case studies and further provides empirical evidence for the chilling-effects argument that motivated this research. It is difficult to measure to what extent individuals from the case study that signed petitions and made donations were aware of the existence of public records statutes that mandated disclosure in online databases. It would seem that an awareness of disclosure policy regarding an act of political participation would have chilling effects on participation rates for individuals under certain conditions, as predicted by the social desirability bias discussed in Chapter 2. The effects should be even stronger for individuals who hold views that are in opposition to the majority of their peers and neighbors, or for divisive issues. These conditions are conducive to the application of experimental methods, in which the awareness of disclosure varied between control and treatment groups. In consideration of the social information theories and previous findings of La Raja (2011; 2014) and Perez-Truglia and Cruces (2017), two hypotheses were formulated for testing in this experiment to find evidence for RQ3:

> **H1**: Individuals who are prompted with a public disclosure treatment will be less likely to demonstrate their support or opposition for an issue by engaging in micro-participation tasks compared with individuals whose actions are not publicly disclosed.

> **H2**: When individuals perceive there to be a supermajority opinion for an issue among their group, the impact of a public disclosure treatment on their engagement in micro-participation tasks will be greater for those who oppose the supermajority compared with those who agree with the supermajority.

This chapter begins by first providing a summary of the distribution of opinions, perceptions and participation behavior measured across all 13 sessions and 225 subjects

within the experiment. The chapter then provides the results from the statistical analysis that was applied to test the two hypotheses regarding the impact of public disclosure on micro-participation within the lab setting, in addition to presenting the findings from an analysis of donation rates. This section is followed with a summary of the findings with respect to experimental validity, before providing concluding remarks on the implications of the findings for RQ3 regarding the impact of public disclosure on political participation.

5.1 Summary of opinions, perceptions and participation

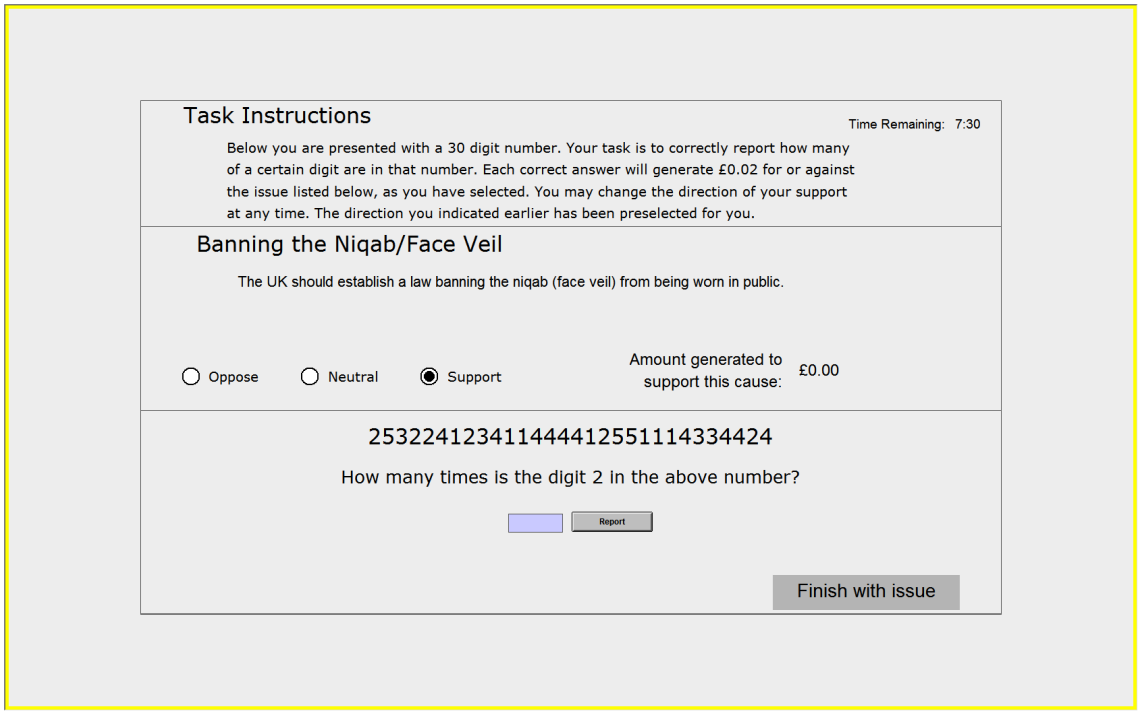
In this section a summary of opinions, perceptions and behavior is aggregated and presented to provide deeper insight into the behavior of participants within the experiment. As noted in Chapter 3, the treatment was delivered at the beginning of Part II, and therefore all responses to Part I of the experiment were received under identical conditions between control and treatment groups for all 225 subjects. In the first part of the experiment subjects answered questions about the direction and magnitude of their opinion on eight different issues, as well as their perception of the majority position among their lab group for each issue. Subjects also provided information about what types of online and offline participatory acts they'd be willing to partake in. Summaries for all three of these variables from Part I are provided in this section. The second part of the experiment began with a delivery of the treatment statement regarding disclosure notification, which was integrated into the instructions for the treatment group as shown below in Figure 5.1.

Figure 5.1 Treatment statement included in instructions for treatment group

> In this part of the experiment, you'll have an opportunity to review each of the issues from the first part of the experiment and demonstrate how strongly you feel about the issue by filling carrying out a counting task. The more counting tasks you complete, the more you'll be showing us how strongly you support or oppose the issue. **After finishing this part of the experiment, your level of support or opposition for each issue will be visible to other participants sitting in the lab at this session, alongside your photo.** The photos will be deleted at the end of the session, and your responses will not be connected with your personally identifiable information by the experimenters.

This second part of the experiment collected data on participatory effort in the form of micro-participation tasks attempted for each issue, and a summary of this data is included in this section. Figure 5.2 illustrates the micro-effort number counting task that was used in the experiment as a proxy for micro-effort political participation. A summary of this data from Part II is also provided in this section. Before the experiment concluded, subjects were also offered an opportunity to make an anonymous donation from their payout fee towards any of the issues, and the summary of donation rates is also provided. While this section only focuses on the overall distribution of opinions, perceptions and participation behavior of the sample group, further details regarding demographic traits of the sample group are provided for reference in Appendix G.

Figure 5.2 The measurement of micro-participation for each issue



5.1.1 Distribution of opinions across issue topics

The first question in Part I asked subjects to indicate the direction of their opinion and magnitude of their support or opposition for each issue on a five level Likert scale. Table 5.1 shows the averages of the actual group opinion for each issue, with 'support' or 'strongly support' and 'oppose' or 'strongly oppose' values of the Likert scale collapsed into two respective categories. Overall, just under 80% of subjects stated they were opposed or strongly opposed to banning government benefits for immigrants, while two-thirds of subjects had support or strong support for legalizing recreational marijuana use. Similarly, 84% of subjects supported or strongly supported providing free prescriptions for organ transplant recipients, while 83% supported or strongly supported mandating financial education in schools. Approximately 60% of subjects supported or strongly

supported improving aviation safety. About two-thirds of the sample opposed or strongly opposed banning the financing of cluster bombs, while 58% opposed or strongly opposed banning the face veil in public and 47% were in support or strong support of banning smoking outside of public buildings. With regard to these average group opinions, five of the eight issues had supermajority group opinions – with supermajority defined as a threshold of at least two-thirds of the group. The bottom four issues listed in Table 5.1 received very little opposition (between 4-8%), indicating that the vast majority of the group was in broad agreement on these issues.

Table 5.1 Distribution of opinions for each issue

Issue topic	Position	Perceived group opinion (%), N=225	Observed group opinion (%), N=225	Difference between perceived and observed opinions (%)
Banning immigrant benefits	Oppose	73.8	78.7	-4.9
	Neutral	3.6	7.1	-3.5
	Support	22.7	14.2	8.5
	Spread	**51.1**	**64.5**	**13.4**
Legalizing recreational marijuana	Oppose	44.4	8.9	35.5
	Neutral	5.3	23.2	-17.9
	Support	50.2	67.9	-17.7
	Spread	**5.8**	**59.0**	**53.2**
Banning the niqab/face veil	Oppose	75.1	57.7	17.4
	Neutral	4.4	18.3	-13.9
	Support	20.4	25.0	-4.6
	Spread	**54.7**	**32.7**	**22.0**
Banning public smoking	Oppose	56.0	35.1	20.9
	Neutral	6.2	18.2	-12.0
	Support	37.8	46.7	-8.9
	Spread	**18.2**	**11.6**	**6.6**
Promoting aviation safety	Oppose	28.9	6.2	22.7
	Neutral	3.6	32.0	-28.4
	Support	67.6	61.8	5.8
	Spread	**38.7**	**55.6**	**16.9**
Free prescriptions for organ transplant recipients	Oppose	18.2	6.2	12.0
	Neutral	3.1	9.8	-6.7
	Support	78.7	84.0	-5.3
	Spread	**60.5**	**77.8**	**17.3**
Financial education in schools	Oppose	18.7	4.0	14.7
	Neutral	4.9	13.3	-8.4
	Support	76.4	82.7	-6.3
	Spread	**57.7**	**78.7**	**21.0**
Banning cluster bombs	Oppose	21.8	8.0	13.8
	Neutral	5.8	23.1	-17.3
	Support	72.4	68.9	3.5
	Spread	**50.6**	**60.9**	**10.3**

The eight issues varied considerably in terms of divisiveness, as indicated by the size of the spread between opposition and support group sizes. The spread is calculated as the difference between support and opposition and excludes individuals with or perceiving neutral opinions. The difference is expressed as an absolute value. The narrowest spread – and consequently most divided among the sample in this experiment – was for the banning of smoking outside of public building. However, while public smoking was in actuality the most politically divided issue, it was not perceived by the group to be the most politically divided issue. In terms of average perceived group opinion, the most politically divided issue was the legalizing of recreational marijuana use, followed by the topic of smoking outside public buildings, with a spread of 5.4% and 18.2% respectively. Providing free prescriptions for organ transplant recipients and financial education in schools were perceived to be the least divisive, and were indeed observed to be the least divisive issues as well. The next section will provide further details regarding the perceived opinions at the individual level for each issue, as H2 focuses on the impact of perceived rather than actual observed distribution of opinions with regards to the relationship between public disclosure and micro-participation, as it is hypothesized that this perception moderates the relationship between disclosure and participation. One final insight gained from Table 5.1 is that for all of the issue topics, there were discrepancies in the observed and perceived distributions of opinions, implying that subjects in this experiment generally do not have a precise understanding of what others feel, and generally underestimate the neutrality of others – although they are very good at understanding when a supermajority is present.

In consideration of this difference between perception and reality within the lab setting, it's worth further considering the distribution of opinions on these issues amongst the broader British public around the time the experiment was conducted. This additional assessment adds insight into the assessment of external validity, with regards to how representative the opinions of this sample was compared with the broader British public. The first column in Table 5.2 presents the figures for support and opposition for six of the eight issue topics, as no public opinion polls were available regarding attitudes towards promoting general aviation safety or providing free prescriptions for organ recipients.[76] As the table shows, opinions regards the banning of smoking outside of public buildings, providing financial education in schools, and banning cluster bombs were in alignment between the experimental sample and the broader British public (Dahlgreen, 2015; Chartered Insurance, 2011; UK banks, 2011). The sample group was also more opposed to banning benefits for immigrants compared with a British public poll (Ormston & Curtice, 2015). However, the biggest differences between the sample group and the broader British public were for on the topics of legalizing marijuana and banning the niqab/face veil. The sample group was much less opposed to legalizing marijuana (Jordan, 2015), and much more opposed to banning the niqab/face veil (Smith, 2016). These differences may be a reflection of the bias of the sample group, which skews towards younger age groups and currently enrolled student status compared with not only the broader Oxford population, but the broader British population as well.

[76] The British public opinion polls that are cited were not exact replications of the opinion polls taken in this experiment, though the references cited had the closest approximations, and were carried out relatively close to the time of the experimental sessions.

Table 5.2 British public opinion compared with lab sample group opinion

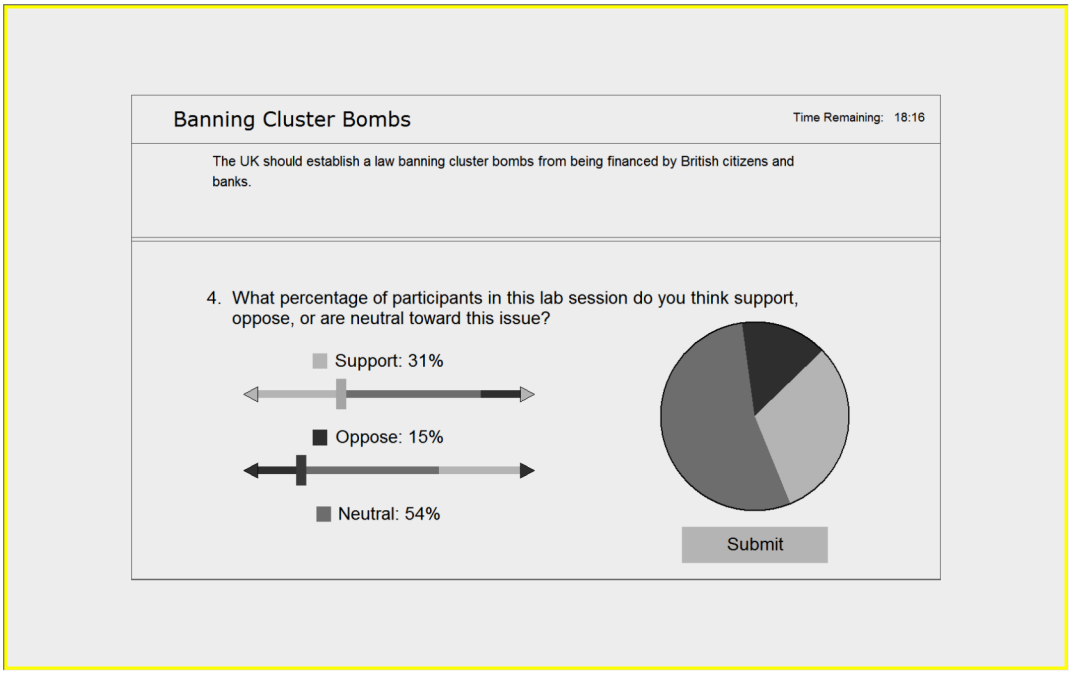
Issue topic	Position	Available British public opinion surveys (%)	Experiment sample opinion (%), N=225	Difference between British public and sample (%)
Banning immigrant benefits	Oppose	60.0	78.7	-18.7
	Neutral	N/A	7.1	
	Support	40.0	14.2	25.8
	Spread	**20.0**	**64.5**	Difference in spread: 13.4
Legalizing recreational marijuana	Oppose	49.0	8.9	40.1
	Neutral	N/A	23.2	
	Support	32.0	67.9	-35.9
	Spread	**17.0**	**59.0**	Difference in spread: 53.2
Banning the niqab/face veil	Oppose	25.0	57.7	-32.7
	Neutral	N/A	18.3	
	Support	57.0	25.0	32.0
	Spread	**32.0**	**32.7**	Difference in spread: 22.0
Banning public smoking	Oppose	39.0	35.1	3.9
	Neutral	N/A	18.2	
	Support	50.0	46.7	3.3
	Spread	**11.0**	**11.6**	Difference in spread: 6.6
Promoting aviation safety	Oppose	N/A	6.2	N/A
	Neutral	N/A	32.0	
	Support	N/A	61.8	N/A
	Spread	**N/A**	**55.6**	N/A
Free prescriptions for organ recipients	Oppose	N/A	6.2	N/A
	Neutral	N/A	9.8	
	Support	N/A	84.0	N/A
	Spread	**N/A**	**77.8**	N/A
Financial education in schools	Oppose	6.0	4.0	2.0
	Neutral	N/A	13.3	
	Support	94.0	82.7	11.3
	Spread	**88.0**	**78.7**	Difference in spread: 21.0
Banning cluster bombs	Oppose	N/A	8.0	N/A
	Neutral	N/A	23.1	
	Support	67.0	68.9	-1.9
	Spread	**N/A**	**60.9**	N/A

5.1.2 Perceived congruence with supermajority opinions

As noted before, data to determine both individual opinions and perceived distribution of others' opinions on all eight issues was collected in the first part of the experiment. The perceived distribution of others' opinions refers to an individual's assumption of the distribution of the overall group's opinion on an issue, with the group defined as the collection of individuals participating in the lab session (as opposed to the perceived societal opinions among the broader population). The focus of H2 is on perception of supermajorities and group norms rather than actual supermajorities or group norms, since despite the discrepancy in these two variables, when individuals are offered an opportunity to participate or express political opinions in the real world, they are rarely provided with details of public opinion polls. This makes perception more likely to contribute their decision-making process regarding political participation.

To determine perceived distribution of opinions, a composite variable was formulated using inputs from questions for each issue about how individuals thought other participants in their lab session felt about an issue. Subjects could indicate their assumption of how group opinion was distributed for each issue using the pie cart illustrated in Figure 5.3.

Figure 5.3 The measurement of perceived distribution of group opinions



A threshold of two-thirds (67%) was used to define a supermajority opinion, as a proxy for a perceived social norm among the lab group. While a supermajority is generally defined as any figure greater than a simple majority of more than 50%, this specific value was chosen as a threshold in this experiment based on an average of supermajority thresholds applied in previous experiments exploring levels of consensus and majority and minority influence, with supermajority values ranging from 52-82% (Martin et al., 2002). Therefore, if an individual felt that at least 67% or more of other subjects sitting in the lab disagreed with their position, then that individual was considered to be non-congruent with the supermajority. The first column in Table 5.3 shows the number of cases which met both of these conditions: 1) the perceived presence of a supermajority opinion of at least 67% or more of their lab group, and 2) a stated personal opinion which opposes the supermajority.

Table 5.3 Perceived non-congruence with supermajority opinion

	Subjects who think a supermajority opinion is present which they disagree with (N=225)	
Issue topic	# of subjects	% of sample
Banning immigrant benefits	21	9.3
Legalizing recreational marijuana	8	3.6
Banning the niqab/face veil	11	4.9
Banning smoking outside public buildings	10	4.4
Promoting aviation safety	3	1.3
Providing free prescriptions for organ recipients	4	1.8
Requiring financial education in schools	2	0.9
Banning the finance of cluster bombs	10	4.4
Total out of 1800 cases:	**69**	**3.8%**

Note: The remaining 1731 cases (96.2% of the total cases from 225 subjects) only met one or neither of the two conditions required regarding perceived presence of a supermajority of at least 67% or more, and individual opposition to the perceived supermajority.

The figures show that the topic of banning immigrant benefits was found to be the issue where the most subjects (just over 9%) felt that they held a personal opinion that was not congruent with what they perceived to be the supermajority group opinion. The next four issues ranking highest for individual cases of perceived non-congruence were the topics of banning the niqab/face veil, banning smoking outside of public buildings, banning the financing of cluster bombs, and legalizing recreational marijuana. Out of 1800 total cases from the 225 subjects, there were 69 cases in which a subject perceived that a supermajority opinion was present among their lab group for which they indicated that they held an opposing opinion. As anticipated, there were very few instances of perceived non-congruence with a supermajority for the promotion of aviation safety,

providing free prescriptions for organ transplant recipients, or requiring financial education in schools.

5.1.3 Willingness to engage in various forms of political participation

In addition to collecting data on private opinions and individual perceptions of others' opinions, data was also collected on which forms of political participation that they would be willing to engage in for each of the eight issues. The forms of political participation were provided in a list that included:

- willingness to post on Facebook or Google+
- willingness to post and share their opinion on Twitter
- willingness to post on an anonymous forum
- willingness to post on an email list
- willingness to email personal contacts
- willingness to sign an online petition
- willingness to sign a paper petition
- or, none of the above actions

The responses to these questions were used to determine cases where individuals indicated they would be willing to engage on behalf of a cause in some form, to then further narrow down to instances in which subjects indicated they'd only be willing to engage in the participatory act that explicitly guaranteed non-disclosure of action – both online and offline: "willingness to post on an anonymous forum." As shown in Table 5.4, the proportion of subjects who indicated they would be willing to participate for a cause – but only if it was for an anonymous forum – ranged between 5-12% for each of the eight issues. Legalizing recreational marijuana use, banning the niqab/face veil, and banning immigrant benefits were the issues in which the highest percentage of subjects from the

total sample indicated they would only participate (in either support or opposition) in an anonymous forum post, when assessed as a proportion of the overall sample group including those who would not participate in any actions at all.

Table 5.4 Willingness to engage in different forms of political participation

Issue topic	Subjects not willing to engage in any actions (% of N=225)	Subjects who would engage in some form of participation (% of N=225)	Subjects willing to participate in anonymous action ONLY (% of N=225)
Banning immigrant benefits	81.3	18.7	9.8
Legalizing recreational marijuana	64.4	35.6	12.0
Banning the niqab/face veil	62.2	37.8	11.6
Banning smoking outside public buildings	67.6	32.4	7.6
Promoting aviation safety	58.7	41.3	6.7
Providing free prescriptions for organ recipients	75.1	24.9	8.4
Requiring financial education in schools	74.2	25.8	6.7
Banning the finance of cluster bombs	65.3	34.7	5.3

While these figures may seem small as a proportion of the overall sample group (N=225), they are significantly larger when understood as a proportion of only subjects who want to engage in some form of participation on behalf of a cause, rather than including subjects who were not willing to participate in any political acts. Table 5.5 makes this distinction more clear, indicating that as much as 52% of subjects who indicate they are willing to engage on behalf of a cause were only willing to do so if the form of participation was posting on an anonymous forum.

Table 5.5 Willingness to engage in anonymous form of political participation only

Issue topic	Number of subjects who would engage in some form of partici-pation (#)	Number of subjects who would engage in anonymous action **only** (#)	Proportion of participation-willing subjects who would engage in anonymous action **only** (%)
Banning immigrant benefits	42	22	52.4
Legalizing recreational marijuana	80	27	33.8
Banning the niqab/face veil	85	26	30.6
Banning smoking outside public buildings	73	17	23.3
Promoting aviation safety	93	15	16.1
Providing free prescriptions for organ recipients	56	19	33.9
Requiring financial education in schools	58	15	25.9
Banning the finance of cluster bombs	78	12	15.4

This figures in this table imply that among the participants in this experiment who wanted to participate on behalf of a cause, a significant portion of them – and in one case a majority of subjects – did not want to engage in forms of political participation that had some degree of public disclosure. This finding offers strong support for H1, showing that there is indeed a sizable number of individuals who will be less likely to engage in political participation under the condition of disclosure, who otherwise would participate if offered an anonymous option.

5.1.4 Micro-participation behavior across issue topics

The key dependent variable that was measured and used to determine treatment effects in this experiment was the micro-participation activity. The micro-participation figures for each of the eight issues among all 225 subjects is provided in this section by treatment and control group, to highlight any visible differences before moving on to statistical tests

in the next section. The micro-participation variable from the data set is based on a measure of the number of participatory attempts – rather than successful completions – that were made by a participant to demonstrate the magnitude of their support *or* opposition towards an issue topic. As noted in Chapter 3, each micro-participation attempt represented a single number-line counting task that the subject attempted. This number was then converted to a binary outcome variable, indicating whether or not a subject attempted any number of micro-participatory acts. This binary outcome variable was used to develop graphic visualizations of the differences in micro-participation activity between control and treatment groups. After aggregating the data across all eight issues, the histogram presented in Figure 5.4 indicates that there was almost no difference between the number of subjects exerting any non-zero amount of participation between control and treatment groups. This runs counter to H1, which hypothesized that there would likely be a larger difference in participation rate within the treatment group compared with the control group. Figure 5.5 provides figures for the difference in participation rates for each issue, showing a range of slightly larger differences.

Figure 5.4 Average difference in participation

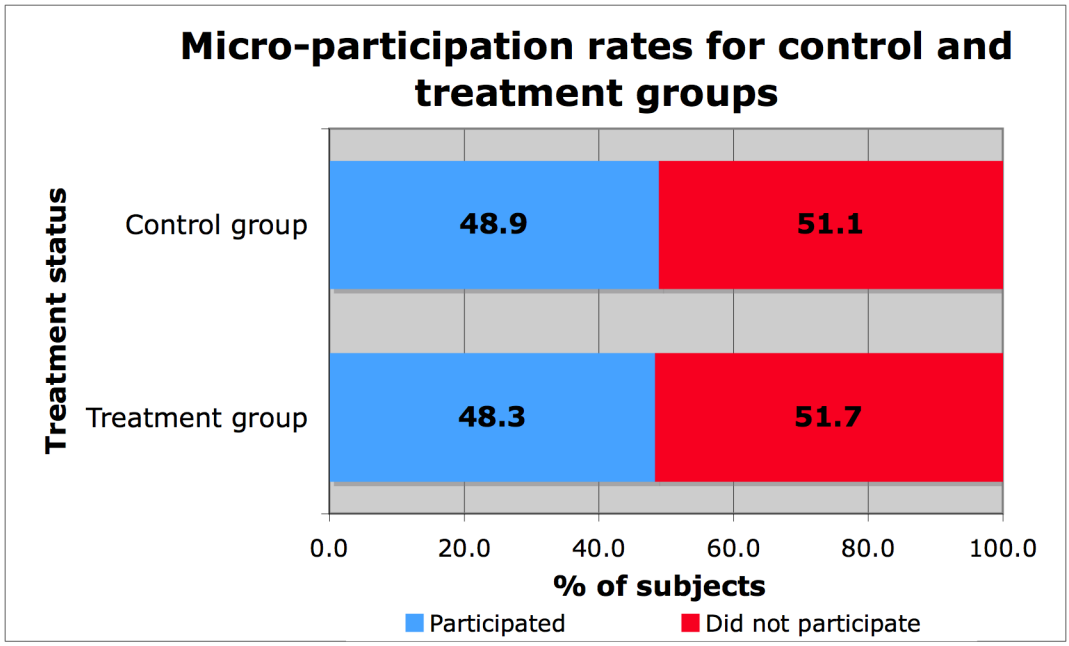


Figure 5.5 Difference in participation rates for each issue topic

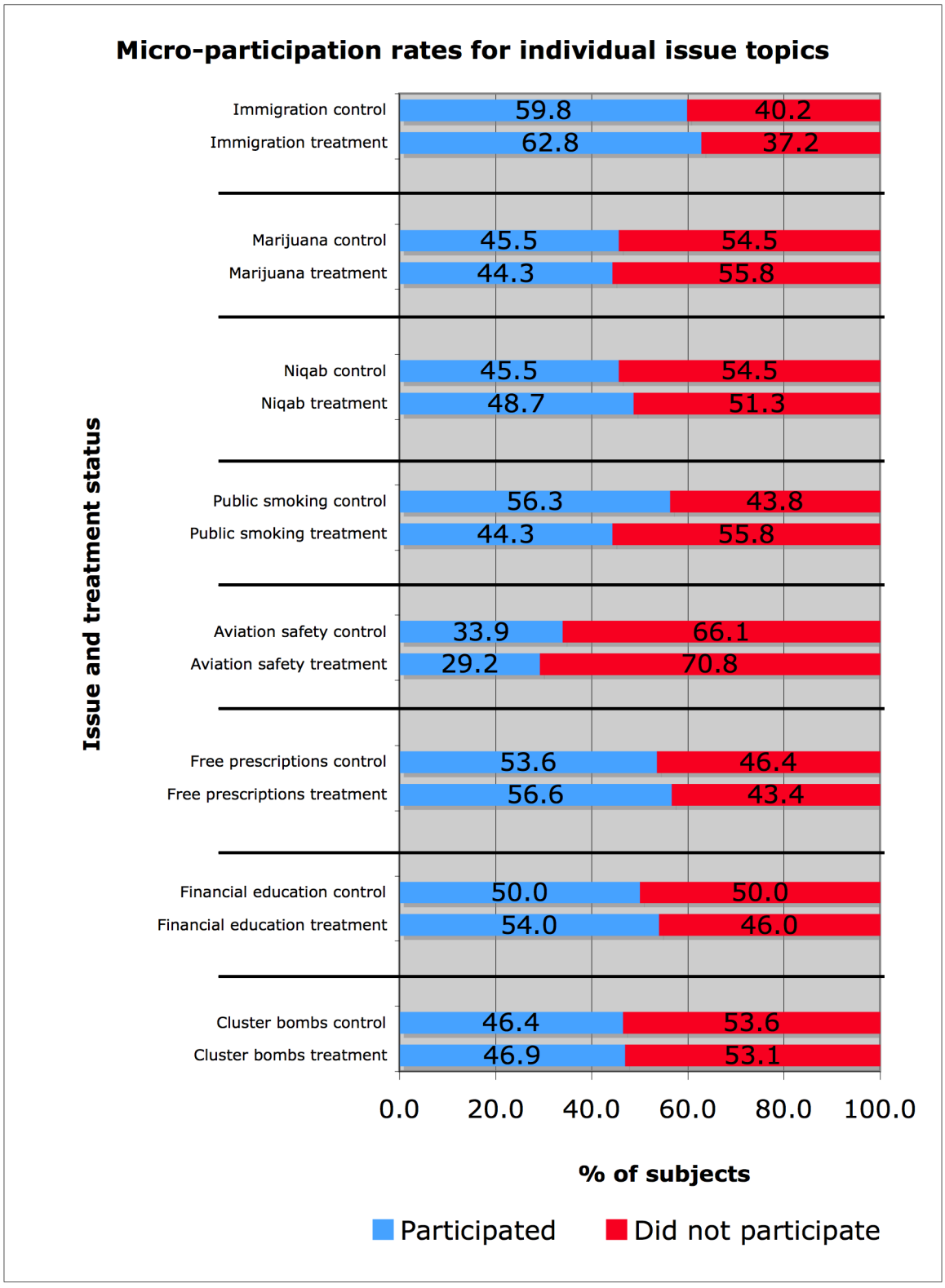


Figure 5.5 shows that the largest visible difference between control and treatment group participation rates was for the smoking outside of public buildings issue, while the rest of the issues show extremely small differences. While these visualizations are beginning to yield some insight into the potential impact of public disclosure, they lack the power of statistical testing. The next section will more formally assess this visual finding by providing the results from formal statistical testing on H1 and H2.

After the micro-participation rounds were complete, subjects were offered an opportunity to make an anonymous donation towards any of the eight issues. Subjects could choose to donate towards more than one issue, and the donations were subtracted from their overall participation payout fee of £15 GBP. The anonymity guarantee of these donation amounts was made explicitly clear, and all subjects received the same message regardless of their treatment status. Table 5.6 presents the donation rates for each issue.

Table 5.6 Donation rates for each issue

	Subjects who made a donation (N=225)	
Issue topic	# of subjects	% of sample
Banning immigrant benefits	56	24.9
Legalizing recreational marijuana	31	13.8
Banning the niqab/face veil	32	14.2
Banning smoking outside public buildings	30	13.3
Promoting aviation safety	17	7.6
Providing free prescriptions for organ recipients	52	23.1
Requiring financial education in schools	39	17.3
Banning the finance of cluster bombs	43	19.1
Average donation rate:		16.7%

As the table shows, the average donation rate for the 225 subjects over all eight issues was just under 17%, with the highest number of individual donations being made towards the banning immigrant benefits and providing free prescriptions for organ recipients issues, where nearly a quarter of subjects elected to make donations. In the next section, an analysis of both donations and micro-participation rates will be presented to test if there are differences in the rates for control and treatment groups, and if there is evidence for H1 and H2.

5.2 Analysis and findings

This section provides the findings from the statistical analysis that was applied to test H1 and H2 using the data from the responses and composite variables noted in the previous section. For each of the two hypotheses, a similar set of analyses was performed including two-way tabulations, Pearson's X^2 tests, tests for differences in proportions, confidence interval construction and logistic regression analysis.

5.2.1 H1: Relationship between public disclosure and political participation

The first hypothesis to be tested was whether there was an impact of the public information disclosure treatment on whether or not a subject engaged in micro-participation, as noted below:

H1: Individuals who are prompted with a public disclosure treatment will be less likely to demonstrate their support or opposition for an issue by engaging in micro-participation tasks compared with individuals whose actions are not publicly disclosed.

The outcome variable was assessed as a binary variable, indicating whether or not any micro-participation tasks were attempted. Table 5.7 provides the results of Pearson's X^2 test for independence, which shows that there is not enough evidence to reject the null hypothesis that the variables are independent at a 95% confidence level (p=0.818).

Table 5.7 Tabulation and test for independence under H1

	Micro-participation tasks attempted or not		
Treatment status	**No**	**Yes**	Total
Control	51.1%	48.9%	100.0%
N=896	458	438	896
Treatment	51.7%	48.3%	100.0%
N=904	467	437	904
Pearson's X^2=	0.053		
p=	0.818		

To determine if any of the small observed differences had statistical significance and assess confidence intervals for both groups, a test for difference in proportion was next applied. The null hypothesis was that the micro-participation rate for the control group would be equal to or less than the micro-participation rate for the treatment group, or more formally:

$$H1_0 : P_{control} \leq P_{treatment}$$

$$H1_A : P_{control} > P_{treatment}$$

As shown in Figure 5.6, the confidence intervals for the micro-participation rates for both control and treatment groups have significant overlap. Table 5.8 further shows that at the 95% confidence level the data fails to find evidence to reject the null hypothesis that there the mean participation rate for the control groups is equal to or less than the mean participation rate for the treatment groups (n1=896, n2=904, p=0.409). The confidence interval for the difference in micro-participation rates between control and treatment group also includes zero, further emphasizing that there is no evidence to reject the null hypothesis. While the observed micro-participation is higher for the control group compared with the treatment group, and this difference is in the hypothesized direction in H1, the size of this observed difference is so small (0.6%) that it fails to register statistical significance at the 95% confidence level.

Figure 5.6 Confidence intervals for proportion of micro-participation in H1

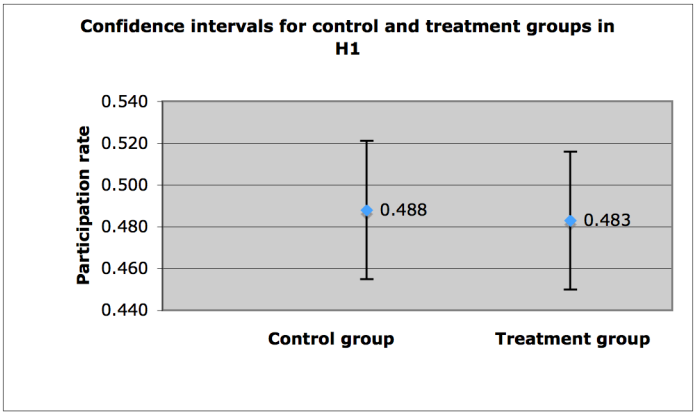


Table 5.8 Test for difference in proportions for H1

Treatment Status	N	Sample Proportions	Standard error (SE)	95% Confidence interval (Lower)	95% Confidence interval (Upper)
Control	896	0.488	0.017	0.456	0.522
Treatment	904	0.483	0.017	0.451	0.516
Difference in proportions		0.005	0.024	-0.041	0.052
	$H1_0$:	$P_{control} \leq P_{treatment}$		z=	0.231
	$H2_A$:	$P_{control} > P_{treatment}$		p=	0.409

With both Pearson's X^2 test and the test of proportions failing to find enough evidence to reject the null hypothesis that there is no difference between groups, a logistic regression analysis was next applied to see if the treatment variable had any statistical significance in a predictive model containing explanatory variables for determining the likelihood of engaging in micro-participation. Table 5.9 provides the output of this regression, highlighting statistically significant variables.

Table 5.9 Logistic regression analysis for H1

Explanatory variables	Odds ratio	p value	
Treatment	1.3	0.159	
Divisive issue	0.8	0.083	*
Currently employed	1.1	0.352	
Large group size	1.3	0.082	*
Treatment & Divisive issue	0.7	0.079	*
Treatment & Currently employed	0.7	0.129	
Treatment & Large group size	1.1	0.531	
Constant	0.9	0.360	
N=	1784	* p<0.1	
Pseudo R^2=	0.01	**p<0.05	
		***p<0.01	

The main explanatory variable of interest for H1 is treatment, labeled 'Treatment' in the explanatory variable list. The odds ratio for 'Treatment' is 1.3, indicating a slight increase in the odds of participating for those prompted with a disclosure treatment, which is counter to the experimental hypothesis in H1. However, this figure is not statistically significant at the 90% confidence level (p=0.159), even when controlling for issue type and employment status.

The regression model presented in Table 5.9 represents the optimal model, which includes a number of statistically significant variables and interactions. Issue divisiveness and group size were both found to be statistically significant at the 90% confidence level, with subjects facing divisive issues having a lower odds of participation compared with less divisive issues, and subjects in a larger group size having a larger odds of participating than those in smaller groups. The only interaction that was statistically significant at the 90% level was treatment with issue divisiveness. In this interaction, the impact of the treatment on micro-participation was larger when the subjects were faced with one of the three more divisive issues. This provides some support for H4, which will be further explored in the next section. The overall model has a pseudo R^2 value of 0.01, meaning that only 1% of the variance in participation can be explained by this set of explanatory variables available from the data that was collected in the lab experiment.

The final analysis that was carried out to gather evidence regarding the impact of the public disclosure treatment on political participation was with regard to the donations aspect of the experiment. As noted in the experimental protocol in Chapter 3, all subjects were offered an opportunity after the micro-participation round to anonymously donate a

portion of their pay-out fee towards campaigns advocating for their position on any of the eight issues that they had engaged with earlier in the experiment. The analytical approach here focuses exclusively on cases where individuals did not engage in micro-participation, to determine if there were any differences between the control and treatment groups regarding the proportion of these non-participating individuals who went on to make a donation once offered anonymity. Treatment subjects who did not participate under disclosure but were willing to participate in the form of a donation once offered anonymity offers some evidence of a treatment effect. However to more accurately assess this impact – particularly with regard to the financial motivations of participation in the experiment that may have biased the donation rate, the proportion from treatment group must be compared with the finding from the control group. To do so, a difference in proportion hypothesis test was applied for the sub-sample of cases in which a subject did not engage in micro-participation, with the null hypothesis that the donation rate for the treatment group among non-participants would be equal to or less than the donation rate for the control group, or more formally:

$$H_0 : P_{control} \geq P_{treatment}$$

$$H_A : P_{control} < P_{treatment}$$

A rejection of the null would suggest that the public disclosure treatment had suppressed an authentic desire to participate, which was demonstrated once an anonymous form of participation was offered. Table 5.10 presents the findings of the difference in proportion test, which shows that there is not enough evidence to reject the null

hypothesis that the donation rate for the treatment group is equal to or less than the donation rate of the control group at the 95% confidence level (p=0.160). Consequently, this result regarding donations does not provide evidence in support of H1.

Table 5.10 Difference in donation rates among those not engaging in micro-participation

Treatment Status	N	Donation rate	Standard error (SE)	95% Confidence interval (Lower)	95% Confidence interval (Upper)
Control	458	0.072	0.012	0.048	0.096
Treatment	467	0.090	0.013	0.064	0.116
Difference in rates		-0.018	0.018	-0.053	0.017
	H_0 :	$P_{control} \geq P_{treatment}$		z=	-0.996
	H_A :	$P_{control} < P_{treatment}$		p=	0.160

To further check for differences in groups, two 2x2 tabulations for control and treatment group were also constructed and compared, as shown in Table 5.11 and Table 5.12. The tabulations show the figures are close in value for each scenario with no major differences in either situation between control and treatment groups.

Table 5.11 Tabulation of micro-participation and donations for control group

	Control group		
	Donated or not		
Micro-participation	No	Yes	Total
No	92.8%	7.2%	100.0%
N=458	425	33	458
Yes	75.6%	24.4%	100.0%
N=438	331	107	438
Total	84.4%	15.6%	100.0%
	756	140	896

Table 5.12 Tabulation of micro-participation and donations for treatment group

	Treatment group		
	Donated or not		
Micro-participation	No	Yes	Total
No	91.0%	9.0%	100.0%
N=467	425	42	467
Yes	73.0%	27.0%	100.0%
N=437	319	118	437
Total	82.3%	17.7%	100.0%
	744	160	904

With this additional analysis on tabulations, the complete set findings from the donations aspect of the experiment failed to find strong support for H1.

The aggregate findings for H1 from the Pearson's X^2 test of independence and hypothesis tests for differences in micro-participation, along with the analysis of donation rates failed to find any statistically significant effect of public information disclosure on micro-participation within the experimental setting at the 95% confidence level. While the logistic regression model also failed to find statistical significance for the odds ratio of the main treatment variable, it does show significance for the interaction between treatment and issue divisiveness at the 90% confidence level. As will be discussed further in Chapter 7, the failure to find evidence in support of H1 may be a reflection of the biased sample group, which skewed heavily towards younger age groups. The next section provides the findings of analysis on H2 to see if there are any statistically significant differences among a narrower sub-group of subjects whose opinions are non-congruent with a perceived supermajority.

5.2.2 H2: The effect of perceived opinion congruence

After failing to find substantial evidence of a significant effect of disclosure on participation at the aggregate group level, this section provides the findings from a similar set of statistical tests and regression analysis to provide insight into a narrower set of conditions noted in H2 below:

> **H2**: When individuals perceive there to be a supermajority opinion for an issue among their group, the impact of a public disclosure treatment on their engagement in micro-participation tasks will be greater for those who oppose the supermajority compared with those who agree with the supermajority.

While the broader analysis in H1 assessed the impact of disclosure on the overall sample, H2 concerns only those cases that met two conditions. The first condition narrows down the sample cases to only those in which a subject feels there is a narrow spread among the distribution of opinions within their session group between support and opposition, with at least 67% or more members of their group session forming a supermajority opinion in either direction. This condition is based on a subject's perception of group opinion, rather than the actual observed opinions that were stated within the experiment. This conditional subject group was further narrowed down by applying the second condition, which only included cases in which a subject who met the first condition – perceiving that there was a supermajority opinion of at least 67% or more within the room on one of eight issues – also indicated that they held an opposing opinion to what they perceived to be a supermajority position. In other words, the cases included in H2 were only those in which a subject felt they were not congruent with what

they felt to be a sizable majority of at least two-thirds of their session peers. While all 1800 unique cases were available for analysis in H1 (8 issues for each of 225 subjects), only 69 cases met the two conditions for analysis in H2. These 69 cases were evenly distributed between control and treatment groups with n_1=35 cases in the control group and n_2=34 cases in the treatment group. To provide a basis for comparison, the analysis in this section also includes an assessment of cases that met the first condition of H2: when subjects were in agreement with what they perceived to be a supermajority opinion of at least 67% of their lab group. This sub-sample included 370 cases, approximately evenly distributed between control and treatment groups, with n1=340 cases in the control group and n2=330 in the treatment group. Consequently, all cases where subjects did not perceive the presence of a supermajority opinion were excluded.

The tabulations in Table 5.13 and Table 5.14 show the Pearson's tests for independence results and distribution of cases depending on supermajority congruency under H2, with the outcome variable indicating whether or not a subject engaged in micro-participation in support or opposition of an issue topic. The figures in both tabulations reveal that while there are small observed differences in participation between control and treatment groups under both conditions, there is not enough evidence in either set of cases to reject the null hypothesis that micro-participation is independent of treatment status. The results of both Pearson's X^2 tests fail to find evidence to reject the null hypotheses of independence between micro-participation and treatment group status under each of the conditions of H2 at the 95% confidence level for cases where a subject is non-congruent with the supermajority (p=0.398), and cases where subjects are congruent with the supermajority (p=0.720).

Table 5.13 Tabulation and test for independence for non-congruent under H2

	Micro-participation tasks attempted or not		
Treatment status	No	Yes	Total
Control	54.3%	45.7%	100.0%
N=35	19	16	35
Treatment	44.1%	52.2%	100.0%
N=34	15	19	34
Pearson's X^2 =	0.713		
p=	0.398		

Table 5.14 Tabulation and test for independence for congruent cases under H2

	Micro-participation tasks attempted or not		
Treatment status	No	Yes	Total
Control	44.7%	55.3%	100.0%
N=340	152	188	340
Treatment	43.3%	56.7%	100.0%
N=330	143	187	330
Pearson's X^2 =	0.128		
p=	0.720		

Next, to determine if any of the small observed differences in each of the tabulations under H2 had statistical significance, a test for difference in proportion was applied. The null hypothesis in each of the two congruency conditions was that the micro-participation rate for the treatment group would be equal to or greater than the micro-participation rate for the control group, or more formally:

$H2_0$: $P_{control} \leq P_{treatment}$

$H2_A$: $P_{control} > P_{treatment}$

The confidence intervals for micro-participation rates of control and treatment groups under both conditions overlapped considerably, as shown in Figure 5.7 and Figure 5.8.

Figure 5.7 Confidence intervals for micro-participation rates for non-congruent cases under H2

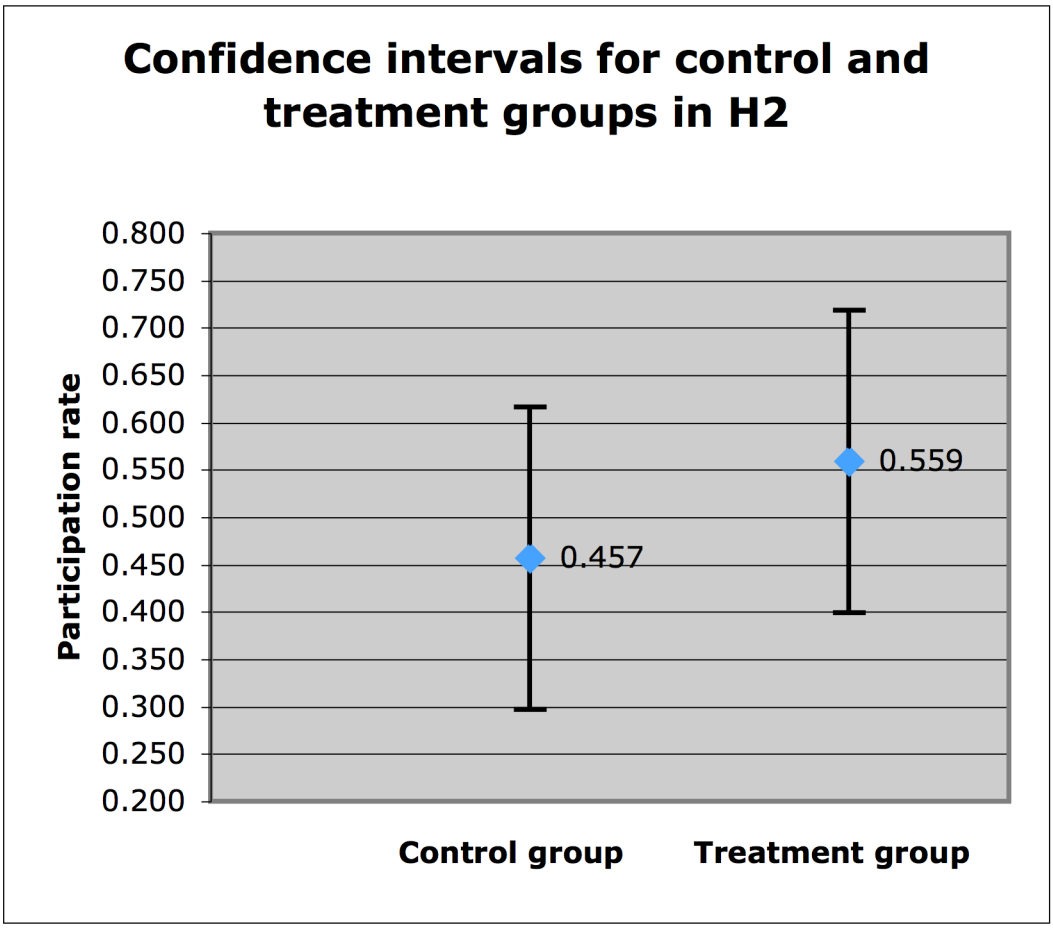
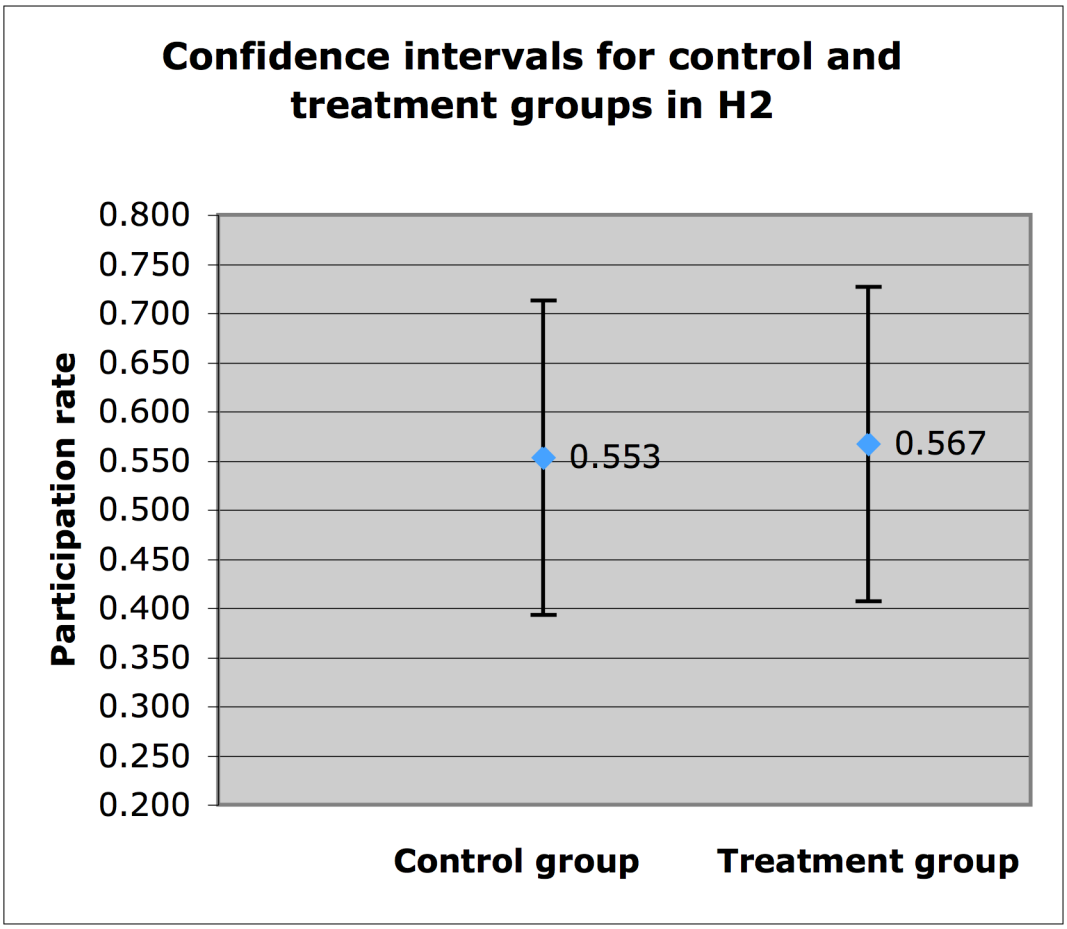


Figure 5.8 Confidence intervals for micro-participation rates for congruent cases under H2



The results of the difference in proportion tests under both congruency conditions under H2 presented in Table 5.14 and Table 5.15 further show that the data from this experiment failed to find evidence to reject the null hypothesis that the micro-participation rate for the treatment group is equal to or greater than the micro-participation rate for the control group at the 95% confidence level (p=0.801 for the non-congruent cases, p=0.640 for the congruent cases).

Table 5.15 Test for difference in micro-participation rate for non-congruent cases under H2

Treatment Status	N	Sample Proportions	Standard error	95% Confidence interval (Lower)	95% Confidence interval (Upper)
Control	35	0.457	0.084	0.292	0.622
Treatment	34	0.559	0.085	0.392	0.726
Difference in proportions		-0.102	0.120	-0.336	0.133
	$H2_0$:	$P_{control} \leq P_{treatment}$		z=	-0.845
	$H2_A$:	$P_{control} > P_{treatment}$		p=	0.801

Table 5.16 Test for difference in micro-participation rate for congruent cases under H2

Treatment Status	N	Sample Proportions	Standard error	95% Confidence interval (Lower)	95% Confidence interval (Upper)
Control	340	0.553	0.027	0.500	0.606
Treatment	330	0.567	0.027	0.513	0.620
Difference in proportions		-0.014	0.038	-0.089	0.061
	$H2_0$:	$P_{control} \leq P_{treatment}$		z=	-0.360
	$H2_A$:	$P_{control} > P_{treatment}$		p=	0.640

So far, the results do not show any effect of congruency on micro-participation in the experiment. To see if a robust predictive model could be developed to fit each of the narrower cases under H2, logistic regression models were constructed. The regression model for non-congruent cases shows mixed results, as shown in Table 5.17. The main variable of interest, treatment status, has an odds ratio less than 1, indicating that subjects in the treatment group have a lower odds of participation – a finding that supports H2. However, this odds ratio is not significant at the 90% confidence level. The only variable that has statistical significance in this predictive model is the interaction between

treatment status and gender, with treatment having a much higher impact on participation for women than for men. This odds ratio of 11.9 had the highest magnitude of any coefficient in any of the predicative models constructed in this chapter, and its value is significant at the 95% confidence level (p=0.049). This regression model for non-congruent cases had an overall Pseudo R^2 value of 0.11, which was a significant improvement on the overall explanatory power of the regression model developed for H1.

Table 5.17 Logistic regression analysis for non-congruent cases under H2

Explanatory variables	Odds ratio	p value	
Treatment	0.4	0.470	
Large group size	1.6	0.505	
Gender female	0.9	0.830	
Currently employed	2.0	0.340	
Treatment & Large group size	4.0	0.241	
Treatment & Gender female	11.9	0.049	**
Treatment & Currently employed	0.7	0.749	
Constant	0.5	0.328	
N=	69	* p<0.1	
Pseudo R^2=	0.11	**p<0.05	
		***p<0.01	

For cases where subjects were congruent with the supermajority, the Pseudo R^2 for the predictive model dropped considerably from the previous logistic model to 0.009, as shown in Table 5.18. The odds ratio for treatment is less than 1 but greater than the odds ratio for treatment in the non-congruent predicative model, which supports H2. However, this figure is not statistically significant at the 95% confidence level (p=0.527). The only explanatory variable that had statistically significance in this model was the interaction between treatment and current employment status, with an odds ratio of 1.8 at the 90% confidence level (p=0.087). This means that when controlling for other

variables, cases where subjects were treated with the public disclosure statement and were currently employed and who also were congruent with the supermajority had 1.8 greater odds of engaging in micro-participation tasks.

Table 5.18 Logistic regression analysis for congruent cases under H2

Explanatory variables	Odds ratio	p value	
Treatment	0.8	0.527	
Large group size	1.1	0.762	
Gender female	1.4	0.127	
Currently employed	0.9	0.547	
Treatment & Large group size	1.1	0.758	
Treatment & Gender female	0.9	0.872	
Treatment & Currently employed	1.8	0.087	*
Constant	1.1	0.544	
N=	660	* p<0.1	
Pseudo R^2=	0.009	**p<0.05	
		***p<0.01	

With regards to donate rates analysis, there were not enough cases in each category to apply statistical analysis in any meaningful way, and therefore this additional component of the experiment could not be assessed for this narrow sub-sample of cases where subjects were in disagreement with a perceived supermajority group opinion.

The overall findings from H2 are similar to H1, with no evidence of a treatment effect found from tests for independence and one-sided difference in proportions between control and treatment groups. Yet all three regression models did show that the main variable of focus – treatment in the form of information disclosure – does become statistically significant for more divisive issues compared with less divisive issues under H1, and for women compared with men in the non-congruent conditions under H2, and for currently employed subjects compared with currently unemployed subjects in the

congruent condition under H2. The next section assesses these findings by briefly highlighting the validity of the experiment discussed earlier in Chapter 3, before concluding with a summary of empirical findings from this lab experiment.

5.3 Summary of findings

The empirical findings from this lab experiment found very little evidence to support H1 or H2, which sought to explain RQ3 regarding the impact of notification regarding disclosure of personally identifiable information on micro-participation, and if the relationship varied depending on the perception of others' opinions within a lab group. While Table 5.5 showed that a considerable portion of individuals who want to participate on behalf of a cause will only do so by posting in an anonymous forum where their actions are not disclosed, when it came down to actual engagement the results from a variety of statistical tests did not find the treatment effect of disclosure on overall participation to be statistically significant at the 95% confidence level threshold. The donation rate analysis added further support for this finding. However, regression models for both hypotheses did find statistically significant odds ratios for treatment effect for disclosure with more divisive issues compared with disclosure for less divisive issues under H1, and for treated females compared with treated males under the non-congruent condition of H2. The findings from this chapter thus far seem to suggest that there is little threat of chilling effects on participation from notification of public disclosure

statements for individuals from the CESS population pool who are considering whether or not to engage on a variety of political and social issues within a lab setting.

The findings in this experiment were even more surprising considering the considerable age skew in the sample group, which skewed heavily towards young adults relative to the broader population, as noted in Table 5.19.

Table 5.19 Sample group by age

Age group (# years)	# of subjects	% of sample group
18 to 24	104	46.2
25 to 34	62	27.6
35 to 44	25	11.1
45 to 54	16	7.1
55 to 64	9	4.0
65 +	9	4.0
Total	225	100.0

Nearly three-quarters (73.8%) of the sample were between the ages of 18-34, and nearly half of the sample (46.2%) was between 18-24. For comparison, in 2016 approximately 32% of Oxford residents were between 18-29 years old, and the average percentage in this group across cities in England and Wales was 18% in the same year.[77] While it's tempting to theorize that younger people – so called 'digital natives' (Palfrey & Gasser, 2008) – are less concerned about their online privacy than older generations, previous studies have shown that this is generally not the case (Hoofnagle et al., 2010; Madden, 2012). Younger people are the most active managers of their online reputations (Madden, & Smith, 2010), and in terms of privacy settings are just as likely as older generations to adjust privacy settings in their online social media platforms (Madden,

[77] A summary of Oxford's demographic profile which includes data on age, student status and educational background is available on the Oxford City Council website. See <http://www.oxford.gov.uk>

2012). In a study of Facebook users, only the youngest generation online (adolescents under 18 years of age) had been found to disclose more information than adults. However, the experiment in this sample group did not recruit subjects under the age of 18, and so none were registered in the sample group or the broader subject pool. Moreover, a survey of American Internet users found that there is little difference in concerns about online privacy and norms between young adults between 18-24 and older age categories (Hoofnagle et al., 2010). Consequently, the lack of treatment effect – in consideration of this age skew towards 18-34 – suggests that an even more representative sample would not have affected the overall finding, as young adults can be just as concerned about their privacy as older generations. Unfortunately, a robust regression analysis on age categories could not be applied, as the bin sizes for older age group categories was not only too small, but also highly un-evenly distributed between control and treatment groups.

In experiments that fail to show treatment effects, one possible explanation may by a poorly design treatment that failed to diffuse through the assigned treatment group, threatening the internal validity of the experiment. However, this experiment delivered a clear treatment statement in the form of large bold lettering on an instructions page. The treatment was again reminded to subjects a second time before engaging in micro-participation tasks. Additionally, there was little chance of the treatment diffusing into the control group, as subjects could only view the instructions on their own computer screen. Therefore, the treatment statement regarding public disclosure was the only difference manifesting between control and treatment groups, and the lack of observed

differences among the sample implies that subjects from the CESS population pool were not concerned with public disclosure of their personal profile photos alongside their political participation records within the lab session. The only exceptions to this general finding were for narrower conditions in which the issues were considered more divisive or when treated subjects were female, or, during a supermajority condition when treated subjects were currently employed.

5.4 Conclusion

Responding to RQ3, the experiment carried out in this chapter tested H1: whether or not notification regarding disclosure of personally identifiable information impacted political participation on an individual level within a lab setting, and H2: if the impact varied depending on the non-congruence with perceived supermajority group opinion. Based on the spiral of silence theory and social desirability bias noted in Chapter 2, as well as the findings from the two case studies in Chapter 4, the two hypotheses tested in this chapter were that not only would public disclosure of political attitudes have chilling effects on micro-participation, but also that this impact would be greater when subjects felt they held a minority opinion opposed by 67% or more of subjects among their peer group within their lab session. While the findings of the two case studies in Chapter 4 suggest evidence of consequences from expanded online public disclosure for individuals post-participation, the findings from this lab experiment so far suggest that informing citizens of public disclosure does not seem to have a major impact on aggregate participation

within a lab setting, with some exceptions in narrower conditions regarding gender and issue divisiveness. To further seek evidence to with regard to RQ3, Chapter 6 assesses the overall impact of public disclosure notification on political participation in a survey experiment, while also further exploring the amplifying effect of issue divisiveness. While the lab experiment had high internal validity in terms of treatment design and control, the online experiment leveraged a more externally valid design with a significantly higher sample size to develop even stronger empirical evidence regarding the impact of public disclosure on political participation.

6 Findings from an online experiment on the impact of public disclosure on political participation

> "*And it may even be a bad idea to keep petition signatures secret. There are laws against threats and intimidation; and harsh criticism, short of unlawful action, is a price our people have traditionally been willing to pay for self-governance. Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.*"
>
> -Justice Antonin Scalia, 2010[78][79]

Building on the experimental lab findings presented in Chapter 5, this chapter presents the findings from an online survey experiment that was carried out in May 2016. While the two case studies provided in Chapter 4 were designed to explore RQ1 and RQ2 regarding the development of online access to public records and its observed consequences in real case studies, the online experiment in this chapter – along with the lab experiment presented in the previous chapter – was designed to gather evidence to respond directly to RQ3 regarding whether information regarding online access to public records would have chilling effects on political participation, as noted below:

> **RQ3**: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

[78] This statement was delivered in a majority-concurring opinion filed in the US Supreme Court Case *Doe v. Reed*, 561 U.S. 186 (2010).
[79] Antonin Scalia served as an Associate Justice of the US Supreme Court from 1986-2016.

The two hypotheses that were tested using data from the online experiment to yield insights into RQ3 were:

> **H3**: Individuals who are prompted with a public disclosure treatment informing them of online access to public records will be less likely to participate in petitions compared with individuals who are not prompted with the treatment.
>
> **H4**: The political divisiveness of an issue will amplify the impact of a public disclosure treatment on participation in a petition.

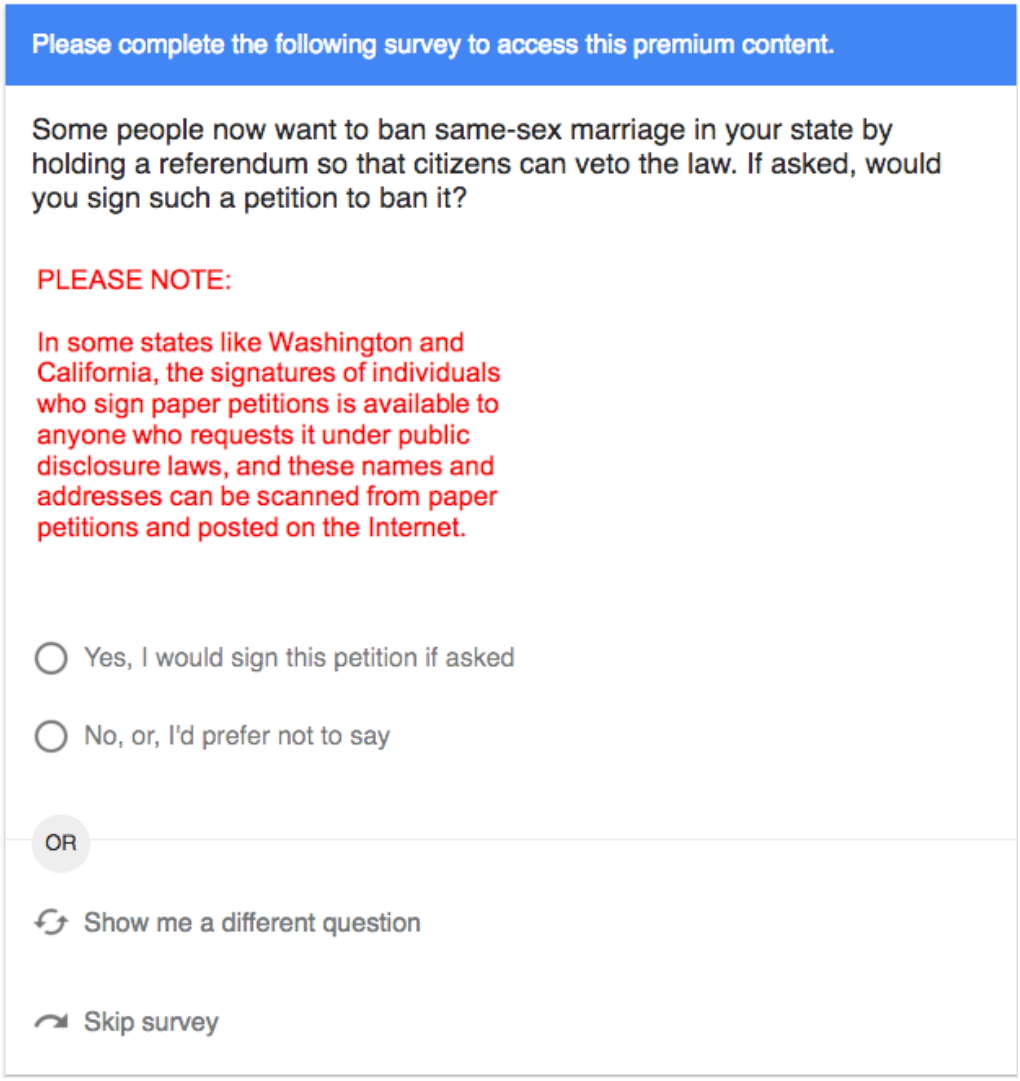
While H3 is testing whether there is evidence regarding the overall impact of public disclosure notification on political participation, H4 is a complementary hypothesis exploring whether or not the divisiveness of an issue topic will exacerbate the magnitude of this effect. Both of these hypotheses are testing the presence of a negative relationship between public disclosure notification and participation rate, whereby notification of public disclosure policies that enable online access to public records will decrease the likelihood of an individual signing a petition and participating in the political process.

This chapter begins by first providing a summary of participation rates by treatment status, location and issue topic for all 106,137 subjects, before presenting the results of the statistical analysis that was carried out. This section is followed with a summary of findings with respect to experimental validity, before concluding remarks on the implications of these findings for RQ3 regarding the impact of public disclosure notification on political participation.

6.1 Summary of participation rates

In this section a summary of participation rates is presented to provide deeper insight into the general behavior of participants within the online experiment that, relative to the lab experiment, employed a sample group from a significantly larger and more diverse population. Compared with the lab experiment and its UK-based sample, this experiment delivered a narrower set of issue topics that were more relevant to the American-based sample group. As noted in Chapter 3, four surveys were delivered to sample groups from California and Washington, and each survey had identical brief vignettes regarding one of the four issues, with the exception of an additional statement regarding the public disclosure treatment for surveys delivered to the treatment groups. Figure 6.1 illustrates one of the surveys that was presented to subjects in the treatment group for the same-sex marriage survey. The treatment – notification of public disclosure policy and the potential of online access to public records regarding participation in surveys – is indicated with bold red letters.

Figure 6.1 Example of survey with treatment



While the lab experiment explored behavior across eight topics, the online experiment includes only four topics: same-sex marriage, undocumented immigration, aviation safety and anti-slavery laws. Same sex marriage and undocumented immigration were assumed to be more divisive issues, whereas the promotion of aviation safety and enforcement of anti-slavery laws were assumed to be less divisive issues. The format of

these four sets of control and treatment surveys was identical to that shown in Figure 6.1. The four different topic vignettes that were delivered through GCS are provided in Figure 6.2.

Figure 6.2 Vignettes for the four topics in the online experiment

MORE DIVISIVE ISSUES

Same-sex marriage

Some people now want to ban same-sex marriage in your state by holding a referendum so that citizens can veto the law. If asked, would you sign such a petition to ban it?

Immigration

Some people want to have illegal immigrants deported by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

LESS DIVISIVE ISSUES

Aviation safety

Some people want to establish better flight safety standards by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

Anti-slavery

Some people want to establish more effective anti-slavery laws by holding a referendum so that citizens can pass a law requiring it. If asked, would you sign such a petition?

The next section provides details of the participation rates across these four issues, before presenting the findings from the statistical analysis that was used to test H3 and H4.

6.1.1 Participation rate overall, by state and by treatment status

The online survey experiment was targeted towards a population pool of Internet users over the ages of 18 in California and Washington State in the US. The total number of subjects who interfaced with an impression of the survey experiment and were offered an opportunity to participate was 106,137, which defines the overall size of the sample group. This figure only includes the trials of experiments for which data was available from the survey delivery agent, GCS. Additionally, while the lab experiment had no missing data across for subjects across all eight issues, data regarding participation rates was unavailable for one of the same-sex marriage trials from the Washington control group due to a technical complication. Data from this trial was therefore excluded from summary findings and statistical analysis. The aforementioned sample size of N=106,137 does not include this missing data. Furthermore, it's worth noting that data from the online experiment can not be assessed using demographic variables, as the figures for these variables are not available for individuals that chose not to participate in the survey (GCS only provides inferred details of those that chose to participate in its surveys).

The outcome variable that was measured in the two groups from this experiment was the participation rate. The participation rate within this survey experiment was defined as the proportion of the total number of subjects who participated in the survey (by indicating they would sign or not sign a survey), to the total number of subjects that were presented with a survey. This latter figure is referred to within the GCS platform as

the "Number of Impressions," which is the total number of times the survey was offered to a subject from the population.

From the 106,137 subjects receiving an opportunity to engage with the survey, 11, 521 subjects (10.9%) chose to participate by selecting the 'Yes' or 'No' options while 94,616 (89.1%) indicated that they were not willing to participate, as shown in Table 6.1. The subjects were relatively evenly divided between California and Washington, with slightly more participants in Washington. The participation rates were even across states, with 10.9% of subjects in each state choosing to participate in the petition survey, and 89.1% of subjects not willing to participate.

Table 6.1 Participation rate by state

State	Chose not to participate (# and %)	Chose to participate (# and %)	Total
California	44,451 89.1	5,412 10.9	48,863 100.0
Washington	50,165 89.1	6,109 10.9	56,274 100.0
Total	94,616 89.1	11,521 10.9	106,137 100.0

As specified in H3 and H4, the main purpose of this chapter is to test the difference between control and treatment groups, rather than differences between states, as both states have had similar experiences with open online access to public records (though as noted in Chapter 4, they differ with regard to disclosure laws for petition

signatures). Table 6.2 therefore presents the tabulation of participation rates between control and treatment groups, irrespective of state affiliation.

Table 6.2 Participation rate by treatment status

Treatment status	Chose not to participate (# and %)	Chose to participate (# and %)	Total
Control group	41,186 88.5	5,326 11.5	46,512 100.0
Treatment group	53,430 89.6	6,195 10.4	59,625 100.0
Total	94,616 89.1	11,521 10.9	106,137 100.0

The participation rates differ by just over 1%, with fewer subjects in the treatment group choosing to participate – a finding that supports H3. The findings later in this chapter will show that this difference – albeit small – is also statistically significant at the highest confidence level.

6.1.2 Participation rate by issue type and issue topic

Regarding H4, Table 6.3 presents the tabulation of participation rates across the four issues, based on assigned divisiveness of the issue topic. As noted in Chapter 3, the banning of same-sex marriage and enforcing the deportation of undocumented immigrants' petitions were classified as more divisive issues, while the promotion of aviation safety and the enforcement of anti-slavery laws petitions were classified as less divisive issues. Furthermore, both same-sex marriage and immigration were highly publicized and salient issues within both states at the time of the experiment.

Table 6.3 shows that overall a slightly higher percentage of subjects chose to participate for more divisive issues compared with less divisive issues, though the difference in rates is less than one percentage point (0.6%). This finding does not relate directly to H4, as the figures are not tabulated across treatment groups. However, it does show that more divisive issues do increase the participation rate – although the impact – without controlling for treatment effect – looks to be quite small.

Table 6.3 Participation rate based on issue divisiveness

Issue type	Chose not to participate (# and %)	Chose to participate (# and %)	Total
Less divisive issues	51,530 89.4	6,107 10.6	57,637 100.0
More divisive issues	43,086 88.8	5,414 11.2	48,500 100.0
Total	94,616 89.1	11,521 10.9	106,137 100.0

To more closely examine participation rates by issue, Table 6.4 presents the rates for each of the four issues, with the first two issues listed – same-sex marriage and immigration deportation – comprising the more divisive issue category, and the last two issues listed – aviation safety and anti-slavery – comprising the less divisive issue category. As the table shows, the same-sex marriage, immigration deportation, and aviation safety issues had consistent participation rates between 11.1-11.2%, while the anti-slavery petition had a lower participation rate of 10.2%.

Table 6.4 Participation rates by issue topic

Issue	Chose not to participate (# and %)	Chose to participate (# and %)	Total
Same-sex marriage	18,832 88.9	2,357 11.1	21,189 100.0
Immigration deportation	24,254 88.8	3,057 11.2	27,311 100.0
Aviation safety	24,595 88.9	3,061 11.1	27,656 100.0
Anti-slavery	26,935 89.8	3,046 10.2	29,981 100.0
Total	94,616 89.1	11,521 10.9	106,137 100.0

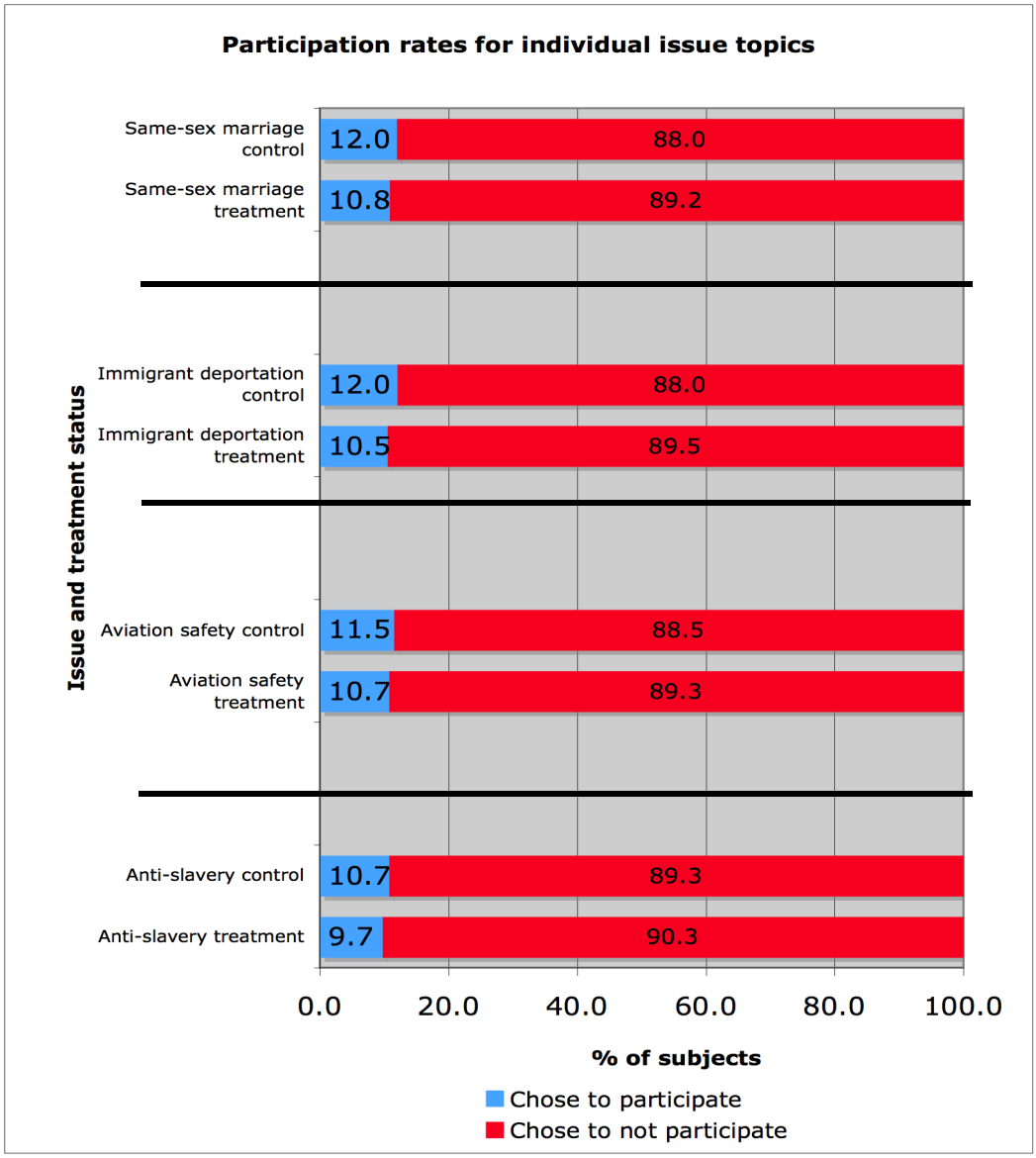
Among the 11,521 subjects who elected to participate in the survey experiment, Table 6.5 presents a tabulation of responses by topic. Overall, 18.3% of subjects who elected to participate indicated that they would be willing to sign the survey that they were presented, with the anti-slavery issue proving to be the most popular.

Table 6.5 Responses for subjects who chose to participate

Issue	Response: No, would not sign	Response: Yes, would sign	Total
Same-sex marriage	2,026 86.0	331 14.0	2,357 100.0
Immigration deportation	2,507 82.0	550 18.0	3,057 100.0
Aviation safety	2,577 84.2	484 15.8	3,061 100.0
Anti-slavery	2,305 75.7	741 24.3	3,046 100.0
Total	9,415 81.7	2,106 18.3	11,521 100.0

Figure 6.3 presents a clearer visualization of the measured differences between control and treatment groups by issue topic, with immigration having the largest difference in participation rate, followed by the same-sex marriage issue. As the bar chart shows, the differences in participation rates – while extent – are barely detectable.

Figure 6.3 Participation rates by treatment status for each issue topic



So far, the tabulations for overall participation rate, as well as tabulations for participation rates by treatment status, state location, issue divisiveness, and issue topic categories showed only very small differences – similar to the small differences found in the tabulations from the data in the lab experiment. However, in contrast with the lab

experiment, the next section will show that these small differences in the online experiment were statistically significant at the highest confidence levels.

6.2 Analysis and findings

This section provides the findings from the statistical analysis that was applied to test H3 and H4 using the data from the responses summarized in the previous section. For each of these two hypotheses, a similar set of analyses was performed including two-way tabulations, Pearson's X^2 tests, tests for difference in proportions, confidence interval constructions and logistic regression analyses.

6.2.1 H3: Relationship between public disclosure and political participation

The first hypothesis that was tested in this online experiment was whether or not there was an overall impact of a treatment in the form of a public information disclosure statement on the willingness of subjects to participate in the survey experiment, as noted below:

> **H3**: Individuals who are prompted with a public disclosure treatment informing them of online access to public records will be less likely to participate in petitions compared with individuals who are not prompted with the treatment.

The outcome variable that was measured was assessed as a binary variable, indicating whether a subject chose to participate by providing their private political

opinion for an issue, or whether they chose to avoid participation and withdraw from the survey. Table 6.6 provides the results of Pearson's X^2 test for independence, which shows that there is strong evidence at the 99% confidence level to reject the null hypothesis that the variables are independent of one another ($p<0.001$). The difference in participation rates is 1.1% points lower for the treatment group than for the control group. This first finding implies that treatment status is not independent of participation rate.

Table 6.6 Tabulation and test for independence under H3

	Willingness to participate for all issues		
Treatment status	**Chose not to participate**	**Chose to participate**	**Total**
Control	88.5%	11.5%	100.0%
N=46,512	41,186	5,326	46,512
Treatment	89.6%	10.4%	100.0%
N=59,625	53,430	6,195	59,625
Pearson's X^2 =	30.4		
p<	0.001		

To determine if any of the differences had statistical significance and assess confidence intervals for the difference in mean proportions between treatment and control groups, a one-sided test for difference in proportion was next applied. The null hypothesis, $H3_{0,}$ states that the difference in participation rates among control and treatment groups is less than or equal to zero. Another way of stating this is:

$$H3_0 : P_{control} \leq P_{treatment}$$

$$H3_A : P_{control} > P_{treatment}$$

As shown in Figure 6.4, the confidence intervals for mean participation rates do not overlap at the 99% confidence level, and the confidence interval for the difference in proportions does not include zero. The entire confidence interval for the participation rate of the treatment group is indeed lower than the entire confidence interval for the interval of control, further implying that not only do these two values not overlap, but that at the 99% confidence level, groups treated with the disclosure statement will have participation rates lower than groups that were not treated with an informative disclosure statement. This finding regarding the order of these non-overlapping confidence intervals supports H3.

Figure 6.4 Confidence intervals for participation rates under H3

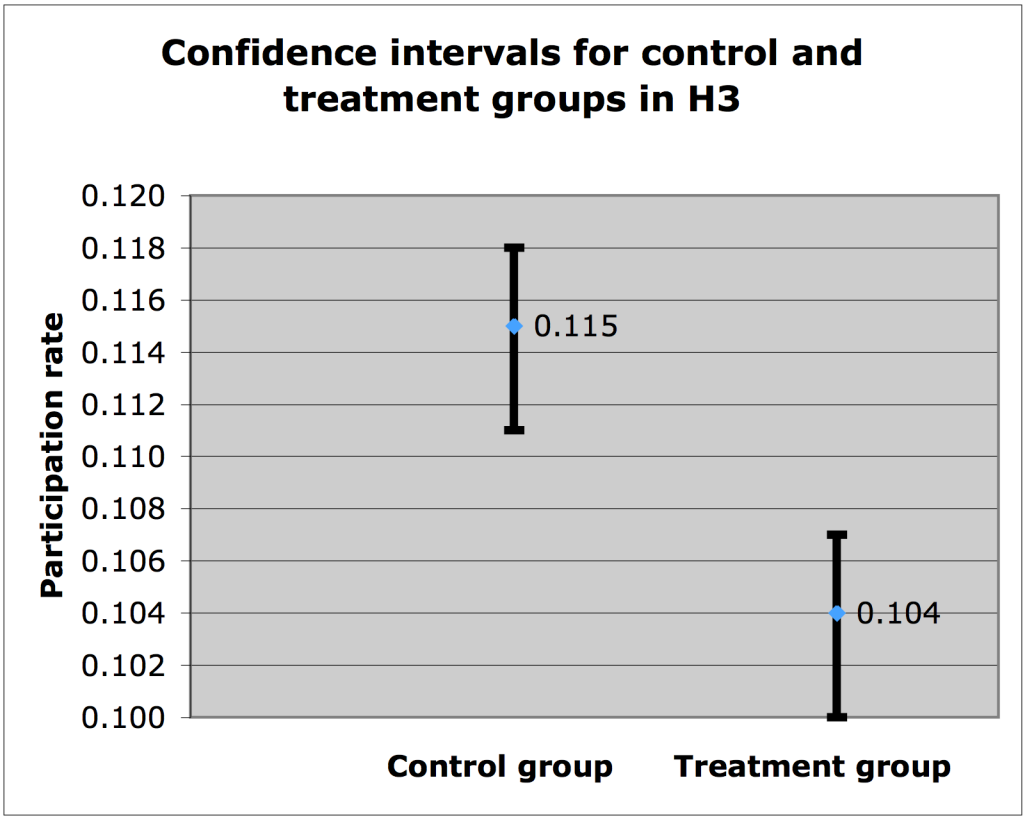


Table 6.7 further shows that in a one-sided difference in proportion test at the 99% confidence level, there is strong evidence to reject the null hypothesis that the participation rate for the control group is less than or equal to the participation rate for the treatment group ($p<0.001$). This necessitates accepting the alternative hypothesis, H_A that the participation rate for the control group is greater than the participation rate for the treatment group – a result that again supports H3. The findings so far from the Pearson's X^2 test for independence and difference in proportion test suggest there is strong evidence for the existence of a relationship between a treatment regarding online access to public records and participation in the online survey.

Table 6.7 Test for difference in participation rates under H3

Treatment Status	N	Sample proportion	Std. error	99% Confidence interval (Lower)	99% Confidence interval (Upper)
Control	46512	0.115	0.001	0.111	0.118
Treatment	59625	0.104	0.001	0.101	0.107
Difference in proportions		0.011	0.002	0.006	0.016
	$H3_0$:	$P_{control} \leq P_{treatment}$		z=	5.51
	$H3_A$:	$P_{control} > P_{treatment}$		p<	0.001

A logistic regression analysis was next applied to determine the direction of the relationship, as well as the magnitude of the predicted effect within a predictive model. Table 6.8 presents the findings of the most optimal regression model that could be constructed from the available data, including an interaction between treatment status and issue divisiveness. In this model, the explanatory variables are treatment status and issue divisiveness, and the outcome variable is a binary value indicating participation. While

the overall logistic regression model for H3 has a very low Pseudo R^2 value of 0.001, both explanatory variables and the constant term are statistically significant at the 99% confidence level. The odds ratio for the treatment variable is 0.9, implying that a subject that is treated with a disclosure statement in this online experiment has a lower odds of participating in the survey when controlling for other variables. While the magnitude is small, its statistical significance and direction provide further support for H3, that hypothesizes that being prompted with a public information disclosure statement makes a subject in this experiment less likely to participate. The model further shows that more divisive issues can increase the odds of participation, and that this odds ratio of 1.1 is statistically significant at the 99% confidence level. However, the interaction between treatment and issue divisiveness is not statistically significant (p=0.288). This finding will be further investigated in the next section regarding H4.

Table 6.8 Logistic regression analysis for H3

Explanatory variables	Odds ratio	p value	
Treatment	0.9	<0.01	***
Issue divisiveness	1.1	<0.01	***
Treatment & Divisive issue	1.0	0.29	
Constant	0.1	<0.01	***
N=	106137	* p<0.1	
Pseudo R^2=	0.001	**p<0.05	
		***p<0.01	

Overall, the aggregate findings from the Pearson's X^2 test for independence, the test for difference in proportions, and the logistic regression analysis all provide strong evidence for the existence of a negative relationship between public information disclosure and political participation in this online experiment. However, the magnitude

of the effect is extremely small under the conditions of H3, and the application of the treatment has little impact in the overall predictive model. The next section will investigate the role of issue divisiveness in greater detail, ultimately finding similarly statistically significant findings in support of H4.

6.2.2 H4: The effect of issue topic divisiveness

Having found evidence in support of H3, this section provides the findings from a similar set of statistical tests and regression modeling for H4, as noted below

> **H4**: The political divisiveness of an issue will amplify the impact of a public disclosure treatment on participation in a petition.

For the purposes of this experiment, the divisiveness of an issue was conceptualized in reference to other issues, with same-sex marriage and immigration classified as more divisive among a California and Washington based population, compared with less-divisive issues like promoting aviation safety and enforcing extant anti-slavery laws. The overall sample is divided into two groups based on issue divisiveness, and the analysis here is carried out on both groups to better understand the interaction between issue divisiveness and treatment status.

The tabulations in Table 6.9 and Table 6.10 present the participation rates between control and treatment groups for more and less divisive issues, respectively, under H4. The difference in participation rates for more divisive issues is 1.4% points, while the difference in participation rates for less divisive issues is only 0.9% points. The results of Pearson's X^2 tests on both tabulations also show that the two variables –

treatment status and willingness to participate – are not independent at the 99% confidence level for both the more divisive issue group and the less divisive issue group ($p<0.001$ in both tests).

Table 6.9 Tabulation and test for independence for more divisive issues under H4

Treatment status	Willingness to participate: Chose not to participate	Chose to participate	Total
Control	88.0%	12.0%	100.0%
N=18,795	16,537	2,258	18,795
Treatment	89.4%	10.6%	100.0%
N=29,705	26,549	3,156	29,705
Pearson's X^2 =	22.4		
p<	0.001		

Table 6.10 Tabulation and test for independence for less divisive issues under H4

Treatment status	Willingness to participate: Chose not to participate	Chose to participate	Total
Control	88.9%	11.1%	100.0%
N=27,717	24,649	3,068	27,717
Treatment	89.8%	10.2%	100.0%
N=29,920	26,881	3,039	29,920
Pearson's X^2 =	12.6		
p<	0.001		

Next, the confidence intervals for sample participation rates between control and treatment groups were calculated for each group of issues based on issue divisiveness.

The confidence intervals for the participation rates for the more divisive issues are shown in Figure 6.5, while the confidence intervals for less divisive issues is shown in Figure 6.6. There is no overlap in the confidence intervals of proportions for more divisive issues, and the entire interval for the treatment group lies below the interval for the control group at the 99% confidence level. While there is a slight overlap in the confidence intervals for less divisive issues at the 99% confidence level as shown in Figure 6.6, this overlap does not appear at the lower 98% confidence level.

Figure 6.5 Confidence intervals for participation in more divisive issues under H4

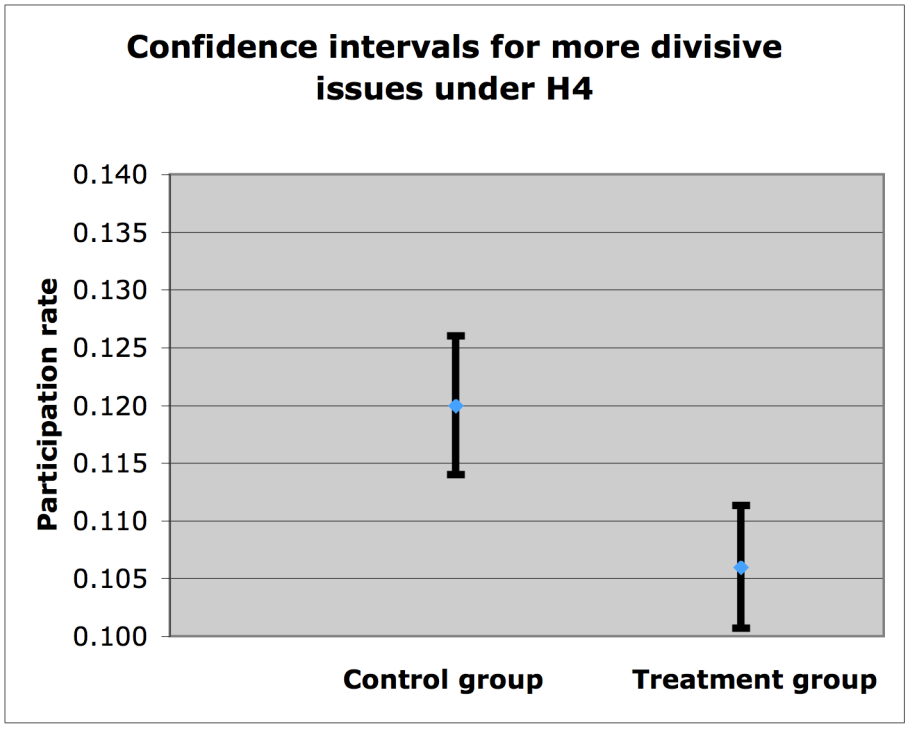
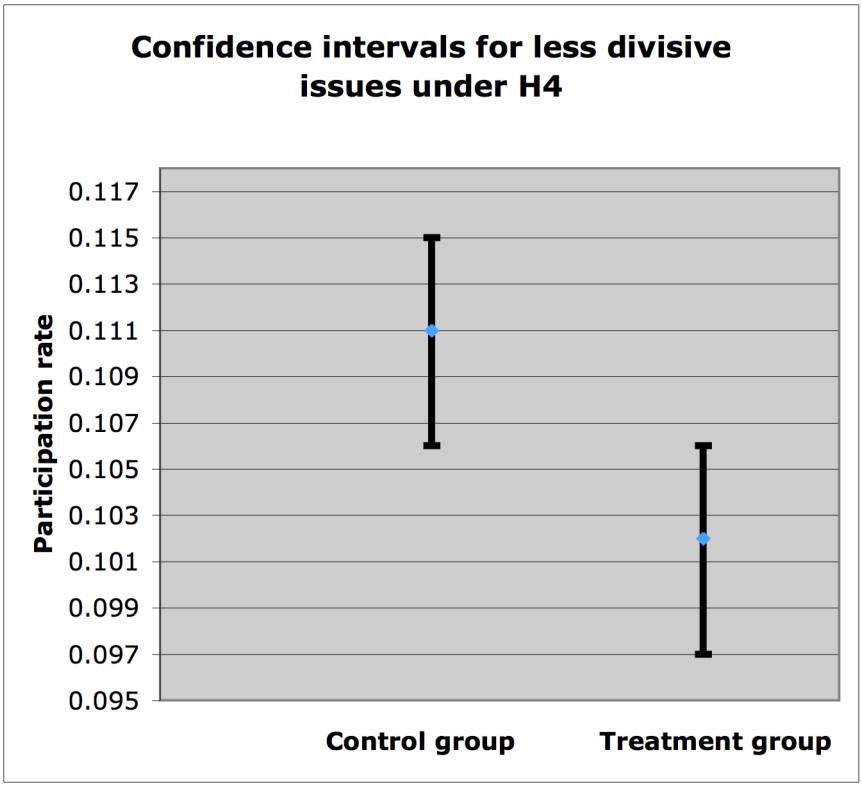


Figure 6.6 Confidence intervals for participation in less divisive issues under H4



The difference in proportion tests presented in Table 6.11 and Table 6.12 provide the results of the hypotheses tests for H4, which tests the hypothesis that the participation rate for the control group is equal to or less than the participation rate for the treatment group for each set of issues, or more formally:

$H4_0$: $P_{control} \leq P_{treatment}$

$H4_A$: $P_{control} > P_{treatment}$

As the aforementioned tables show, the sample participation rates are lower for subjects in the treatment groups compared with the control groups for both more divisive and less

divisive issues. Furthermore, both difference in proportion tests provide evidence to reject the null hypotheses that the participation rate of the control group is equal to or less than the participation rate of the treatment group at the 99% confidence level of the more divisive issues category, and at the 98% confidence level for the less divisive issues category ($p<0.001$ in both cases). These findings imply an acceptance of the alternative hypothesis in each case.

Table 6.11 Test for difference in proportions for more divisive issues under H4

Treatment Status	N	Sample proportion	Std. error	99% Confidence interval (Lower)	99% Confidence interval (Upper)
Control	18795	0.120	0.002	0.114	0.126
Treatment	29705	0.106	0.002	0.102	0.111
Difference in proportions		0.014	0.003	0.006	0.022
	$H4_0$:	$P_{control} \leq P_{treatment}$		z=	4.73
	$H4_A$:	$P_{control} > P_{treatment}$		p<	0.001

Table 6.12 Test for difference in proportions for less divisive issues under H4

Treatment Status	N	Sample proportion	Std. error	99% Confidence interval (Lower)	99% Confidence interval (Upper)
Control	27717	0.111	0.002	0.106	0.115
Treatment	29920	0.102	0.002	0.097	0.106
Difference in proportions		0.009	0.003	0.003	0.016
	$H4_0$:	$P_{control} \leq P_{treatment}$		z=	3.55
	$H4_A$:	$P_{control} > P_{treatment}$		p<	0.001

The confidence intervals and difference in proportion tests so far have only shown that there are differences between the participation rates for the control and treatment groups, and in both cases the participate rate for the treatment group is less than that of the control group – as was seen with the aggregate confidence interval and difference in proportion test in H3. This implies that regardless of issue divisiveness in this experiment, the participation rate is lower for those who are treated with the information statement regarding online access to public records. However, H4 is more specifically seeking evidence in support of whether issue divisiveness acts as a moderating variable in the relationship between treatment status and participation rate by amplifying the impact of public disclosure on participation in the online experiment. In order to determine whether or not issue divisiveness amplified the impact, a logistic regression model was constructed to compare odds ratios for each of these variables, including the interaction between them.

As shown in Table 6.13, the odds ratio coefficients of the logistic regression analysis for treatment status and issue divisiveness are both highly statistically significant at the 99% confidence level. The odds ratio for the treatment variable is 0.9, implying that a subject that is treated with a disclosure statement in this online experiment has a lower odds of participating in the survey, when controlling for issue divisiveness. When controlling for treatment status, issue divisiveness had an odds ratio of 1.1, implying a slightly greater odds of participating in the online experiment for more divisive issues compared with less divisive issues. Most importantly for answering H4, the key variable of interest – the interaction between treatment status and issue divisiveness – was exactly

1.0, implying that the odds of participating are not higher or lower for individuals in the treatment group facing more divisive issues compared with less divisive issues. However, this odds ratio was not statistically significant at the 90% confidence level (p=0.29).

Table 6.13 Logistic regression analysis for H4

Explanatory variables	Odds ratio	p value	
Treatment	0.9	<0.01	***
Issue divisiveness	1.1	<0.01	***
Treatment & Divisive issue	1.0	0.29	
Constant	0.1	<0.01	***
N=	106137	* p<0.1	
Pseudo R^2=	0.001	**p<0.05	
		***p<0.01	

While the overall logistic regression model for H4 has a very low Pseudo R^2 value of 0.001, the statistical significance of the odds ratios still provides insight into answering H4 on the role of issue divisiveness. Issue divisiveness alone does increase the odds of participation, however there is not enough evidence from the data and analysis to show that it amplifies the effect of treatment status on participation rate. The next section brings together the findings for H3 and H4 in consideration of RQ3, with a few brief notes regarding experimental validity.

6.3 Summary of findings

The aggregate set of findings for H3 and H4 suggests that while a negative relationship exists between public information disclosure statements and willingness to participate in the online survey experiment, the effect is not only quite small, but also does not differ between more and less divisiveness issues. The predicative models show that in the overall decision-making process, there are many other unmeasured covariates that have a greater role in predicting the willingness of a subject to participate for one of the issues in this online experiment, regardless of issue divisiveness. While the evidence from this online experiment does support the hypothesis that there is a negative relationship between notifications regarding online access to public records policies and an individual's willingness to participate, the evidence from the lab experiment did not support this hypothesis. The online experiment had much more external validity than the lab experiment, as the format and design of the petition – as well as the experience of participating in an online petition – were more realistically simulated for the subject group. In addition, the sample size was quite large, exceeding 100,000 subjects. That being said, it's impossible to assess how representative the overall sample group was, as GCS does not provide inferred demographic details of subjects that choose to not participate in their surveys. Their representative sample group of the Washington and California Internet user populations only applies to subjects that choose to participate (as Google's dynamic algorithm for survey delivery continuously adjusts to deliver the survey to individuals needed to fill remaining demographic categories and complete a representative sample set).

That being said, the internal validity was bolstered by the treatment diffusion aspect of the online experiment, as there is strong evidence that suggests that the treatment was received and considered by the subjects in the treatment group, as shown in Table 6.14. The table shows the while the average overall response time was 25.4 seconds, the mean response time for the treatment group was 5.9 seconds higher than the mean response time for the control group.[80] The direction and magnitude of this difference is consistent with the approximate amount of additional time it takes to read the one-sentence treatment statement regarding online access to public records in the states of California and Washington. Table 6.14 further shows that the difference in response times is statistically significant at the 99% confidence level.

Table 6.14 Difference in response times in online experiment

Treatment Status	N	Sample mean (seconds)	Std. error	99% Confidence interval (Lower)	99% Confidence interval (Upper)
Control	5326	22.3	0.94	19.8	24.7
Treatment	6195	28.2	1.08	25.4	31.000
Combined	11521	25.4	0.73	23.6	27.3
Difference		-5.9	1.46	-9.7	-2.2
	H_0 :	$U_{control} \geq U_{treatment}$		t=	-4.06
	H_A :	$U_{control} < U_{treatment}$		p<	0.001

As there were no other differences in the petitions for each issue, the treatment statement is left as the most likely reason for the difference in response times. In consideration of the internal and external validity, there is strong statistical evidence of

[80] The figures in this table are calculated from a sub-sample of the total sample, as response times were only available for the 11,521 subjects who were willing to participate in the experiment.

the existence of a negative effect of a treatment statement regarding online access to public records on participation in this online experiment for subjects in California and Washington. However, the measured effect was quite small, and the divisiveness of an issue topic did not amplify the effect.

6.4 Conclusion

Responding to RQ3, the experiment carried out in this chapter tested whether or not notification regarding online access to public records impacted participation in an online survey experiment, and if the impact varied depending on the divisiveness of an issue. Based on the literature and analysis of the two case studies from Chapter 2 and Chapter 4 respectively, the two working hypotheses tested in this chapter were that not only would a statement regarding online access to public records have a chilling effect on participation among subjects, but also that this impact would be larger for more divisive issues compared with less divisive issues. While the findings of the two case studies in Chapter 4 show evidence of consequences from expanded online public disclosure for individuals *after* participation in the political process for popularly initiated referendum campaigns, the findings from this online experiment suggest that informing citizens of public disclosure does not seem to have a substantial impact on aggregate participation within an online setting. This chapter shows that while there is evidence of an impact that is statistically significant at the 99% confidence level, the measured effect is much smaller than anticipated, in consideration of not only the previous research, but also after

assessing the actual consequences of public records disclosure that were explored in the two case studies presented earlier in this study. The next chapter synthesizes the findings from both case studies and both experiments to provide a comprehensive overview of what the research has found regarding the impact of public records disclosure on political participation, and the consequences of online access to public records containing personally identifiable information in the digital age.

7 Discussion, contributions and future research

"*Information is the currency of democracy*."

-Thomas Jefferson[81][82]

This study was first motivated by a debate in the US Supreme Court in the case of *Doe v Reed*, where opposing sides of the judiciary reached different conclusions about how best to balance the protection of privacy with the public information infrastructure that supports normative democratic governance. The majority opinion of the Court argued that the informational needs of the broader public trumped the privacy concerns of its citizens in the domain of popularly initiated referendum campaigns, and that any requests for exceptions to disclosure must demonstrate serious harm. The Court's minority dissenting opinion in this case delivered a formidable argument against public disclosure out of concern for chilling effects on political participation. However, each of these sides formulated their judgments based largely on previous case law, and with little reference to the complex digital dimension of public records that facilitates new ways of dramatically increased visibility of once highly obscured records of political participation. The judgments were also made without reference to empirical data

[81] Thomas Jefferson was the third elected President of the United States, serving from 1801-1809.
[82] While this quote is most often attributed to Thomas Jefferson, there is no evidence to confirm this attribution. Printed sources have begun to attribute this quote to Ralph Nader from a speech delivered in 1971.

regarding the impact of public disclosure notification. Much of the discourse in law journals has a similar dynamic, with legal scholars formulating arguments based on established case law, normative democratic theory, and in particular privacy rights (*Doe v. Reed*, 2010; Green, 2013; Nissenubaum, 2010; Solove, 2001). This study was motivated to not only examine the phenomenon of digital public records and the different ways policy aims and social theories can explain its use and repurposing, but also to generate empirical evidence that could be used to move beyond speculation regarding the likelihood of chilling effects of online public disclosure policies and identify the existence and magnitude of any effect. The overall findings show that there is little evidence to support the chilling effects theory, or the proliferation of more harmful and illegal forms of reprisals against citizens that has been facilitated solely through the use of online public records.

In addition to summarizing and synthesizing the findings, this chapter also highlights four emerging themes from the overall research. The new insights generated for the research questions are then used to provide specific policy recommendations directed towards lawmakers and policymakers aiming to craft a more optimal digital public records regime in the context of popularly initiated referendums campaigns. These recommendations are devised in consideration of information transparency goals, as well as with a clearer understanding of the relationship between public disclosure notification and political participation in the form of signing petitions and making contributions.

7.1 Synthesis of findings and new insights

The three research questions posed in this study focused on the how digital public records were being used and repurposed, the extent to which these records facilitated reprisals against citizens, and the conditions in which public disclosure notification could cause chilling effects on political participation, as noted below:

> **RQ1**: How has online access to public records containing personally identifiable information been used and repurposed to expand visibility of participation in popularly initiated referendum campaigns, and what are the driving motivations of individuals and organizations involved with facilitating this expanded visibility?
>
> **RQ2**: To what extent has online access to public records containing personally identifiable information facilitated reprisals against individuals who have signed petitions or made donations in popularly initiated referendum campaigns?
>
> **RQ3**: How does notification regarding public disclosure of personally identifiable information influence political participation on an individual level, and does this impact vary depending on the perception of others' opinions or the divisiveness of an issue?

The case studies generated new insight for RQ1 and RQ2 regarding the repurposing of public disclosure databases and the organization and motivation behind facilitating reprisals, while the two experiments yielded insight into RQ3 regarding the extent of chilling effects from public disclosure on political participation. This section is organized by research question, followed by a synthesis of complete findings that highlights emerging themes.

7.1.1 Use and repurposing of public records online

The first research aim of this study as stated in RQ1 was to better understand the phenomenon of digital public records, and how they had been used and repurposed by different actors to expand visibility in popularly initiated referendum campaigns. The highly divisive referendums concerning same-sex marriage rights in California and Washington provided useful case studies for generating insight into RQ1, due to well-established public disclosure regimes in these states which led the US at the time in terms of disclosure laws, electronic filing programs, accessibility of campaign finance information, and the usability of state disclosure websites (Grading State Disclosure, 2008). These cases were also the main focus of the *Doe v. Reed (2010)* legal proceedings that motivated this study. The findings from both of these cases show that both states were very proactive in adhering to their legal mandates by providing comprehensive information disclosure databases published online to meet the informational needs of citizens with regards to campaign donations. However, the states differed in their approach towards providing public records of petition signers, with Washington providing them in digital format on DVDs upon request only, and California explicitly citing an exemption from any form of public disclosure.

In both cases, the same set of political actors and institutions were found to be the main users and proliferators of state-provided digital public records data: campaign activists, news outlets and non-partisan transparency organizations. These groups used and repurposed petitions and donations data in both overlapping and non-overlapping ways, which is best understood by their traditional role in the broader political system,

and their underlying motivations. In both California and Washington same-sex referendum campaigns, news organizations were motivated to re-purpose and republish state public records databases to make them easier to sort, sift, and search, in the spirit of their traditional role as the fourth estate within the political system. Non-partisan political transparency organizations published their own searchable databases with far more comprehensive information than both state agencies and news outlets by integrating records from the same-sex referendum with public records of other referendum and electoral campaigns finance details, motivated by their dedicated mission to information transparency in governance. In both California and Washington, each of these aforementioned databases published by the state, news outlets and non-partisan transparency organizations was neutral and non-discriminatory with regards to their disclosure platforms, ensuring all donors on both sides of the same-sex marriage referendums were included. This aspect of neutrality was the main difference in how campaign activists used and repurposed the public records data, which was driven by their positions on the issue, as well as tactical goals in driving their preferred political outcome in favor of same-sex marriage rights. Generally speaking, the main campaign side of the referendum attempting to bring more visibility to contributors and petition signers were activists in favor of same-sex marriage, who also represented the political minority.

In the case of California – where activists had access to public records of campaign finance details but not petition signatures – new public websites were created to identify and shame individuals and their associated business interests who were among the largest donors to the 'Yes on 8' campaign to ban same-sex marriage. Campaign

activists tactically focused on only initiating boycotts on the biggest donors to facilitate the largest potential impact in terms of mitigating future donations. A significant finding from the case research that emerged from interviewing activists was the critical role that reporting deadlines and financial thresholds that were codified into statutory regulations had had on their ability to quickly identify and drive attention towards the biggest financial contributors *prior* to the vote on a referendum (Karger, 2017). They cited a recently established amendment to California disclosure law just before the Proposition 8 campaign which required disclosure from campaigns of all donations above $1000 USD to be reported within 24 hours using the state's online filing platform. The previous disclosure rule required only quarterly filings of donations, which allowed these donors and campaigns to tactically avoid public scrutiny prior to a referendum vote by filing after the vote had taken place. This is a crucially important distinction between referendums and electoral campaigns, since unlike candidate-centered campaigns, referendum campaigns in American states do not have maximum limits for individual spending, which enables the biggest donors to give multiple large financial contributions – particularly towards the end of a campaign when expensive television advertisements are placed. The daily reporting requirements made it much easier for the campaign activists in California to retrieve, aggregate and analyze this information to not only affect the result of the vote, but also to maintain sustained economic boycotts after the campaign.

Activists in Washington, however, had focused their efforts on bringing greater visibility to petition signatures rather than campaign finance information, even though both were available. While Washington did regularly publish campaign finance details in

Referendum 71, they did not publish the petition signatures on their online disclosure platforms. Instead, this set of records was only provided upon request, and in digital format burned into DVDs. The files in these DVDs only contained digital-photo images of each separate petition sheet, rather than a re-formatted, aggregated and searchable database. Campaign activists had to invest the time and money to convert these images into searchable databases that were similar in form to the searchable campaign donor databases published by the state in order to make them more usable and enable users to generate insight from them. Unlike campaign finance listings, signatures cannot be ranked or sorted in any meaningful way to indicate magnitude of support, and so these could not be used to facilitate targeted boycotts against the biggest or most influential supporters. However, this signature data – which included personally identifiable information such as name and address – was published in formatted and searchable databases.

This database searchability and search engine indexing of political participation records significantly increased access to public records – one of the four elements in Fung's information transparency model. It also diminished the degree of political obscurity that citizens were used to experiencing. Applying the 'needle in the haystack' analogy, the needle was now easier to find. However this increased access made some participants more visible than others, as a consequence of the underlying motivations of the three main players that used and republished the original disclosure information. For example, the repurposed campaign finance databases from news outlets and non-partisan transparency organizations in both states were more user friendly than the state's own disclosure databases – particularly with regards to the search, sort and rank functions for

individual listings. Further, the repurposed databases from news outlets and non-partisan transparency organizations increased visibility of *all* donors above the minimal disclosure requirement without exception, and included details of residence and employer. Their actions are easily understood in the context of their transparency missions.

However, there was far more variation in how campaign activists approached expanding visibility of personally identifiable information for small donors, and in the case of Washington, petition signers. For example, in the case of California, the *Californians Against Hate* activists purposely avoided publishing names or details or small donors to mitigate potential harassment of them and their private residences. Contrastingly, the *Prop 8 Maps* activists in California did precisely the opposite, listing all donors and addresses on a Google Map that could be zoomed-in to provide satellite images of donor homes and businesses. While the *Prop 8 Maps* activists remain anonymous, this difference in tactics with regards to both the inclusion of small donors and the listing of home addresses was criticized by the *Californians Against Hate* campaign, highlighting the not so subtle differences in transparency principles, and a desire to avoid reprisals against small-donation participants – who made up the vast majority of total donors. The Washington activists that published the petition signatures along with personally identifiable details purposefully avoided the creation of a Prop-8 type map for R-71 signers, and took steps to avoid the creation of such a map by other activists. The activists were more interested in smaller group visibility, such as among online social networks, and therefore while they avoided collaborating with any re-purposed map makers, they did offer their assistance with the development of an

application that connected to Facebook's application program interface (API) in order to allow users to find signers among their social networks (Murphy, 2016 February).

In addition to tactic differences in political strategies, this difference in approach among activists gleaned from interviews and observed from publicly available information provided important clues into the socio-psychological mechanisms they were leveraging in their activist campaigns. The *Californians Against Hate* group did not want to facilitate negative social sanctions for small donors, and instead focused their attention on shaming only the biggest donors, as well as boycotting business and organizations connected to them. They specifically avoided personal details like residential addresses to avoid potential harassment, and instead focused on business contact details. They noted they would not have approved of public access or online publication of petition signatures, unlike with the Washington activists (Karger, 2017). However their strategy still entailed driving social sanctions against associated businesses in the form of dishonor rolls and boycotts in order to mitigate future donations from them or from others. Their tactic proved highly successful in a number of instances, some of which resulted in not only public apologies, but even counter donations towards the activist side of the referendum in favor of same-sex marriage – in direct opposition to the original campaign donation against same-sex marriage. Here, negative social sanctions were successful in having an impact on public participation – though it's unclear to what extent it impacted private opinions (a topic beyond the scope of this study). Contrastingly, the *Prop 8 Maps* activists seemed motivated to facilitate social sanctions for all citizens including even the smallest donors that had been disclosed.

While normative democratic governance and theory (Dahl, 1989, 1998; Fung, 2013) are useful for understanding the underlying motivations of the states, the media and the non-partisan transparency organizations, social information theories are instead more powerful for understanding the actions of – and responses to – campaign activists in these cases. An assessment of the complaints and testimonies of individuals that were listed in these databases highlights the main social concerns that were being triggered: the transgression of a social norm, and the related concept of social desirability bias (Cialdini & Trost, 1998; Kelman, 1958; Kuran, 1995; Noelle-Neumann, 1974). The social norm that was being transgressed was not the specific nature of same-sex marriage, but instead the broader and more relatable norm of taking rights away from ostensibly loving couples. This was a similar tactical motivation for the Washington activists that published petition lists, whose stated aim was to force conversations between signers of the petitions and those who disagreed with them. While this motive does have some salience with the deliberative elements of normative democracy, the more practical effect was triggering anxiety and distress regarding the potential social consequences from the myriad of social groups to which they belong, in instances where their position on the same-sex marriage issue may have transgressed the norms on one or more of those group (Elster, 2007; Sherif & Sherif, 1964; Sinclair, 2012). The ousting of individuals from organizational boards and places of employment in the case of the Los Angeles Film Festival and California Musical Theater demonstrate the consequences of members who had transgressed the internal norms of their organizations.

In consideration of the ways in which an individual's values can drive opinions on social issues as an extension of their identity or demonstration of their faith or group

loyalty – particularly with issues like same-sex marriage – the sort of social information campaigns that were leveraged by activists are more likely to result in public actions rather than shifts in private opinions (Kelman, 1958). While facilitating conversations between opposing sides of an issue is a worthwhile democratic endeavor and can indeed result in shifts in public actions and declarations, changes in private values is a far more time-intensive process involving various sources of influence that is not a realistic goal in short-term referendum campaigns (Kelman, 1958). Consequently, the far more achievable goal for activists was to get big donors to stop donating funds, and to mitigate the likelihood of future potential donors (Karger, 2017). The next section will evaluate the response to the organized boycotts, as well as other forms of reprisals facilitated by online databases and digital public records that were found in both of these highly divisive referendum campaigns.

7.1.2 Reprisals facilitated by online access to public records

The motivation behind RQ2's investigation of reprisals in these two cases was to better understand the extent to which the various reported reprisals were specifically facilitated by online access to public records databases. As noted in Chapter 1, the two main arguments against providing online access to public records databases containing details of political participation in popularly initiated referendums is the potential of chilling effects on future participation in referendum campaigns, as well as actual or threatened harm to campaign donors or petition signers. The key sources regarding reprisals came from evidence and testimony in court cases in both states – particularly *Doe v. Reed (2010)* arising from Washington and appealed all the way to the Supreme Court – while

other findings were revealed from interviews with campaign activists. In consideration of this study's scope, these reprisals can be classified in two different ways based on the online component and the subject. The online classification allows for the decoupling of reprisals that were facilitated by online databases of public records compared with reprisals that could have transpired regardless of the online component. This subject classification also provides a better understanding of differences in reprisals felt between individual citizens and organizations.

The reprisals that were seen across both cases studies that likely did not result from online public records were vandalism of private property including homes and automobiles, as well as theft of political campaign signs from the front yards of private residences – key examples used by the plaintiffs in *Doe v. Reed* (2010). Each of these reprisals could be facilitated in the absence of online databases, since publicly self-disclosing actions by individuals themselves was taken. For example, if someone wanted to steal a campaign sign with an anti-same-sex marriage message or inflict damage against the private property of a political opponent, all they had to do was search for a lawn sign amongst their neighbors' front lawns. Similarly, cars with political slogans that referenced the campaign directly identified their owners' political opinions on same sex marriage rights, whether in California, Washington or anywhere else. These are common forms of reprisals that transpire in campaign seasons across the entire US, and pre-date the digital age, and do not require petition sheets or online disclosure databases in order to materialize.

Contrastingly, the reprisals that were seen across the case studies that were directly attributable to online databases of public records were the boycotts against the

big donors, as well as the criticism against the organized involvement of the Mormon Church. While broader involvement of the Mormon Church was eventually discovered after the identification of its individual members and their donations, the negative impact of reprisals was far greater on the Mormon Church rather than its followers. This difference in extent of reprisals regarding Mormon involvement highlights the differences in reprisals felt between individuals versus businesses and institutions.

In the digital domain of online public records, businesses and institutions faced stronger reprisals compared with private individuals due to the strategy employed by campaign activists, which was to focus attention on causing harm to businesses and institutional reputation, rather than specific and direct harm to associated individuals or members of these organizations (Karger, 2017). Despite the claims in legal proceedings which motivated this study, the case findings show that there were very few individuals who personally-directed reprisals beyond the largest donors. And even in the latter case, the reprisals were focused on businesses and organizations. In California for example, the Californians Against Hate website focused their boycotts against *A-1 Self Storage, Manchester Hotels, Bolthouse Farms* and *Garff Automotive Car Dealerships*, rather than the owners or families that ran these businesses, who were Terry Caster, Doug Manchester, William Bolthouse, and Ken Garff, respectively (though members of the families were responsible for the donations). In terms of organizations the *Knights of Columbus*, the *John Templeton Foundation*, the *National Organization for Marriage*, *Reisung Enterprises* and the Mormon Church were targeted, instead of the actual members of these institutions. An exception was in the case of the John Templeton Foundation, which was still then led by John Templeton as president and chairman. In

this case, California activists contacted the local newspapers in Philadelphia – the headquarters of the John Templeton Foundation and the John Templeton family – to generate local publicity of involvement in the Proposition 8 campaign on the other side of the country (Karger, 2017). However, no residential details or telephone numbers of individual family members were made visible by the Californians Against Hate activists, as the activists wanted to avoid facilitating any type of physical harm or the vandalizing of private property (Karger, 2017).

There is evidence that a number of boycott campaigns did have an impact on their business targets and directly precipitate public action. The *Manchester Grand Hyatt Hotel* lost so much business that they had to publicly apologize and make a new donation towards same-sex rights campaigns. The *Garff Automotive Dealership* responded by establishing a non-discriminatory company policy regarding gay employees and customers. The *Bolthouse Farms* company was forced to make a public statement regarding their commitment to working productively with the LGBT community, in addition to their CEO making a personal contribution towards the *No on 8* campaign. In terms of personal reprisals and reputational harm, the only prominent cases that transpired were in California with regards to the director of the Los Angeles Film Festival stepping down from his post, as well as the artistic director of the California Musical Theater in Sacramento. While these are rather severe individual consequences, they do not represent a broader phenomenon of firings.

Finally, it's worth discussing the reprisals experienced by the Mormon Church – the most prominent non-business institution involved in the California same-sex referendum, whose organized involvement in the Washington referendum was notably

absent. As detailed in Chapter 4, a number of activists had campaigned to investigated and highlight the involvement of the Mormon Church, and the number of donations small and large that were being received from Utah – which has the highest Mormon population of any American state and is home to the Church's headquarters. In total, approximately three quarters of the $40,000,000 USD that was raised for the *Yes on 8* campaign against same-sex marriage was derived from Mormon families. One of the biggest informational discoveries in the Proposition 8 campaign in California that is difficult to imagine having become uncovered in the absence of online databases is the sheer percentage of donations from citizens in the state of Utah, and Mormons from across the country. The initial discovery led to many more discoveries of other forms of involvement – and perhaps most notably a fine by the State of California for failing to properly disclose some of their contributions. This discovery and resulting fine are a positive demonstration of the original democratic and transparency motivations of public disclosure law and policy.

The *MormonGate* website, as well as other online campaigns helped not only discover their illegal late filings, but also facilitated the dissemination of news stories regarding their organized involvement and these non-reported contributions – which they were found guilty. The discovery of this sort of organized involvement and sharing of this information with the broader California citizenry to consider in their own decision-making is a reflection of the informational goals that transparency in governance and campaign finance was meant to provide. The notable absence of evidence of the Mormon Church's involvement in the Washington referendum that followed the California referendum may be a reflection of lessons learned for the organization in terms of political strategy in the digital age. The increase of donations made by wives of Mormon

business men to obscure the direct connection between the Mormon businessmen and their business holdings was a more obvious reflection of their fear and desire to avoid reprisals. The fact that these donations were still made however is a new development in political participatory strategy in the digital age, and also a demonstration of how even those whose direct participation may be chilled can still find other ways to participate – in this instance, through wives listed as homemakers on campaign filings. The next section provides further details of the experimental findings regarding the potential chilling effects on an individual's willingness to participate in the political process when faced with mandatory disclosure.

7.1.3 Impact of public disclosure notification on political participation

In addition to physical harm and injury, the other key argument that was made against providing online access to public disclosure databases was the potential chilling effects on participation in the referendum process. While the case studies did provide some clues from the response of corporate boycotts regarding the impact on political participation, it is much more difficult to determine whether or not citizens would be less likely to participate in future referendums by signing petitions or making donations as only one referendum was explored in each of the case studies. The experiments were instead needed to generate findings into the impact of public disclosure notification on political participation, as well as assess any variations in impact based on the divisiveness of an issue, or the perception of others' opinions, as noted in RQ3.

The aggregate results from the two experiments generally found very little evidence of chilling effects on political participation for the sample groups – although the

variation in treatment effects based on gender remains unclear. To be clear, there were some highly statistically significant results showing differences between rates of willingness to sign a petition – particularly for H3 and H4 as noted in Table 7.1. However, the differences were so small that it is difficult to justify any of the warnings that were given by legal scholars (Carpenter, 2007; Green, 2013) and US Supreme Court justices (Doe v. Reed, 2010) regarding the major chilling effects that disclosure would have on participation in the referendum. Interestingly, a survey question from the lab experiment did also show that when asked, there was a large percentage of subjects for each issue that would only engage in an anonymous form of political act out of a selection of possible political acts in which the rest entailed some degree of disclosure, as shown in Table 5.5. The broader finding from the experiments and the case studies regarding chilling effects is that public disclosure is more likely to impact the political participation of businesses and institutions concerned with harm to their businesses and reputations, than the aggregate political involvement of the citizenry within the domain of popular referendums.

Table 7.1 Summary of findings regarding chilling effects

	Research hypothesis	Finding	Notes
H1	Public disclosure notification will decrease total micro-participation	No evidence of an effect at the aggregate level, though statistically significant odds-ratio coefficient for treated subjects facing more divisive issues compared to less divisive issues	The odds-ratio coefficient was 0.7, meaning subjects in the treatment group were slightly less likely to participate
H2	Public disclosure notification will decrease micro-participation in cases where an individual perceives they are in opposition to at least 67% or more of their group	No evidence of an effect found at the aggregate level, though statistically significant odds-ratio coefficient for treated females compared to treated males	The odds-ratio coefficient was 11.9, meaning males in the treatment group were 11.9 times less likely to participate than females in the treatment group
H3	Public disclosure notification regarding online access to public records will decrease willingness to sign a petition	Evidence found to support hypothesis at the 99% confidence level	The impact is very small – approximately 1.1% difference in participation rates
H4	The political divisiveness of an issue will amplify the negative effect of public disclosure notification regarding online access to public records on willingness to sign a petition	Evidence found to support hypothesis at the 99% confidence level	The difference in participation rates from the impact was larger for more divisive issues (1.4%) compared with less divisive issues (0.9%)

The findings from experiments for RQ3 were surprising and unexpected – particularly considering the results from La Raja's similar set of experiments that found a difference in participate rates in petitions of 8.5% (La Raja, 2011), as well as a difference in contributions related to disclosure (La Raja, 2014), and the significant treatment effects found by Perez-Truglia and Cruces (2017). The findings were more in line with those from Wood and Spencer (2016), whose study explored candidates and parties rather than specific ballot issues. While the online experiment did technically yield statistically significant differences – the differences were much smaller, at about 1.1% at the aggregate level as noted in Table 7.1.

There are a number of possibilities for why there is such a big difference between these studies. First, the experiments in this study explored salient issues for subject groups in both the CESS subject pool based in Oxford, and the internet-user subject pool based in California and Washington, rather than a representative sample of the broader American population. While figures are not available for assessing the full demographic details of the survey experiment sample, demographic data from the lab experiment does show a significant skew in the sample group towards younger age groups in a way that is not at all reflective of the broader British population (as noted in Chapter 5, Table 5.19, and Appendix G). Second, the treatments in both experiments in this study differed from those in La Raja's studies. La Raja's treatment confounded the effect on participation in issue campaigns with the effect on participation in candidate campaigns, and also triggered consideration of negative sanctions from friends and co-workers. The treatment used in La Raja's donations study was also dependent upon minimum threshold amounts. The treatments in this study instead focused on facial imagery in the lab experiment in

consideration of negative sanctions facilitated by disclosure to lab group, and hypothetical public disclosure online in the online experiment that did not associate negative sanctions with any specific social groups. And while neither of these treatment designs tested differences in behavior across varying minimum disclosure threshold amounts, they did employ an actual real-world donation and contribution, rather than invoking hypothetical donation activity. This hypothetical aspect of the research design, along with the clear identification of one or more social groups in La Raja's experiment, are likely to be contributing factors for the difference in these findings, and the stronger chilling effect on participation found in La Raja's study.

Furthermore, both of the experiments in this study employed strong treatment designs, and in the online experiment there is strong evidence of treatment receipt due to the additional time spent reading by subjects in the treatment group, as noted in Table 6.14. This bolsters the internal validity of the experimental findings regarding the lack of chilling effects. However, it goes without question that the disclosure of photographic imagery – as was used in the lab experiment – as opposed to name, address and employer details that are included in real world public records databases has implications for external validity. Though, the aforementioned personally details can easily be linked with online photos through the integration of various databases – a phenomenon that has become ever more common in the digital age as evidenced in the Washington case where campaign activists had developed a *Facebook* application that could be downloaded by *Facebook* users and used to link petition signers with *Facebook* friends and profiles containing photos. It is not difficult to imagine similar applications being created for other social networking sites like *Twitter* or *LinkedIn,* with the latter having significant

implications for employers and work-place settings. Furthermore, even in the absence of online social networks, search engines alone can easily aggregate and return results that include pages with photographic imagery in addition to pages with public records that match an individual's personally identifiable details. While there is external validity of the lab results, its worth considering what magnitude – if any – of chilling effects would be found from an identical experiment that used names in addition to or in replacement of photographic imagery. One final strength of the results of this study in terms of real-world application is the style and format of the vignettes that were employed, which used causes and vignettes from the UK government's e-petition website, as well as the style and format of popularly initiated referendums petitions traditionally used in California and Washington. The next section will bring together the results from the experiments and the findings from the case study to better understand the broader story regarding the impact of public disclosure on political participation in the digital age, and the extent to which social information has a role on this impact.

7.1.4 Synthesis of findings and emerging themes

Overall, the findings from this study indicate that while there are indeed considerable new opportunities for expanding visibility of political participation in the digital age, there is very little evidence to suggest significant chilling effects from this disclosure on the political participation in popularly initiated referendum campaigns. This section synthesizes the aggregate findings across all three research questions to generate emerging themes and highlight the original contributions of this mixed-methods study to the understanding of the relationship between public disclosure and political

participation in popular referendum campaigns. The main emerging themes that will be presented in this section include 1) the manner in which public records can be used to achieve democratic and non-democratic outcomes, 2) the way political minorities can leverage social influence to inflict negative sanctions on political majorities and even impact political participation of both individuals and organizations, 3) the significance of disclosure thresholds and filing deadlines in determining the impact public records can have on a campaign prior to the referendum vote, and finally 4) the lack of chilling effects at the aggregate level of participation, and potential presence of heterogeneous effects based on gender.

The original premise for establishing information transparency regimes is rooted in normative democratic theory. The information from public records in the domain of popularly initiated referendums not only provides the informational needs of citizens, but also enables more enlightened decision-making – a key element in Dahl's five-criteria model of normative democratic conditions (Dahl, 1989; 1998). The way in which the involvement of the Mormon Church and their organizing activity had been discovered through scrutiny of online public records is an important example of the sort of enlightening information that transparency can yield. At the same time, when the details of records are used to inflict harm or illegal forms of harassment against political opponents, the availability of public records can facilitate non-democratic outcomes by mitigating participation in the political process. If the chilling effect is distributed unequally between different demographical groups, then the negative impact on democratic outcomes is even stronger as it then affects the equal and effective access to participation component of Dahl's normative model for democratic outcomes. The

emerging theme from this research is that the technology itself does not drive usage; instead, the motivations of traditional actors in the domain of political campaigns are what drive the usage of public disclosure records. The digital component, however, has and will continue to help facilitate and dramatically expand action by traditional actors.

The second emerging theme from this study related to normative democratic outcomes is with regard to the way public records can be used by political minorities to inflict negative sanctions against political majorities, and drive acts of political participation by these political majorities in their favor. This was an unexpected theme which emerged, since one of the traditional concerns of direct democracy and referendums more generally has always been the potential of the political majority to execute tyranny over a political minority, which could then spill-over into intimidation and harassment as well as chilled participation. However, both cases explored in this study showed that members of the political minority could leverage public records and digital technology to shame and intimidate members of a political majority into not only making public apologies for their majority-conforming acts, but also make campaign contributions for the opposing minority-supporting campaign. This implies that in a process traditionally thought to be harmful to political minorities, mandatory disclosure procedures has the potential to aid their overall campaign under certain conditions, as seen in the case of Californians Against Hate in the Proposition 8 campaign. A related but contrasting finding was that in the one instance in which members of the political-majority *National Organization for Marriage* group attempted to threaten members of the political minority group with bringing visibility to their donations in favor of same-sex marriage. The scheme failed, and the organization was forced to backtrack. In fact, it

ended up facilitating greater negative social sanctions on their organization due to their violation of the norm of what seemed like blackmail, which for the broader public exceeded the significance of the norm of traditional marriage.

Related to this dynamic between political minorities and political majorities is with regard to the stance the political minorities took against using public records to identify donors among the political majority. In both the California and Washington cases the official same-sex rights campaigns and leaders in the LGBT community did not want to be associated with the activists within their ranks that wanted to engage in boycotts or publish petition signatures online. Interviews with campaign activists (Karger, 2017; Murphy, 2016 February) found that they had very little to no support for their endeavors – a theme that also manifested in an identical same-sex marriage campaign in Massachusetts and other states (Lang, 2016). In each of these cases, the LGBT communities felt that identifying individual donors and signers was too similar to identifying – or 'outing' gay people within a community who had not otherwise disclosed their sexuality publicly. It is likely that a similar feud amongst a political minority would manifest in other campaigns too where issues involved a similar historical experience of outing.

Additionally, activists are divided on how best to leverage online public records to expand visibility in referendum campaigns. When activists focus on organizations, members and associates of these organizations are likely to avoid the most serious of negative sanctions for their participatory acts. By focusing attention on reprisals in the form of boycotts against businesses, activists can have a far greater impact on the participation of the biggest donors in a campaign. This can be a game-changing tactic,

considering evidence that shows the majority of referendum outcomes in the US can be predicted by the total contributions received. While activists in future campaigns may attempt to bring greater visibility to individual small donors and petition signers, it is difficult to imagine this tactic having a larger overall impact on the power of the opposing campaign – particularly regarding the total size of their campaign treasury.

The third emerging theme from this study was the significance of disclosure thresholds and filing deadlines in determining the impact public records can have on a campaign prior to the referendum vote. The activists in the California case cited this brand new amendment to the state's Public Disclosure Act as the main reason they were able to carry out their successful campaigns *prior* to the actual vote (Karger, 2017). The new 24 hour filing deadline for donations above $1000 USD allowed the activists to focus on only the biggest donors, of which there were only a few reported each day for them to scrutinize and publicize. As noted in Chapter 4, this enabled activists to discover the involvement of the Mormon Church, and the outsized role non-California based donors were having on the state's referendum. At the same time, this new threshold can also have an unexpected obscurity enhancing effect on disclosure, as privacy-seeking individuals attempt to avoid detection of their involvement. This was seen in the case of Proposition 8 in California, where contributors funneled donations through their wives who were listed as homemakers on filing forms, making the business associations of the husbands significantly more difficult to detect. In other words, when regulatory regimes mitigate the obscurity of public records and enhance transparency, determined individuals will find a way to still participate while mitigating their chances of detection.

The final emerging theme from this study is the lack of evidence of chilling effects on political participation, and the unresolved role of gender and other demographic traits like age that may affect the impact of public disclosure awareness on participation. Both of the experiments confirmed this finding using different population pools and in very different contexts, further emphasizing that the chilling effect of public disclosure may be far less significant than previously though. The sample group from the lab experiment that skewed heavily towards younger subjects may have also had an impact on the lack of evidence of chilling effects. The next section will highlight the importance of these four themes, and the implications of the aforementioned findings of this study for theory and previous research.

7.2 Implications and contributions for theory and previous research

While the previous section provides a summary of findings and analysis of emerging themes from this study, this section focuses on the importance of the findings and implications for democratic theory, social information and influence theories, and the corpus of empirical research regarding the impact of public disclosure on political participation in the domain of popular initiatives and referendums. In this section, particular focus is placed on results that did not conform to the stated research hypotheses or previous empirical research, in consideration of the limitations of this study.

7.2.1 Information transparency and democratic governance

The main theoretical frameworks used to understand the role of information transparency in democratic governance were Dahl's five-criteria model for normative democracy, Fung's four-element model for information transparency, the citizen-lawmaker theory, as well as Green's conceptualization of political obscurity. This overall study provides an original application of Dahl's democratic principles to a popularly initiated form of direct democracy most common in not only the US, but also Switzerland. Dahl's model is most often employed to explain and explore representative democracy and candidate-centered accountability. However, this study shows it's still highly applicable in maintaining accountability in issue-centered campaigns, since the informational needs of citizens, equal access to participation, and effective ways to participate are all conditions relatable in both domains of democratic procedures.

Furthermore, this study also shows that Fung's informational transparency model can be an extremely insightful framework for understanding public records in issue-centered politics, as it is in candidate-centered politics. The digital component of public records will continue to push the boundaries of accessibility, as jurisdictions continue to make digital upgrades to their online databases under the policy doctrine of open government. This increasing accessibility will mitigate political obscurity, which is a more useful way to understand public records than traditional approaches based on privacy rights. Focusing on the effect of political obscurity allows the discourse to shift and focus directly on what is mitigated in the digital age, and what lawmakers are effectively impacting when they modify public disclosure law and policy.

7.2.2 Social information and influence on behavior

Social information theories proved highly useful in both understanding the behavior of different political actors in the domain of popular referendums, as well as their underlying motivations. More specifically, social information and influence theories are highly useful in understanding how campaign activists might leverage the power of visibility to trigger social sanctions, as well as explain why those on the receiving end of actual or potential social sanctions may moderate their behavior. Social desirability bias and preference falsification are both explained by a general desire to conform to majority social and political norms. However, the findings in this study showed that political minorities had leveraged social sanctioning in the form of shame against members of the political majority group – a phenomenon largely overlooked in the academic discourse. In fact, when the political majority attempted to utilize the same visibility tactic against members supporting the political minority norm, they not only failed to facilitate conformity, but also had even greater social sanctions directed back against them for attempting to use this tactic. Here, social desirability bias and preference falsification cannot explain the unexpected outcome in this scenario. The main social theory for minority influence, Muscovici's conversion theory, also fails to explain why members of the political minority were successful in shifting the behavior of members of the political majority. Here, Kuran's dual preference model is most insightful, which explains the distinction between public and private preferences – which may differ in the presence of disclosure and social pressures. While negative social sanctions can drive public acts,

they are less efficient in shifting private opinions on an issue that is defined and constructed by their personal values, which may even be an extension of their identity.

The findings of this study could not find strong evidence to support the four hypotheses that developed out of previous research and social information and influence theories, and this has an important implication for the existing corpus of empirical research. It failed to find a major difference in political participation rates between individuals who were treated with public disclosure notification and individuals who were not. While La Raja found small chilling effects on participation in petitions and willingness to make financial contributions, and Perez-Truglia and Cruces (2017) also found significant effects in the domain of political party contributions, this study did not. The findings echo those of Wood and Spencer (2016), who also failed to find anything but a negligible impact of disclosure on donations. As noted before, this discrepancy in findings may be a result of the confounding elements of La Raja's experimental treatment that included a reference to candidate elections in addition to petition causes. However, certain aspects of the relationship between disclosure notification and political participation merit further research, as the role of gender and issue divisiveness is still unclear.

7.3 Implications and contributions for public disclosure law, policy and adjudication

This section will present the implications of this study for law and public policy, as well as adjudication on future legal proceedings regarding matters related to public records,

political participation and online access to disclosure databases. There was little evidence from the case studies of individual donors curtailing participation in popularly initiated referendums, since small donors were not the main focus of boycott or shaming campaigns. This may explain why there was no significant impact of public disclosure notification on individual participation in either of the experiments – even in instances where individuals perceived they were in opposition to a super-majority within their group. Notwithstanding the impact on businesses and organizations, both case studies and both experiments failed to show a significant impact of public disclosure notification on the willingness of an individual to participate in popularly initiated referendums. The findings of this study therefore do not support Justice Thomas's declaration in *Doe v. Reed (2010)* that public disclosure will chill participation in referendums – even when considering the new opportunities for doing so in the digital age. This is a major finding which has implications for not only future legal proceedings against the state, but also for changes to the regulation of public records regimes.

7.3.1 Lawsuits against the state regarding online access to public records

In the original lawsuits against the states for publishing public records containing personally identifiable information, a request was made for exemption status due to the divisiveness of the issue which plaintiffs argued was likely to lead to physical harm and illegal forms of reprisals. However, this study found little evidence of the proliferation of physical harm and illegal forms of reprisals against individuals. Consequently, there is a very strong argument for the continuation of online access to public records, due to its

significant value-adding role in informing and enlightening an electorate of details regarding financial contributions before and after an election or referendum. While this was the same conclusion reached by the majority of justices in the US Supreme Court in the case of *Doe v. Reed (2010),* a set of empirical findings from this study now adds further support for their position, and against the chilling effects forecast of other judges and legal scholars. Furthermore, even in one of the most highly divisive cases like same-sex marriage, there were ultimately very few instances of reprisals and consequences for individuals, organizations and businesses, compared to the size of the state's economy and electorate. The decision made by the court was sound, even in light of the evidence that was provided by plaintiffs regarding consequences.

Upon closer examination, it is difficult to assign direct causation to the majority of reprisals faced by various entities, and therefore even technically misleading to refer to these reprisals as 'consequences' of online access to public records. To mitigate the possibility of illegal harassment or threats for citizens, states should also provide strong warnings on their disclosure websites that any person who uses the information contained therein to threaten, intimidate, or harass the signer or their family, or who otherwise misuses this information can be prosecuted to the fullest extent possible. This warning should be placed alongside a mission statement regarding the democratic transparency goals of the state. Future lawsuits against democratic administrations must be able to prove a direct connection between online public records and illegal forms of reprisals or serious and imminent threat in order to be granted an exemption from disclosure. In the meantime however, disclosure policies should be amended in order to improve transparency of procedures, as discussed in the next section regarding recommendations

for public records policies

7.3.2 Developing a disclosure disclaimer for petition forms

Due to both the lack of illegal reprisals and even greater lack of evidence demonstrating chilling effects on political participation in the referendum process, there is no need for lawmakers to establish exemptions for petitions signatures from public disclosure in jurisdictions like Washington or Massachusetts that mandate disclosure. At the same time, there is also no significant information transparency interest in mandating public disclosure of petition signatures in jurisdictions that do not already have a mandate like California. As the case studies showed, the most significant informational discoveries from public records came from campaign donations rather than petition signatures. Instead, a strong argument can be made for mandating public disclosure notification on petition sheets to inform citizens of the availability of public records of all information listed on petitions.

Campaign finance forms already contain notification statements regarding public disclosure, though this is entirely absent from petition sheets. The disclosure statement can be similar in form to the treatment use in the online experiment in this study, which is concise and clear, and also did not provide to have a negative impact on participation rates. This policy recommendation not only helps inform the citizen of how their information will be used, but also absolves the state of responsibility in the case of lawsuits on invasion of privacy grounds.

Since a significant portion of signatures in US referendums are now collected by private petition-drive management companies and their paid signature gatherers, any shift

in policy will have a major impact on the petition stage and should consider further regulation on their operations. Petition-drive management companies should be mandated to train their on-the-ground signature-gathering staff to be able to explain and answer questions from citizens about how the information provided on petition sheets can be disclosed online, as well as the democratic transparency goals of the state. They do not necessarily need to explain the full details of the disclosure act, but they should at the very least be equipped with the knowledge to guide an inquiring citizen in the right direction where they can find answers to specific inquiries.

This chapter has thus far provided a detailed summary of findings from the case studies and experiments that were employed in this study, which largely failed to find a significant impact of public disclosure notification on political participations. The importance of these findings are noted, along with implications for democratic theory, social information and influence theory, and the corpus of previous empirical research regarding the impact of visibility on signing petitions or making donations. This chapter concluded with recommendations for the adjudication of future lawsuits, as well as practical public policy amendments to achieve a better balance of Dahl's normative democratic outcomes. The final section of this chapter highlights the main contributions of this study, as well as various directions for future research regarding the impact of public disclosure on political participation in the digital age.

7.4 Future directions of research

The findings from this study, along with the four new insights generated from these findings noted in Chapter 7, precipitates the need for further research in three key areas to better understand the complex relationship between public disclosure and political participation, and its implications for normative democratic outcomes: 1) an investigation into heterogeneous effects of public disclosure based on demographic traits, 2) an exploration of the ongoing development of new technology and implications for visibility-enhancing capabilities, and finally 3) research within other democratic jurisdictions to facilitate a broader comparative case analysis.

7.4.1 Heterogeneous effects of disclosure for different demographic groups

The statistically significant coefficient on the interaction term between treatment and gender in the logistic regression model from the lab experiment should drive further research that focuses on the moderating role of gender. The magnitude of this coefficient – 11.9 – under the perceived super-majority condition was an unexpected finding which did not reflect the aggregate effect size of disclosure on political participation. Other potential mediating variables that should be examined more closely are ethnicity, age group and income level, as well as interactions between categories of these variables. While there were no statistically significant coefficients for any of these groups in the regression model developed from the lab study, the sub-sample bin sizes for many of these categories were somewhat small. A larger study that includes more subjects for

each subset of demographic groups will be the first step towards better understanding the role these traits may have on mediating the relationship between public disclosure notification and participatory behavior.

As the most significant skew in the sample was in terms of age (with most subjects between 18-34 years of age), further research should focus on subjects over 34 years of age – especially when considering that older age groups are more active participants in terms of voting and making campaign donations. Regardless of the demographic variable, it's worth emphasizing that *any* participatory democratic procedure that leads to one category of individuals less likely to participate than another (in this case due to privacy concerns) biases political representation and weakens democratic outcomes. While further research regarding older age groups is unlikely to yield findings different from those in this study (based on findings from Hoofnagle et al., 2010; Madden, 2012; and Madden & Smith, 2010, as noted in Chapter 5), the effect of other demographics like gender may indeed prove to have a mediating effect on the impact of disclosure notification on political participation.

In addition to demographic variables, further research into the mediation effect of personality traits is also critical for understanding if there are heterogeneous effects of public disclosure that could result in the consistent under-representation of some individuals and the consistent over-representation of others. The big five personality traits from the 5-factor model of personality include openness, neuroticism, agreeableness, extraversion and consciousness (Goldberg, 1990; McCrae & Costa, 1987). Of these five factors, agreeableness is most likely to be associated with a mediating role in the relationship between public disclosure awareness and political participation. More

agreeable individuals are associated with attributes including amiability, generosity, tolerance, altruism, warmth, honesty and civility, while less agreeable individuals are associated with vindictiveness, disdain, antagonism, distrust and dishonesty (Goldberg, 1990). Previous scholars have also found agreeableness to have an impact on various forms of political participation contingent upon the presence of visibility (Gallego & Oberski, 2011). Individuals scoring high on agreeableness are most likely to modify their public behavior in consideration of the social desirability bias, compared with individuals ranking lower on agreeableness who are less likely to be concerned about their reputation or causing conflict with others. Findings from further research into the effect of personality traits on the impact of public disclosure on political participation may yield applicable campaign strategies for campaign organizers for determining whom to target for petition signatures and donations on highly divisive topics.

7.4.2 New technology and implications for visibility-enhancing capabilities

Technology is constantly advancing forward, and at lightening-fast pace in the digital age. In the years following each of the case studies, online social media and the emergence of big data also have major implications for the latest assessment of public disclosure regimes in the digital age. There are more opportunities for merging social media networks with public records databases so that a user on *Twitter*, *Instagram* or *LinkedIn* can find out which of their followers (or people they follow) has signed a petition or made a donation towards a campaign. While the Referendum 71 case study noted evidence of this happening in Washington on the *Facebook* platform, the

phenomenon is likely to increase as long as platforms remain open to facilitate third-party software development that can integrate with social media platforms through APIs. Further research is required to better understand to what extent these new technologies are being used, what their capabilities are for enhancing visibility of public records, and if they can have an impact on the relationship between public disclosure awareness and political participation.

7.4.3 Online access to public records in other democratic jurisdictions

One of the limits of this study is the scope, which focuses on a handful of American states and also includes an analysis of behavioral responses from a diverse sub- sample from the University of Oxford's CESS population pool. The American cases were used as they were the best examples of advanced online public disclosure regimes and statutory provisions for popularly initiated referendums that entailed forms of participation including signing petitions and making campaign contributions for specific issues. While these two case studies had great potential for generating insight for the research focus of this study, they had less to offer in understanding how public disclosure regimes are comprised in other American states – particularly in states with significantly fewer provisions for disclosure.

Further research should also explore public disclosure regimes in other countries – particularly those that have provisions for the popularly initiated referendum device. Switzerland would be a good place to start, in consideration of its long history of referendum use – which in some cantons still manifests in public votes in public squares known as *Landsgemeinde* (Lutz, 2006). Comparative research should also include an

assessment of the way culture and privacy norms can mediate the impact of public disclosure on political participation. The highly diverging responses to this study between American, British and German audiences has provided some anecdotal evidence of how citizens from different nation-states with different democratic experiences and expectations of privacy based on unique historical narratives can significantly increase the degree of chilling effects from public disclosure on political participation – particularly for highly divisive issues. Germany is a prime example, where the historical use of public records by the National Socialist Party in the 1930s and 1940s and again by the Social Democratic Party during the Cold War to facilitate harsh reprisals against certain citizens have led to a greater concerns for privacy for German citizens compared with American citizens.

The areas of further research noted in this chapter have the capacity to advance the discourse in a number of academic fields including political science, social information and influence theory, comparative law and cultural studies. The implications of these new findings will hopefully not only expand the scope of new knowledge, but also yield practical findings that can be used to achieve a more ideal set of democratic institutions, procedures, and outcomes.

7.5 Conclusion

As noted in Chapter 1, this study was originally motivated to respond to an unresolved debate among scholars, lawmakers and judges regarding the threat of public disclosure on political participation in popularly initiated referendum campaigns. While arguments

ranged from normative democratic theory to privacy values, they lacked empirical evidence to support the chilling effects assumption, and a closer scrutiny of the role online access to public records and digitized databases had had in past instances of public disclosure. The inherent multi-disciplinary nature of this topic has also resulted in different aspects of this topic being explored in separate domains and from different approaches ranging from politics journals and privacy rights literature to government offices and courtroom adjudication. This study therefore was motivated to not only examine claims of chilling effects more closely and also generate empirical data from experimental methods to identify and measure chilling effects from public disclosure on political participation, but to also do so with a multi-disciplinary and mixed-methods approach that included a review of scholarship from multiple academic disciplines including political theory, legal analysis, and social information and behavior research. The most significant finding of this study is the lack of evidence in support of chilling effects on political participation in controlled experimental settings, in addition to the broader understanding of motivations behind uses of public records by traditional political actors in the digital age.

Chapter 1 of this study presented the motivations behind this investigation stemming from the *Doe v. Reed* (2010) lawsuit in the US Supreme Court, and included a broad discussion of the increasing rise of digital public records under the policy doctrine of open-government which precipitated these legal proceedings. This chapter also detailed the debate regarding the need for public disclosure in the domain of popularly initiated referendums, considering the unique law-making aspect of this form of direct democracy and the competing conceptualization of the role of citizens who participate in

such campaigns. The three research questions introduced in this chapter were drawn from unresolved debate that manifested in the *Doe v. Reed* case, and further guided by the theoretical foundation of transparency in democratic governance provided in Chapter 2. The theory presented in Chapter 2 highlighted the theoretical discord that manifests when exploring the relationship between public records information and citizen participation using Dahl's five-point model for normative democracy. This study ultimately aimed to re-evaluate the balance of these competing elements in the digital age, where the proliferation of public information has increasing and previously unanticipated implications for not only enlightening voters, but potentially curtailing their participation in publicly disclosed acts like signing petitions and making financial campaign contributions.

The remainder of Chapter 2 explored the social mechanisms that can be used to understand chilled behavior as a result of public disclosure, and found that social desirability bias and an individual's preference for conformity and inclination to avoid negative social sanctions from a variety of associated social groups are the key drivers of behavior in domains which lack anonymity and obscurity. The most serious threat to normative democracy – including its direct forms of popular referendums – is when social desirability bias overrides an individual's true political preferences and results in either avoidance of participation or preference falsification. Chapter 2 concluded with the empirical findings from previous research, with the most closely related study by La Raja confirming the presence of chilling effects from public disclosure on participation in petition signing and campaign donations. The general lack of similar empirical studies – beyond Wood and Spencer (2016) and Perez-Truglia and Cruces (2017) – underpinned

the importance of this research endeavor, which aimed to generate empirical findings using a more valid set of experiments relating to the forms of petitions signing and donating that constitute the requisite procedures of popular referendum campaigning.

The research design presented in Chapter 3 highlighted not only the benefits of a mixed-methods approach but also the necessity of a mixed-methods approach to understanding the relationship between public records information and political participation. The chapter demonstrated that cases from popular referendums in California and Washington provided a unique opportunity to explore the precise theme of this study, as these states have the most lauded and wide-ranging public disclosure regimes in the US, and have also been states where the most conspicuous claims of chilled participation and preference falsification have transpired. Chapter 3 further demonstrated why experiments would yield a powerful approach to identifying any presence, direction and magnitude of chilling effects from public disclosure notification on forms of participation that emulated participation in popular referendum campaigns.

Chapters 4, 5 and 6 formed the main empirical portion of this study, which included the findings from the mixed-methods approach that included two case studies and two experiments. The most significant findings from the case studies came from interviews with the leading campaign activists in each of these states, which found that their motivations to use and repurpose state-sanctioned public records was not only influenced by a commitment to addressing the information needs of an enlightened citizenry, but also – and perhaps more strongly – by an attempt to leverage the social desirability bias and facilitate negative social sanctions in order to achieve a political triumph over referendum procedures that traditionally favor political majorities. The

experimental findings in Chapter 5 and Chapter 6 however failed to find the significant chilling effect on participation that many scholars, lawmakers and judges had predicted, and that some previous empirical research had confirmed.

From the synthesis of findings in Chapters 4,5 and 6, a set of four emerging themes were highlighted in Chapter 7 which include 1) the manner in which public records can be used to achieve democratic and non-democratic outcomes, 2) the way political minorities can leverage social influence to inflict negative sanctions on political majorities and even impact political participation of both individuals and organizations, 3) the critical significance of disclosure thresholds and filing deadlines in determining the impact public records can have on a campaign prior to the referendum vote, and finally 4) the lack of chilling effects at the aggregate level of participation, and need for further research to assess the presence of heterogeneous effects based on gender and age.

This set of insights informed the practical policy recommendations noted in Chapter 7, which focused on making an amendment to public disclosure acts to mandate the inclusion of a public disclosure notification on petition sheets in jurisdictions which currently designate popular petitions used to initiate referendums as public records. While campaign contribution forms already generally include some reference to public disclosure filings, a brief statement regarding the online accessibility of these filings in the form of digital databases should also be included. Implementing these policy changes – which does not necessarily require a change in statutory regulations in order to execute – would not only better inform citizens of the ways in which details of their political participation records could be visible in the public sphere, but also shield states and other jurisdictions from lawsuits seeking injunctions against disclosure on threat-to-privacy

claims. In conclusion, the concerns of those worried that an enlightened awareness of public disclosure will have chilling effects on political participation and turn citizens off from signing petitions or making contributions in popularly initiated referendum campaigns should be significantly diminished based on the aggregate findings of this study.

A Lab experiment: Schedule of sessions

Session #	# of subjects in session	Date	Start Time (GMT)	Experimenter
1	24	8-Dec-2014	18:00	Ramtin Amin
2	14	9-Dec-2014	10:30	Ramtin Amin
3	16	9-Dec-2014	12:45	Ramtin Amin
4	22	9-Dec-2014	15:00	Ramtin Amin
5	8	10-Dec-2014	10:30	Taha Yasseri
6	14	10-Dec-2014	18:00	Taha Yasseri
7	14	11-Dec-2014	10:30	Taha Yasseri
8	10	11-Dec-2014	15:00	Taha Yasseri
9	24	11-Dec-2014	18:00	Taha Yasseri
10	16	22-Jan-2015	14:00	Ramtin Amin
11	24	22-Jan-2015	18:00	Ramtin Amin
12	18	23-Jan-2015	10:30	Ramtin Amin
13	21	23-Jan-2015	14:00	Ramtin Amin
13 Sessions	**N= 225 Subjects**			

B Lab experiment: Participant consent form

(Page 1//2)

FORM OF CONSENT FOR PARTICIPATION TO EXPERIMENTS AT THE CENTRE FOR EXPERIMENTAL SOCIAL SCIENCES

The information in this consent form is provided so that you can decide whether you wish to participate in experiments run at the Centre for Experimental Social Sciences. It is important that you understand that your participation is considered voluntary. This means that even if you agree to participate, you are free to withdraw from the database or any experiment at any time, without penalty.

Rules for laboratory experiments

By registering for laboratory experiments, you indicate your intention of taking part in experiments conducted by researchers of the CESS.

For each experiment, a certain number of registered persons will get an invitation email. Only the invited persons have the right to take part in the experiment.

In case you get an email which invites you to participate in a particular experiment, you have to answer positively to this email in order to be able to take part in the experiment. By doing so, you indicate your commitment to participate.

For each experiment, an excess number of participants will be invited. In this case, a random draw will be held to determine who will participate. Participants who are invited and do not participate in the experiment due to capacity constraints or other failures are compensated with the show-up payment.

Every participant who has been invited to this experiment and showed up on time will be compensated by a show-up payment of £4. Participants who complete the experiment will receive £11 more, for a total payment of £15. Participation will be compensated in cash.

During the experiment, each participant will have to act according to the rules stated by the researchers in the instructions.

Researchers Commitments and Privacy Policy

At CESS, all information participants get during our studies is true. This implies:

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- We never deceive participants. For example, if we inform you that another participant is making a choice on which you then can react, this is indeed the case.
- We keep our promises made to participants. For example, if we promise a certain payment, participants will indeed receive it.
- In the event that we are responsible for a mistake that is to the disadvantage of participants, we will inform and compensate the respective participants.
- We design, conduct and report our research in accordance with recognized scientific standards and ethical principles.

We adhere to the terms of our privacy policy as stated below.

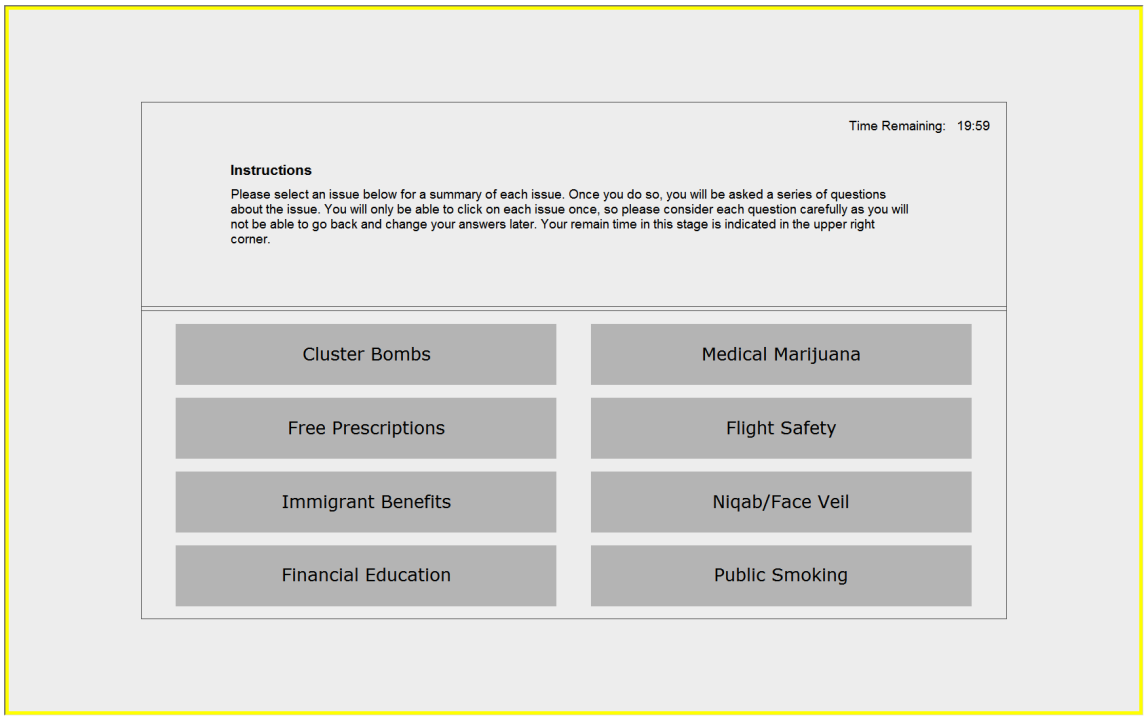
- The data in the participants' database will only be used for scientific purposes.
- There is no link between the personal data in the participants' database and the data collected during a study.
- Every participant can decide at any moment to unsubscribe from the participants' database. Unsubscribing from the database implies that no further invitations to our studies are sent to that person.
- The generated anonymous data are used to write scientific articles and to give presentations. The end products are publicly available.

I (name in Block letters) _____ confirm to have read and understood the rules stated above, and provide my consent to participating to experiments run at CESS.

Signature Date

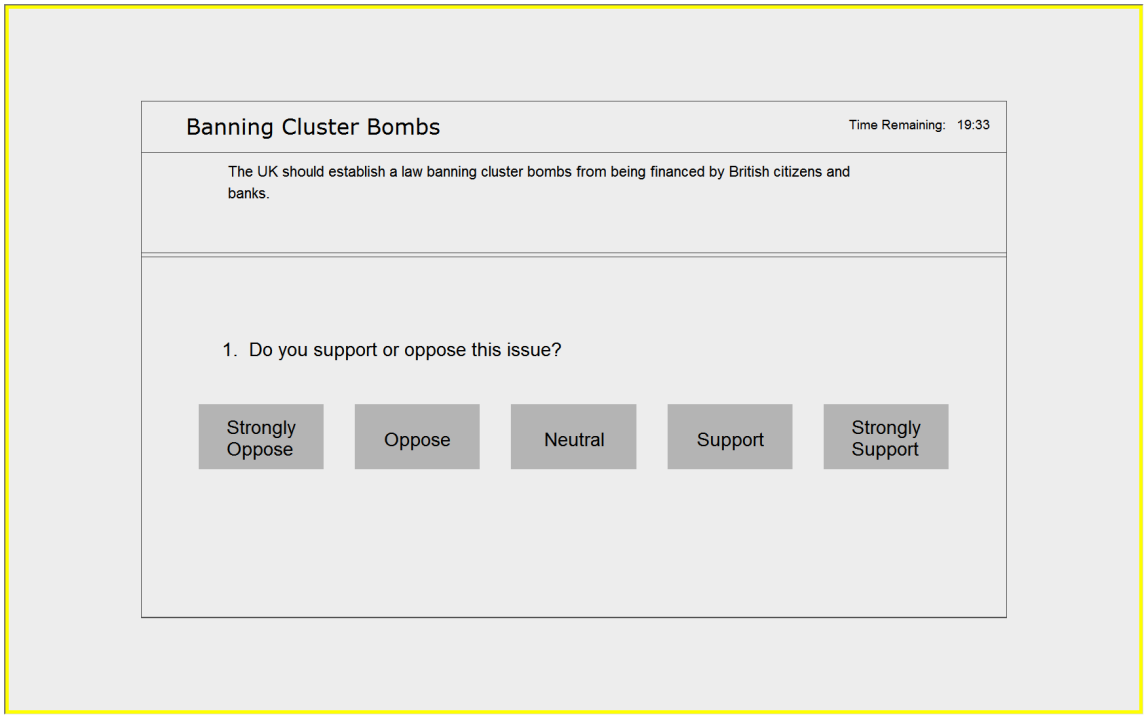
12

C Lab experiment: Menu screen with issues

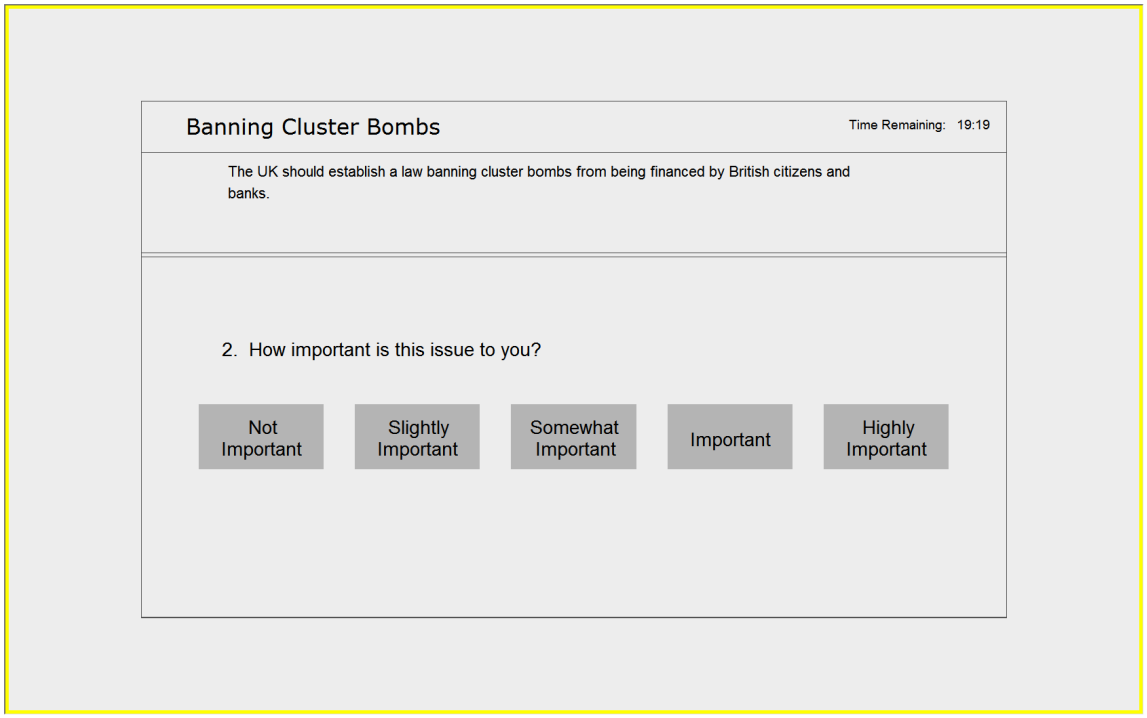


D Lab experiment: Five questions for each issue

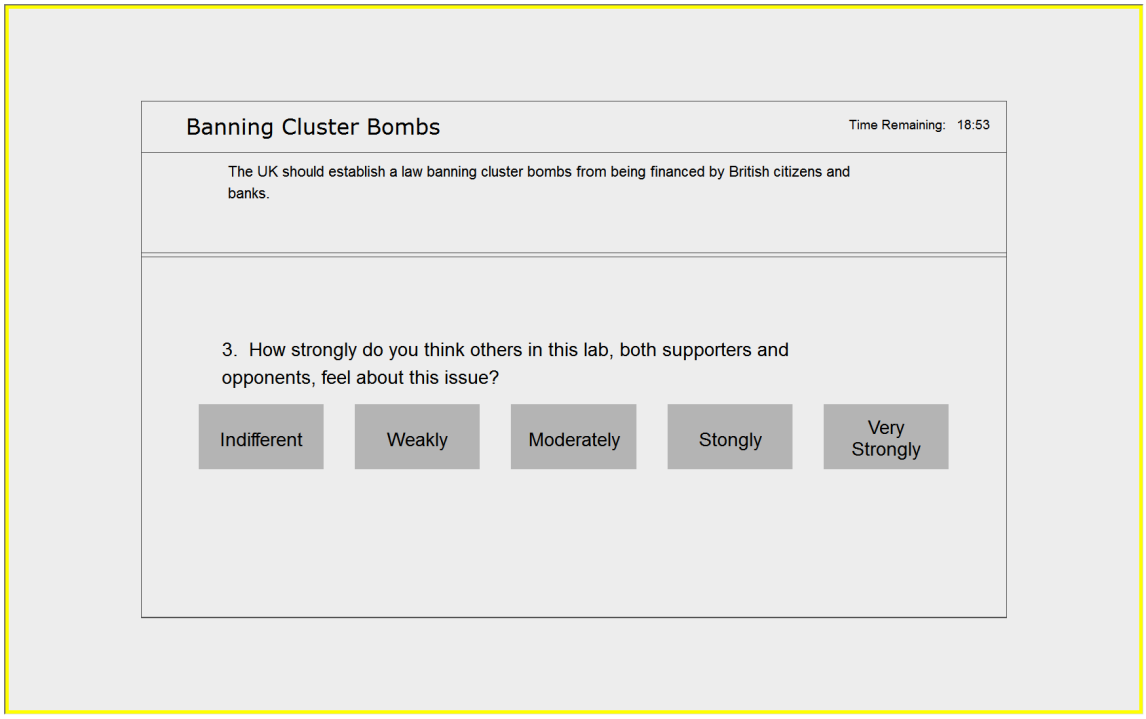
Question 1



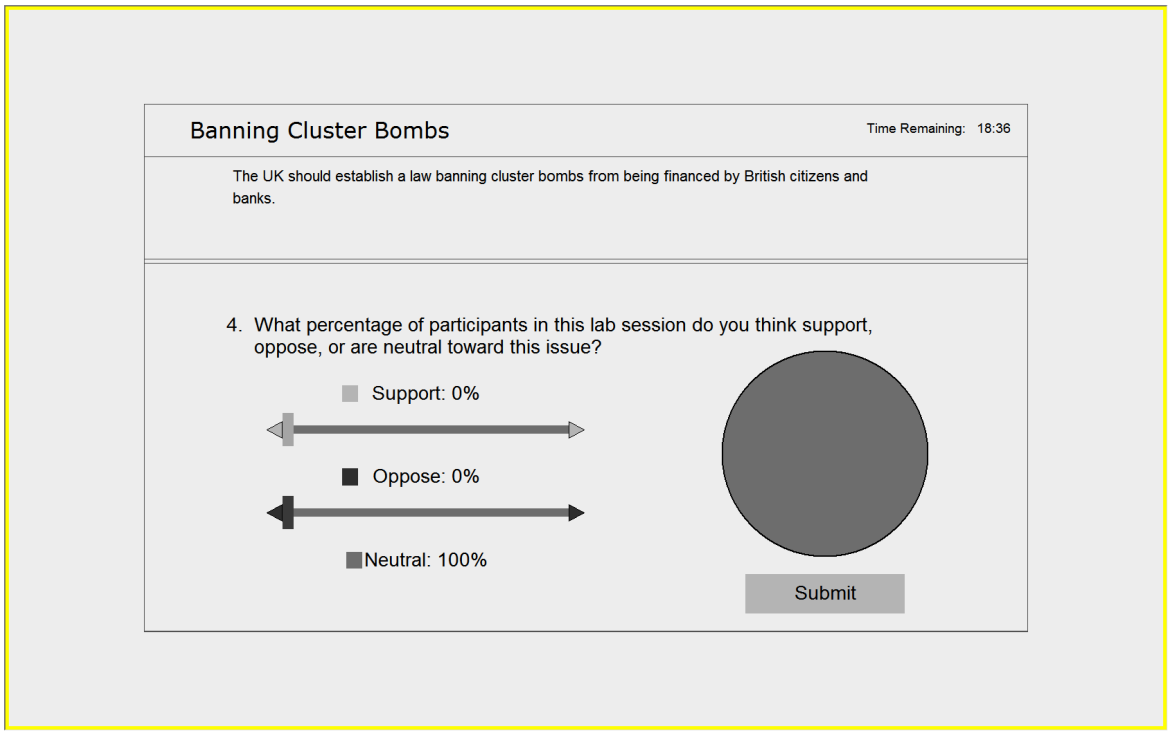
Question 2



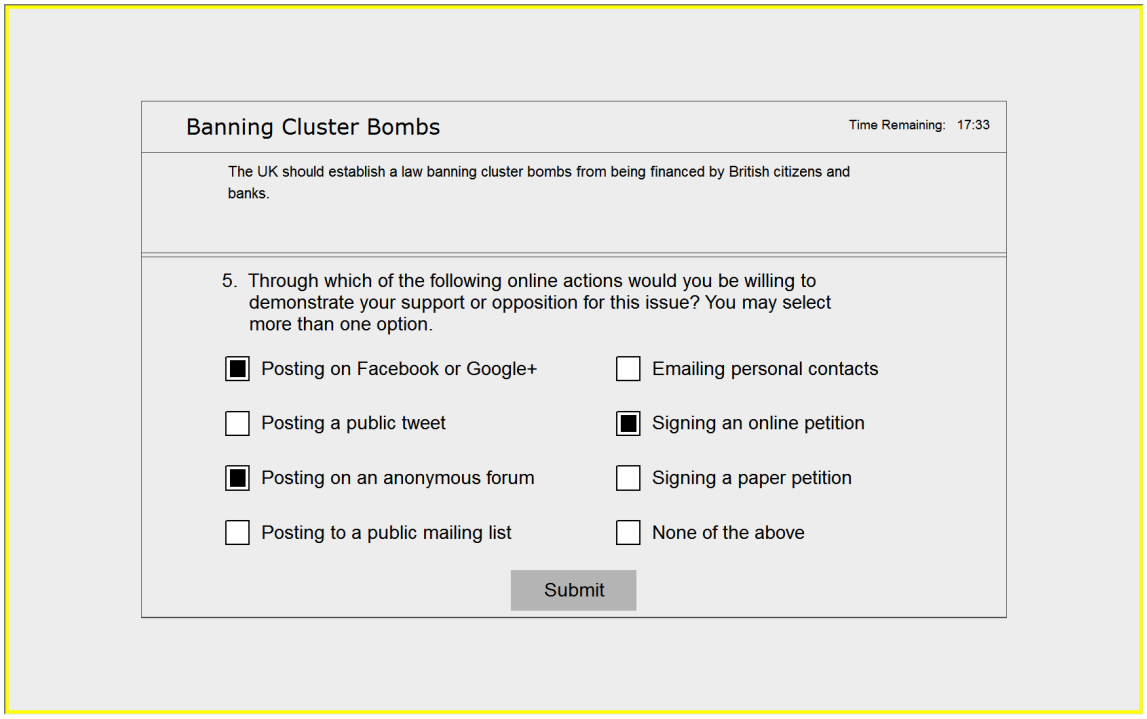
Question 3



Question 4



Question 5


Banning Cluster Bombs
Time Remaining: 17:33
The UK should establish a law banning cluster bombs from being financed by British citizens and banks.
5. Through which of the following online actions would you be willing to demonstrate your support or opposition for this issue? You may select more than one option.
Posting on Facebook or Google+
Posting a public tweet
Posting on an anonymous forum
Posting to a public mailing list
Emailing personal contacts
Signing an online petition
Signing a paper petition
None of the above
Submit

E Lab experiment: Debriefing message

Thank you for participating in this laboratory experiment. You have just participated in an experiment that deals with the impact of visibility on political opinions and civic behavior. Your participation will help researchers here at the University of Oxford to better understand the relationship between these factors. As noted before, all photos that were taken today may or may not have been used during the course of the experiment, and you would have been notified if and when they were. If you did not receive such a message, then your photo was not used at all. All photos of all participants will now be deleted. Further note that your responses to the survey questions are in no way connected to your personally identifiable information. Should you still have any questions or concerns about your participation in this experiment, or the use of photo imagery, you are welcome to contact the lead investigators at <oxlab@oii.ox.ac.uk>. Finally, as this is an ongoing project, it is important that you not discuss the nature of this experiment with others who may wish to participate. You may now proceed to collect your payment.

F Lab experiment: Post-experiment survey questionnaire

(Page 1 of 3)

Block 7

Please complete the following questionnaire. We will not begin payment until after everyone has completed the questionnaire, so please consider each question carefully, and note that there is no benefit to finishing early.

Block 2

What is the last type of educational institution that you have attended or are attending now?

Do you have a health problem or disability which prevents you from doing everyday tasks at home, work or school or which limits the kind (or amount) of work you can do?

Which of the following best describes your current situation?

Which figures best represents the total income of your household before tax?

Block 4

Please indicate to what extent you agree with the following statements:

	Agree strongly	Agree moderately	Agree a little	Neither Agree nor Disagree	Disagree a little	Disagree moderately	Disagree strongly
I see myself as open to new experiences, complex	○	○	○	○	○	○	○
I tend to analyse situations too much and therefore miss opportunities	○	○	○	○	○	○	○
I am usually among the first to acquire new technology	○	○	○	○	○	○	○
I see myself as extraverted, enthusiastic	○	○	○	○	○	○	○
I see myself as critical, quarrelsome	○	○	○	○	○	○	○
I see myself as dependable, self-disciplined	○	○	○	○	○	○	○
I would rather be on the safe side	○	○	○	○	○	○	○
I see myself as reserved, quiet	○	○	○	○	○	○	○
I follow the motto, 'nothing ventured, nothing gained'	○	○	○	○	○	○	○
I see myself as calm, emotionally stable	○	○	○	○	○	○	○
I see myself as sympathetic, warm	○	○	○	○	○	○	○
I make decisions and move on	○	○	○	○	○	○	○
I dislike taking responsibility for making decisions	○	○	○	○	○	○	○
I see myself as disorganized, careless	○	○	○	○	○	○	○
I believe my success depends on ability rather than luck	○	○	○	○	○	○	○
I see myself as anxious, easily upset	○	○	○	○	○	○	○
I see myself as conventional, uncreative	○	○	○	○	○	○	○
I believe that unfortunate events occur because of bad luck	○	○	○	○	○	○	○
I enjoy receiving large expensive bills in the post	○	○	○	○	○	○	○

(**Page 2 of 3)**

I don't like to put something at stake ○ ○ ○ ○ ○ ○ ○

Block 5

In this task we ask you to imagine that you have been randomly paired with another person, whom we will refer to simply as the "Other." This other person is someone you do not know and that you will not knowingly meet in the future. Both you and the "Other" person will be making choices by circling either the letter A, B, or C. Your own choices will produce points for both yourself and the "Other" person. Likewise, the other's choice will produce points for him/her and for you. Every point has value: the more points you receive, the better for you, and the more points the "Other" receives, the better for him/her. Before you begin making choices, please keep in mind that there are no right or wrong answers -- choose the option that you, for whatever reason, prefer most. Also, remember that the points have value: the more of them you accumulate the better for you. Likewise, from the "other's" point of view, the more points s/he accumulates, the better for him/her.

	A	B	C
You Get	**${lm://Field/1}**	**${lm://Field/2}**	**${lm://Field/3}**
Other Gets	**${lm://Field/4}**	**${lm://Field/5}**	**${lm://Field/6}**

Which option do you prefer?

A ○ B ○ C ○

Block 8

If you use a social networking site (such as Facebook), please indicate a rough estimate of the number of friends you are connected to:

If you use Twitter, please indicate a rough estimate of the number of followers you have:

If you use Twitter, please indicate a rough estimate of the number of accounts you follow:

If you use Twitter, please indicate whether your tweets are set to public or private:

Block 1

(Page 3 of 3)

Please indicate your gender:

- ○ Male
- ○ Female

Please indicate your age

Please indicate your ethnicity:

Is your native language written from left to right (like English) or right to left (like Hebrew)?

- ○ Left to right
- ○ Right to left

Block 6

If you would like to share any other comments, please write them in the text field below. We appreciate your feedback!

G Lab experiment: Demographic details of sample group

A number of demographical details of the experiment's sample group were collected during the post-experiment phase of each session. As noted in the Chapter 3, this data was collected for two reasons: firstly, to evaluate how representative the group was of the general population in order to better assess the external validity of the findings, and secondly, to analyze how some of these demographic variables may mediate the relationship between the visibility treatment effect, the expressed opinions and the observed behavior. This section includes sample statistics regarding gender identity, education and current employment status, household income, age and ethnic background, in addition to summary data regarding social media use.

The 225 subjects who agreed to participate in this experiment were recruited from the CESS subject pool, and divided unevenly across 13 separate sessions in the lab. As shown in Table 7.2, the number of participants per session ranged in size from 8 to 24, and randomization across control and treatment protocols was applied at the outset of each session so that each session contained half the participants assigned to each group. The maximum session size possible was 24 subjects, reflecting the size of the lab and the 24 computerized workstations available for participants.

Table 7.2 Session sizes in the lab experiment

Session #	# of subjects	% of Sample group
1	24	10.7
2	14	6.2
3	16	7.1
4	22	9.8
5	8	3.6
6	14	6.2
7	14	6.2
8	10	4.4
9	24	10.7
10	16	7.1
11	24	10.7
12	18	8.0
13	21	9.3
Total	225	100.0

Of the 225 participants, 113 subjects were randomly assigned to receive the treatment, while 112 subjects were randomly assigned to the control group. All of the sessions were evenly divided between control and treatment subject groups within the lab, except for the last session that had an odd number of participants, and therefore one additional subject assigned to the treatment.

To better understand if the size of an individual session moderated the treatment effect on participation, the session sizes were defined as small groups or large groups, with sessions containing 18 or fewer subjects defined as small groups, and sessions containing 21 or more subjects defined as large groups (there were no sessions with 19 or 20 subjects). As shown in Table 7.3 the subjects were almost evenly split between small and large groups. This dichotomous value was used as an independent variable in the logistical regression models in H1 and H2.

Table 7.3 Group sizes in lab experiment

Group size	# of subjects	#of sample group
Small	110	48.9
Large	115	51.1
Total	225	100.0

This threshold of 18 or fewer and 21 or greater was largely determined by the physical size and layout of the laboratory, as well as the waiting room where subjects were waiting upon arrival prior to commencing the experiment. During this waiting time, if there were 18 or fewer subjects, they could all easily find room to sit around a large ovular table while reviewing their participant information sheets. However, when there were more than 18, additional subjects had to stand around the table, and the small waiting room began to feel ostensibly crowded. It is expected that this perception of crowdedness would have carried over into the actual laboratory where the computer stations were, as there were far fewer empty seats, and all subjects would have had at least one other subject sitting beside and behind them.

Gender identity

In terms of gender, 53.8% of subjects identified as male, while 46.2% subjects identified as female, as shown in Table 7.4. It is difficult to understand why there was a slightly higher uptake of males over females within this experiment, relative to the general population. Possible reasons for this skew may be the skewed split between those identifying as male or female within the lab's experimental subject pool, or the self-selection bias among those who chose to participate (or not) based on a variety of factors ranging from the description of the experiment to the days and timings of the sessions to the show-up fee that was offered.

Table 7.4 Gender identities among sample group

Gender	# of subjects	% of Sample group
Male	121	53.8
Female	104	46.2
Total	225	100.0

Education and current status

The group was highly educated overall, with 88.4% indicating that their educational background was 'university or equivalent,' and only 11.6% indicating less or other categories which included 'adult community college, secondary school, sixth form, further education college and technical college, as shown in Table 7.5. This was to be expected, in a city that in 2016 had the largest proportion of adults in full-time studies compared with any other city in England and Wales.[83]

Table 7.5 Educational backgrounds among sample group

Educational background	# of subjects	% of Sample group
University or equivalent	199	88.4
Technical college or equivalent	3	1.3
Adult community college	3	1.3
Further education college	3	1.3
Sixth form or equivalent	7	3.1
Secondary school or equivalent	8	3.6
Other	2	0.9
Total	225	100.0

The highly skewed educational background was further reflected by the current status of subjects, with 28.0% currently enrolled in a postgraduate degree program, and 31.1% currently enrolled in an undergraduate degree program. Combined with those in full time education (but not in a degree program), the total proportion of current students in the sample was 59.6%. This is significantly higher than the proportion of students within the British population, as well as that of the Oxford city population, which has implications for the generalizability of results.

In terms of employment, 29.3% of subjects indicated they were currently employed in either full or part time, as show in Table 7.6. The sample group also included individuals who were unemployed, retired, sick or disabled, or currently doing housework and looking after children. The overall skew towards currently enrolled students – as well as a highly educated sample group overall – was anticipated from the outset in consideration of the slightly higher percentage of current students in the subject pool, a likely consequence of the location of the CESS lab within a large University town, and greater visibility of notices for recruitment to the subject pool among the student population.

Table 7.6 Employment status of sample group

Employment status	# of subjects	% of Sample group
Employed	66	29.3
Not employed	157	69.8
None of the above	2	0.9
Total	225	100.0

[83] A summary of Oxford's demographic profile which includes data on student status and educational background is available on the Oxford City Council website. See <http://www.oxford.gov.uk>

Age

In terms of age, there was a considerable skew towards younger age groups, again reflecting the high percentage of students within the sample relative to the general population. As shown in Table 7.7, nearly three-quarters (73.8%) of the sample were between the ages of 18-34, and nearly half of the sample (46.2%) was between 18-24. For comparison, in 2016 approximately 32% of Oxford residents were between 18-29 years old, and the average percentage in this group across cities in England and Wales was 18% in the same year.

Table 7.7 Age categories among sample group

Age group (# years)	# of subjects	% of sample group
18 to 24	104	46.2
25 to 34	62	27.6
35 to 44	25	11.1
45 to 54	16	7.1
55 to 64	9	4.0
65 +	9	4.0
Total	225	100.0

Ethnic background

The final demographic variable recorded was ethnic background. Nearly three-quarters (73.3%) of the subjects indicating 'white of British origin' or 'white of other origin.' This is slightly lower than the Oxford city average of approximately 78%, as well as the national English average of approximately 86%. The next largest ethnic grouping within the sample was among those identifying as 'Asian of Chinese origin' (10.7%), as seen in Table 7.8. While members of many other ethnicities participated in the experiment, each of the other ethnic groups were small, with no category exceeding 5%, with the exception of those indicating any other origin not listed (5.8%). Relative to both the Oxford and English populations, the sample group had significantly more individuals with Asian-Chinese backgrounds, and slightly fewer individuals who were Black –of any origin.[84]

Table 7.8 Ethnic backgrounds among sample group

Ethnicity	# of subjects	% of sample group
Asian of Bangladeshi origin	2	0.9
Asian of Chinese origin	24	10.7
Asian of Indian origin	4	1.8
Asian of other origin	11	4.9
Black of African origin	5	2.2
Black of other origin	1	0.4
White of British origin	105	46.7
White of other origin	60	26.7
Any other origin	13	5.8
Total	225	100.0

[84] Figures for the Oxford and English population parameters regarding ethnic background were derived from the 2011 census, which is available for download on the Oxford City Council website at <http://www.oxford.gov.uk>

Social media use

In addition to background and demographic details, data was also collected on various behavioral traits regarding social media use to see if there might be a relationship between social media behavior and experimental behavior. 12.9% of the sample indicated that they do not use a social network (including Facebook or other platforms), as shown in Table 7.9. This is significantly lower than the proportion of the British population in the UK that does not have a Facebook account, which in 2013 was estimated to be around 39% (Blank, 2013).[85] The higher proportion of social network users in the experiment subject group may be due to the higher proportion of individuals in the younger age groups that are known to use Facebook and similar social networking sites at higher rates than older peers.

Table 7.9 Number of friends on Facebook or similar site among sample group

# of friends	# of subjects	% of sample group
0 to 30	14	6.2
31 to 80	15	6.7
81 to 150	24	10.7
151 to 300	32	14.2
301 to 500	45	20.0
501 or more	66	29.3
Non-users	29	12.9
Total	225	100.0

Regarding Twitter, just over two-thirds of the sample indicated that they do not use the micro-blogging platform, as shown in Table 7.10 and Table 7.11.

Table 7.10 Number of accounts followed on Twitter among sample group

# of accounts followed	# of subjects	% of sample group
0 to 30	25	11.1
31 to 80	12	5.3
81 to 150	14	6.2
151 to 300	15	6.7
301 to 500	4	1.8
501 or more	2	0.9
Non-users	153	68.0
Total	225	100.0

[85] Figures regarding social media use among the British population is available from the Oxford Internet Surveys website at <http://www.oxis.oii.ox.ac.uk>

Table 7.11 Number of followers on Twitter among sample group

# of followers	# of subjects	% of sample group
0 to 30	29	12.9
31 to 80	11	4.9
81 to 150	18	8.0
151 to 300	8	3.6
301 to 500	3	1.3
501 or more	3	1.3
Non-users	153	68.0
Total	225	100.0

Among the 65 participants who do use Twitter, approximately one-third (35.4%) keeps their account status private while the remaining two-thirds (64.6%) keep their account status public. These two figures correspond to 10.2% and 18.7% of the overall sample, with a considerable majority of the overall sample (71.1%) indicating that they do not use Twitter, as shown in Table 7.12.

Table 7.12 Account status on Twitter among sample group

Twitter account status	# of subjects	% of sample group
Non-users	160	71.1
Twitter account private	23	10.2
Twitter account public	42	18.7
Total	225	100.0

As with all self-reported studies, it is difficult to confirm the accuracy of the demographical data collected in this experiment, or if subjects interpreted the survey inquiries as they were originally intended upon formulation during the design phase of this experiment. However, one of the strengths of this experimental study compared with a general survey is that subjects were randomly allocated among control and treatment groups, with each group having an equal chance of receiving a similar share of subjects who provided accurate – as well as inaccurate – information (Santoso et al., 2016).

H Case study: Copy of letter sent to 'No-on-8' donors in California

(Page 1 of 4)

OCT. 23. 2008 8:30AM JIM ABBOTT AND ASSOCIATES NO. 4846 P. 1



ProtectMarriage.com

October, 20, 2008

Certified Mail
Return Receipt Requested

Jim Abbott
Managing Partner
Abbott & Associates/Abbott Realty Group
435 4th Avenue
San Diego, CA 92101

Dear Mr. Abbott,

We write as the Executive Committee of ProtectMarriage.com, the coalition of churches, organizations and individuals who qualified Proposition 8 for the November ballot. We represent the 61 percent of California voters who affirmed in 2000 that, "Only marriage between a man and a woman is valid or recognized in California." Proposition 8 will restore what four judges took away from the citizenry– this same definition of marriage. As you know, the majority of citizens of California and the United States agree with us that marriage should be between a man and a woman.

Equality California is advertising on its website that it has received a contribution of at least $10,000 from you. Equality California opposes traditional marriage and is working to defeat Proposition 8. We are sure that you would want to review the way that they are using Abbott & Associates' name, since many more of your clients support traditional marriage than support same sex marriage. A copy of an advertising page from Equality California's website is enclosed for your information.

Be assured that this is not about lifestyle or rights for they are already codified and protected in California. It is about a meaningful tradition – marriage, which is ageless, key to the well-being of our society and the rearing of children. It is too important to be left to four unelected jurists.

915 L Street, Suite C-259 ▫ Sacramento CA 95814 ▫ 916.446.2956

(Page 2 of 4)

Mr. Jim Abbott
Abbott & Associates
October 20, 2008

We respectfully request that Abbott & Associates withdraw its support of Equality California. Make a donation of a like amount to ProtectMarriage.com which will help us correct this error and restore Traditional Marriage. A donation form is enclosed. We will be most grateful and will advertise on our website Abbott & Associates' generous contribution.

Were you to elect not to donate comparably, it would be a clear indication that you are in opposition to traditional marriage. You would leave us no other reasonable assumption. The names of any companies and organizations that choose not to donate in like manner to ProtectMarriage.com but have given to Equality California will be published. It is only fair for Proposition 8 supporters to know which companies and organizations oppose traditional marriage.

We will contact you shortly to discuss your contribution sincerely hoping to receive your positive response.

The Executive Committee of ProtectMarriage.com and the millions of Californians supporting Proposition 8 thank you for your thoughtful consideration of this request.

ProtectMarriage.com
By:

Ron Prentice
Yes on Prop 8,
Campaign Chairman

Edward Dolejsi
Executive Director, California
Catholic Conference

Mark A. Jansson
Executive Committee Member

Andrew Pugno
General Counsel

Enclosures

(Page 3 of 4)

Sponsors

Corporate and individual sponsors make a significant investment, providing EQCA with critically-needed resources to achieve equality.

If you are interested in learning more about sponsorship benefits, including Equality Awards sponsorships, email Michelle Ortiz or call her at 415.581.0005 x307.

EQCA's Sponsors Include:

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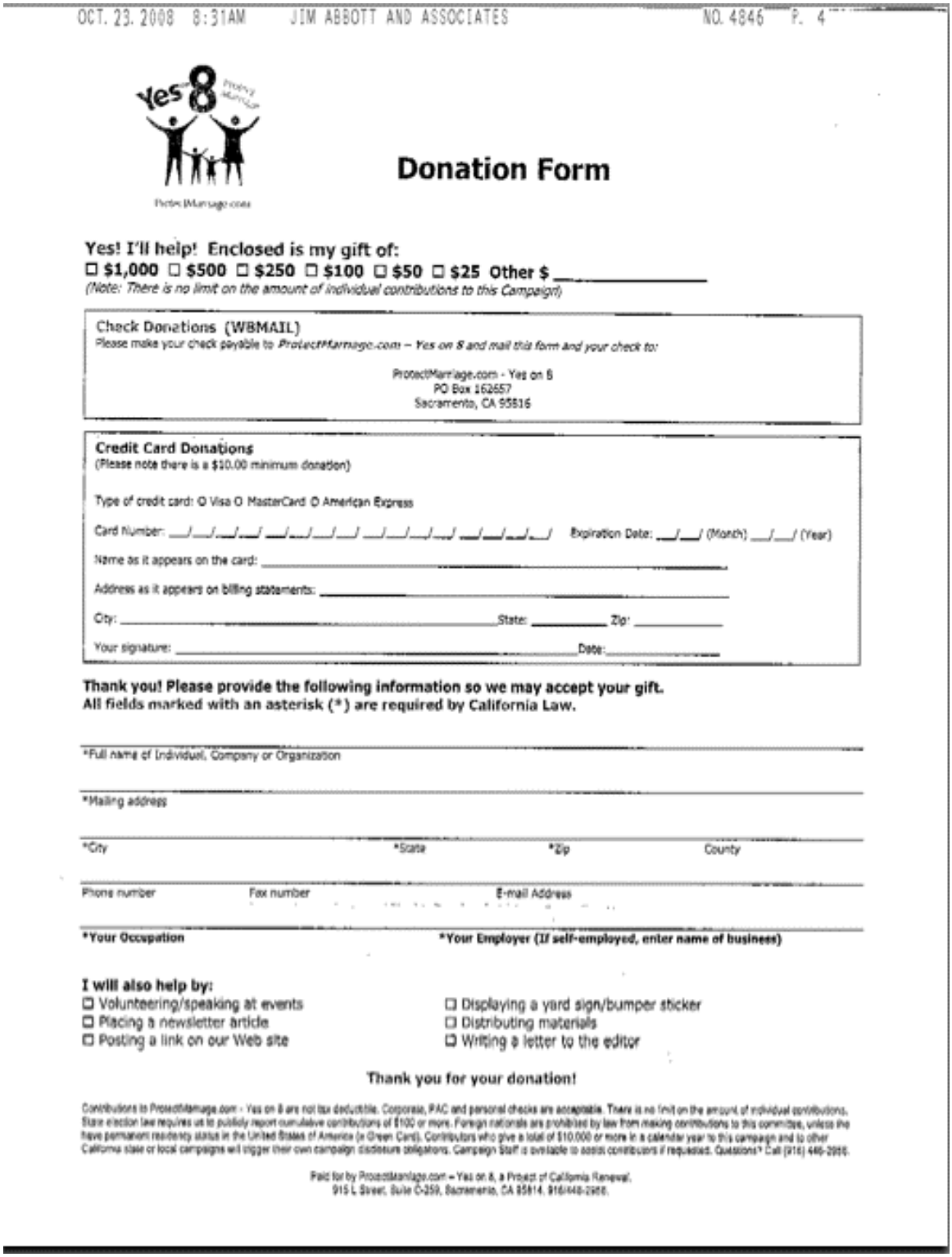
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