

June 4, 2013

Mark Steyn has come up with the 'Lois Lerner' Defense.

... I am an immigrant to this great land, and I love it, but I will make a small observation from my years in the United States which I hope won't be taken the wrong way: Like citizens of almost all Western democracies in the 21st century, Americans are overly deferential to bureaucracy, but, in my observation, they are uniquely fearful of the state's tax collectors to a degree I have never seen with Her Majesty's Revenue & Customs in London or equivalent agencies in Paris, Ottawa, Rome, Canberra. The IRS has, in American terms, extraordinary powers. It was, for example, amusing to see Lois Lerner plead the Fifth Amendment and exercise her constitutional right not to put herself at risk of self-incrimination. As the great Walter Williams pointed out the other day, every single American waives his Fifth Amendment rights every time he signs that tax return on April 15. Americans are fearless if some guy pulls some stunt in a shopping mall, but an IRS assault is brutal and unending. Many activists faded away, and the media began writing stories about how the Tea Party had peaked; they were over; they wouldn't be a factor in 2012. And so it proved. As Rush Limbaugh pointed out the other day, the plan worked.

But, of course, there was no plan, was there? So let's take Obama at his word that he had no idea all this was going on. In that case, he might like to take the lead in calling for the abolition of a corrupt agency and its grotesque tax code, and their replacement by a bureaucracy with more limited powers commensurate with a free society and a simplified tax regime with lower rates and thus fewer bewildering, mercurial "exemptions" that make the citizenry dependent on the caprices of Ms. Lerner and her colleagues. That's a prize worth fighting for. In the meantime, the next time the IRS call you up with demands for this and demands for that, simply tell them, "I am filing the Lois Lerner defense," and then say as she did to Congress "I have not done anything wrong. And I will not answer any questions." Every man his own Lois Lerner!

We can thank Lily Tomlin for this quote; "No matter how cynical you get, it is impossible to keep up." Which is how many felt when learning the IRS has become an arm of the democrat party. Peggy Noonan explains what a serious wound this malfeasance will become to our country.

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It is considered a bit of a faux pas to point this out, but what we are talking about in part is a Democratic president, a largely Democratic professional administrative class in Washington, and an IRS whose workers belong to a union whose political action committee gave roughly 95% of its political contributions last year to Democrats.

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If it is not forced to change, it will not.

Which gets us to the part about imagination. What does it mean when half the country—literally half the country—understands that the revenue-gathering arm of its federal government is politically corrupt, sees them as targets, and will shoot at them if they try to raise their heads? That is the kind of thing that can kill a country, letting half its citizens believe that they no longer have full political rights. ...

You cannot watch these people too closely. [Stuart Taylor](#) tells us about a little known slush fund hiding in the affordable care act. You know, the one we have to pass to find out what's it it.

A little-noticed part of President Obama's Affordable Care Act channels some \$12.5 billion into a vaguely defined "Prevention and Public Health Fund" over the next decade—and some of that money is going for everything from massage therapists who offer "calming techniques," to groups advocating higher state and local taxes on tobacco and soda, and stricter zoning restrictions on fast-food restaurants.

The program, which is run by the U.S. Department of Health and Human Services (HHS), has raised alarms among congressional critics, who call it a "slush fund," because the department can spend the money as it sees fit and without going through the congressional appropriations process. The sums involved are vast. By 2022, the department will be able to spend \$2 billion per year at its sole discretion. In perpetuity.

What makes the Prevention and Public Health Fund controversial is its multibillion-dollar size, its unending nature (the fund never expires), and its vague spending mandate: any program designed "to improve health and help restrain the rate of, growth" of health-care costs. That can include anything from "pickleball" (a racquet sport) in Carteret County, N.C. to Zumba (a dance fitness program), kayaking and kickboxing in Waco, TX.

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The concerns are as diverse as the critics. The HHS Inspector General, in a 2012 “alert,” was concerned that the payments to third-party groups came dangerously close to taxpayer-funded lobbying. While current law bars lobbying with federal money, Obama administration officials and Republican lawmakers differ on where lawful “education” ends and illicit “lobbying” begins. Nor have federal courts defined “lobbying” for the purposes of this fund. A health and Human Services (HHS) department spokesman denies that any laws were broken and the inspector general is continuing to investigate.

Republicans in both the House of Representatives and Senate have complained that much of the spending seems politically motivated and are alarmed that some of the federal money went to groups who described their own activities as contacting state, city and county lawmakers to urge higher taxes on high-calorie sodas and tobacco, or to call for bans on fast-food restaurants within 1,000-feet of a school, or total bans on smoking in outdoor venues, such as beaches or parks. In a May 9 letter to HHS Secretary Sebelius, Rep. Fred Upton (R, Mich) wrote that HHS grants “appear to fund lobbying activities contrary to the laws, regulations, and guidance governing the use of federal funds.” His letter included the latest in a series of requests for more documents and complaints about responses to previous requests.

Left wing freak from Kentucky who bugged Mitch McConnell's office has doubled down. [Legal Insurrection](#) has the story.

A Progress Kentucky volunteer who was at the center of a story involving the [secret recording of Senator Mitch McConnell's campaign meeting](#) earlier this year has publicly admitted to making the recording, and he says that his attorney has been contacted by an assistant US Attorney about the matter.

Curtis Morrison, a founder and volunteer for Progress Kentucky, admitted to making the recording in a self-confession of sorts today at [Salon.com](#).

From [ABC News \(via AP\)](#):

"A Kentucky man has admitted to secretly recording a private campaign meeting between Senate Republican Leader Mitch McConnell and his aides earlier this year.

Curtis Morrison of Louisville made the admission Friday in a first-person account posted on Salon.com, where he also said an assistant U.S. attorney has notified his attorney that a grand jury will consider bringing charges next Friday.

A spokeswoman said the U.S. attorney's office in Louisville would not comment. It was unclear who was representing Morrison. Morrison declined to comment via email Friday." ...

Der Spiegel has pictures of the world's largest ship. It can hold 16,000 containers. *The twin sister of the world's largest container ship was set for inauguration in the German port of Hamburg on Thursday.*

At 396 meters (1,300 feet) long, the mammoth vessel can carry some 16,000 shipping containers, and will frequently travel to the northern German city. Dubbed the Alexander von Humboldt, it was made by French shipbuilder CMA CGM in the image of the Marco Polo, which was inaugurated in December 2012 -- making both boats the largest in the world. ...

National Review

The Lois Lerner Defense

File it the next time the IRS calls you up.

by Mark Steyn

We have the president of the United States' word as a gentleman that he knew nothing about the Internal Revenue Service's targeting of his enemies until he "learned about it from the same news reports that I think most people learned about this."

Furthermore, although the commissioner of the IRS, Douglas Shulman, visited Obama's White House no fewer than 157 times, which is 156 times more than his predecessor Mark Everson ever visited the White House, we know that this was for legitimate Easter-egg rolls, as he testified to Congress, and meetings to discuss Obamacare. The Easter Bunny, one should note, visits the White House two to four times as often as the average IRS commissioner did before Mr. Shulman came along. But you can't make a health-care omelet without breaking Easter eggs: It is one of the many distinctive features of Obama-style "health" "care" "reform" that, while it has not led to the hiring of a single additional doctor, nurse, or hospital janitor, it did require the biggest expansion of the IRS since the Second World War. So, when he wasn't rolling Easter eggs and advising the moppets on whether they needed to declare the luxury Belgian white chocolate balls with praline filling, he was participating in vital meetings on how many extra SWAT teams he was going to need to enforce the new colonoscopy non-compliance penalty.

Let us also overlook the excellent treatment received from the IRS by members of the president's family. Although acting commissioner Steven Miller apologized for the "horrible customer service" conservative taxpayers had gotten, a gentleman by the name of Malik Obama received impeccable, express service when he took the precaution of mailing in his non-profit application from N'giya, Kenya, rather than notoriously slower mail processing centers such as Phoenix and Dallas. Malik, the brother of President Obama, runs the Barack H. Obama Foundation, named for the president's father. On May 30, 2011, they applied for tax-exempt status, and had their approval signed less than a month later by Lois Lerner herself, and conveniently backdated by Lois to cover the two-and-a-half years the enterprising Malik had already been raking in "tax-deductible" donations from Americans. The Washington address of the Barack H. Obama Foundation appears to be bogus, and it's not clear whether the funds are being used back in Kenya for anything other than supporting the famously lavish lifestyle of

Malik and his twelve wives. Given that the IRS is not shy about asking American conservatives for Facebook posts and lists of who attends their meetings, Ms. Lerner surely would have been within her rights to ask Malik Obama about the “exclusive” photographs currently displayed on the Barack H. Obama Foundation website of a recent meeting in Sudan, one of only four countries the U.S. government designates as a “terrorist state,” and the Foundation’s apparently extensive association with the Sudanese president and blood-soaked genocidal war criminal Omar al-Bashir. Given that the IRS likes to ask conservative taxpayers whether their friends and relatives are planning on running for office, Ms. Lerner might like to ask Malik Obama when his friend President Bashir is planning on leaving office. After another quarter million corpses?

Whatever. Let’s take it as read that, when U.S. taxpayers wind up giving tax breaks to an entity linked to the butchers of Darfur, it’s pure coincidence that the racket turns out to be run by the president’s brother. Let’s accept that Malik Obama just got lucky that his letter landed on the desk of Lois Lerner, and that, when she backdated his application for two-and-a-half years, she’d momentarily forgotten that it’s illegal for her to backdate it more than two-and-a-quarter years. Indeed, let’s take the president at his word that the existence of this shadowy IRS entity working deep within the even shadowier U.S. Treasury planted in deep cover within the shadowiest conspiracy of them all, this murky hitherto unknown organization called “the Executive Branch,” that all this was news to him. What that means then is not that this or that elected politician is corrupt but that the government of the United States is corrupt.

There seems to be ever more evidence for that. Every day brings revelations that the IRS conservative crackdown went way beyond the Tea Party. McClatchy Newspapers reports that a woman known only as “Ms. Richards” in the Cincinnati office of the IRS told Coalition for Life of Iowa that their application for nonprofit status could only be approved if they signed a letter promising not to picket in front of Planned Parenthood. Mark Drabik, a military veteran, became politically active and started giving to conservative groups only to have the IRS challenge his church donations. Catherine Engelbrecht founded True the Vote to protect ballot integrity, and within a few months her family’s business, farm, and personal taxes had all attracted IRS audits. Hundreds and hundreds of groups were consigned to the purgatory of “pending” — a term for IRS customers not as favored as Malik Obama can stretch leisurely from six months to ten to twenty to thirty, and beyond. When the most lavishly funded government on the planet comes after you, eventual guilt or innocence is irrelevant: The process is the punishment.

I am an immigrant to this great land, and I love it, but I will make a small observation from my years in the United States which I hope won’t be taken the wrong way: Like citizens of almost all Western democracies in the 21st century, Americans are overly deferential to bureaucracy, but, in my observation, they are uniquely fearful of the state’s tax collectors to a degree I have never seen with Her Majesty’s Revenue & Customs in London or equivalent agencies in Paris, Ottawa, Rome, Canberra. The IRS has, in American terms, extraordinary powers. It was, for example, amusing to see Lois Lerner plead the Fifth Amendment and exercise her constitutional right not to put herself at risk of self-incrimination. As the great Walter Williams pointed out the other day, every single American waives his Fifth Amendment rights every time he signs that tax return on April 15. Americans are fearless if some guy pulls some stunt in a shopping mall, but an IRS assault is brutal and unending. Many activists faded away, and the media began writing stories about how the Tea Party had peaked; they were over; they wouldn’t be a factor in 2012. And so it proved. As Rush Limbaugh pointed out the other day, the plan worked.

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a corrupt agency and its grotesque tax code, and their replacement by a bureaucracy with more limited powers commensurate with a free society and a simplified tax regime with lower rates and thus fewer bewildering, mercurial “exemptions” that make the citizenry dependent on the caprices of Ms. Lerner and her colleagues. That’s a prize worth fighting for. In the meantime, the next time the IRS call you up with demands for this and demands for that, simply tell them, “I am filing the Lois Lerner defense,” and then say as she did to Congress “I have not done anything wrong. And I will not answer any questions.” Every man his own Lois Lerner!

WSJ

An Antidote to Cynicism Poisoning

Restoring public faith will require a full investigation of the IRS's politicization.

by Peggy Noonan

The Benghazi scandal was and is shocking, and the Justice Department assault on the free press, in which dogged reporters are tailed like enemy spies, is shocking. Benghazi is still under investigation and someday someone will write a great book about it. As for the press, Attorney General Eric Holder is on the run, and rightly so. They called it the First Amendment for a reason. But nothing can damage us more as a nation than what is happening at the Internal Revenue Service. Elite opinion in the press and in Washington doesn't fully understand this. Part of the reason is that it's not their ox being gored, it's those messy people out in America with their little patriotic groups.

Those who aren't deeply distressed about the IRS suffer from a reluctance or inability to make distinctions, and a lack of civic imagination.

An inability to make distinctions: "It's always been like this." "Presidents are always siccing the IRS on their enemies." There's truth in that. We've all heard the stories of the president who picked up the phone and said, "Look into this guy," Richard Nixon most showily. He got clobbered for it. It was one of the articles of impeachment.

But this scandal is different and distinctive. The abuse was systemic—from the sheer number of targets and the extent of each targeting we know many workers had to be involved, many higher-ups, multiple offices. It was ideological and partisan—only those presumed to be of one political view were targeted. It has a single unifying pattern: The most vivid abuses took place in the years leading up to the president's 2012 re-election effort. And in the end several were trying to cover it all up, including the head of the IRS, who lied to Congress about it, and the head of the tax-exempt unit, Lois Lerner, who managed to lie even in her public acknowledgment of impropriety.

It wasn't a one-off. It wasn't a president losing his temper with some steel executives. There was no enemies list, unless you consider half the country to be your enemies.

It is considered a bit of a faux pas to point this out, but what we are talking about in part is a Democratic president, a largely Democratic professional administrative class in Washington, and an IRS whose workers belong to a union whose political action committee gave roughly 95% of its political contributions last year to Democrats.

Tim Carney had a remarkable piece in the Washington Examiner this week in which he looked for campaign contributions from the IRS Cincinnati office. "In the 2012 election, every donation traceable to this office went to President Obama or liberal Sen. Sherrod Brown." An IRS employee said in an email to Mr. Carney, "Do you think people willing to sacrifice lucrative private sector careers to work in tax administration . . . are genuinely going to support the party directed by Grover Norquist?" Mr. Carney noted that one of his IRS correspondents had an interesting detail on his social media profile. He belongs to a Facebook group called "Target the Shutdown at the Tea Party States." It advised the president, during the 2011 debt-ceiling fight: "For instance, shut down air traffic control at airports in Norfolk, Tampa, Nashville."

Wow. I guess that was target practice.

Here is the thing. The politicization of government employees wouldn't have worried a lot of us 40, 30 or even 20 years ago. But since then, as a country, we have become, as individuals, less respectful of political differences and even of each other, as everything—all parts of American life—has become more political, more partisan, more divided and more aggressive.

There has got to be some way to break through this, to create new rules for the road in a situation like this.

Because people think the IRS has always, in various past cases, been used as a political tool, they think we'll glide through this scandal too. We'll muddle through, we'll investigate, the IRS will right itself, no biggie.

But when a scandal is systemic, ideological and focused on political ends, it will not just magically end. Agencies such as the IRS are part of what Jonathan Turley this week called a "massive administrative state," one built with many protections and much autonomy.

If it is not forced to change, it will not.

Which gets us to the part about imagination. What does it mean when half the country—literally *half the country*—understands that the revenue-gathering arm of its federal government is politically corrupt, sees them as targets, and will shoot at them if they try to raise their heads? That is the kind of thing that can kill a country, letting half its citizens believe that they no longer have full political rights.

Those who think this is just business as usual are ahistorical, and those who think nothing can be done, or nothing serious should be done, are suffering from Cynicism Poisoning.

The House wants to proceed with hearings and an investigation itself, and understandably. One reason is pride. "We are the ones who got the IRS to do the audit," a congressman said the other night. Another is momentum: An independent counsel would take time and take some air out of the story. But Congress is operating within a lot of political swirls. The IRS certainly doesn't seem to fear them—haven't its leaders made that clear in their testimony so far? Congress itself is not highly regarded by the public. Didn't I say that politely?

Some members have been scared into thinking that tough hearings will constitute "overreach." But when you spend all your time fearing overreach, you can forget to reach at all. A defensive crouch isn't a good posture from which to launch a probe. And some members fear that if they

pursue and give time to something that is not an economic issue, it will be used against them. But stopping the revenue-gathering arm of the federal government from operating as a hopelessly politicized and aggressive entity *is* an economic issue. It has to do with basic American faith in, and compliance with, half of the spending/taxing apparatus of the federal government. How could that not be an economic issue?

There will be more hearings next week, and fair enough. But down the road an independent counsel is going to be needed because the House does not have all the prosecutorial powers an independent counsel would—the powers to empanel a grand jury, grant immunity to potential witnesses, find evidence of criminal wrongdoing, indict.

Another reason to want an independent counsel: There are obviously many good, fair-minded workers in the IRS, people of sterling character. They deserve to be asked about what they were forced to put up with, what they felt they had to bite their tongues about.

There may even be a few stories about people who stood up and said: "You know you're targeting Americans because they hold political views you don't like, right? You know that's wrong, right? And I'm not going to do it."

It would be worth an investigation that breaks open the IRS to find that person, and that moment. You have no idea how much better it would make us feel, how inspiring and comforting, too.

Forbes

[Obamacare's Slush Fund Fuels A Broader Lobbying Controversy](#)

by Stuart Taylor

A little-noticed part of President Obama's Affordable Care Act channels some \$12.5 billion into a vaguely defined "Prevention and Public Health Fund" over the next decade—and some of that money is going for everything from massage therapists who offer "calming techniques," to groups advocating higher state and local taxes on tobacco and soda, and stricter zoning restrictions on fast-food restaurants.

The program, which is run by the U.S. Department of Health and Human Services (HHS), has raised alarms among congressional critics, who call it a "slush fund," because the department can spend the money as it sees fit and without going through the congressional appropriations process. The sums involved are vast. By 2022, the department will be able to spend \$2 billion per year at its sole discretion. In perpetuity.

What makes the Prevention and Public Health Fund controversial is its multibillion-dollar size, its unending nature (the fund never expires), and its vague spending mandate: any program designed "to improve health and help restrain the rate of, growth" of health-care costs. That can include anything from "pickleball" (a racquet sport) in Carteret County, N.C. to Zumba (a dance fitness program), kayaking and kickboxing in Waco, TX.

"It's totally crazy to give the executive branch \$2 billion a year ad infinitum to spend as they wish," said budget expert Jim Capretta of the conservative Ethics and Public Policy Center. "Congress has the power of the purse, the purpose of which is to insure that the Executive branch is using taxpayer resources as Congress specified."

The concerns are as diverse as the critics. The HHS Inspector General, in a 2012 “alert,” was concerned that the payments to third-party groups came dangerously close to taxpayer-funded lobbying. While current law bars lobbying with federal money, Obama administration officials and Republican lawmakers differ on where lawful “education” ends and illicit “lobbying” begins. Nor have federal courts defined “lobbying” for the purposes of this fund. A health and Human Services (HHS) department spokesman denies that any laws were broken and the inspector general is continuing to investigate.

Republicans in both the House of Representatives and Senate have complained that much of the spending seems politically motivated and are alarmed that some of the federal money went to groups who described their own activities as contacting state, city and county lawmakers to urge higher taxes on high-calorie sodas and tobacco, or to call for bans on fast-food restaurants within 1,000-feet of a school, or total bans on smoking in outdoor venues, such as beaches or parks. In a May 9 letter to HHS Secretary Sebelius, Rep. Fred Upton (R, Mich) wrote that HHS grants “appear to fund lobbying activities contrary to the laws, regulations, and guidance governing the use of federal funds.” His letter included the latest in a series of requests for more documents and complaints about responses to previous requests.

Some Democrats, including Obamacare champion Sen. Tom Harkin (D, Iowa), are extremely unhappy with another use of Prevention Fund money. The Obama Administration plans to divert \$453.8 million this year from that fund to use for administrative and promotional efforts to enroll millions of people in health insurance exchanges that are said to be vital to Obamacare’s success. Harkin calls this shift, which has not been authorized by Congress, “an outrageous attack on an investment fund that is saving lives.”

This extraordinary fund transfer coincides with HHS Secretary Kathleen Sebelius’s much-criticized solicitation of health industry officials for large “voluntary” corporate donations — on top of hefty tax increases — to help implement Obamacare. Together, they give the appearance of a desperate Administration effort to avoid the kind of “train wreck” that Senator Max Baucus (D, Montana), a principal architect of Obamacare, recently said he fears. That’s also one reason why Republicans who want to kill Obamacare refuse to provide additional funding for the exchanges.

An HHS spokesperson responded to an inquiry about the “lobbying” complaints by saying that “HHS is committed to proper oversight and monitoring of appropriated funds, and to awardees’ compliance with all applicable regulations and statutes related to lobbying activities.” As to the shifting of the \$453.8 million, the spokesman said that it was necessary “because Congress did not provide the resources requested” and it would help individuals “sign up for affordable health coverage by supporting . . . call centers that provide customer service, consumer education and outreach.”

The lobbying controversy is akin to conservative complaints about the 2009 “stimulus” legislation, in which HHS directed some \$373 million to a “Communities Putting Prevention to Work” fund to states, counties and cities and then onto to health advocacy organizations described in a *Wall Street Journal* editorial as “liberal pressure groups lobbying for fast-food taxes.”

With those stimulus grants largely spent, the Administration has used Prevention Fund money — dispensing more than \$290 million in fiscal 2012 and 2013 combined — for very similar “Community Transformation Grants.” As in the case of the earlier grants, HHS made the grants

through the federal Centers for Disease Control and Prevention (CDC). Public documents, including CDC descriptions of grants' goals as well as the reports that grantees must file, are honeycombed with references to seeking state and local policy changes, such as tax hikes on sugary beverages and tobacco and zoning restrictions on fast-food establishments.

Congressional investigators point to documents and federal websites, which detail the spending that critics call "illegal lobbying." A few of the more than 100 examples cited by critics:

- In Washington state, the Prevention Alliance, a coalition of health-focused groups, reported in notes of a June 22, 2012 meeting that the funding for its initial work came from a \$3.3 million Obamacare grant to the state Department of Health. It listed a tax on sugar-sweetened beverages (SSB), "tobacco taxes," and increasing "types of outdoor venues where tobacco use is prohibited" as among "the areas of greatest interest and potential for progress."
- The Sierra Health Foundation, in Sacramento, which received a \$500,000 grant. in March 2013, described its plans to "seek local zoning changes to disallow fast food establishments within 1,000 feet of a school and to limit the number of fast food outlets," along with restrictions on fast food advertising. A \$3 million grant to New York City was used to "educate leaders and decision makers about, and promote the effective implementation of. . . a tax to substantially increase the price of beverages containing caloric sweetener."
- A Cook County, Ill. report says that part of a \$16 million grant "educated policymakers on link between SSBs [sugar-sweetened beverages] and obesity, economic impact of an SSB tax, and importance of investing revenue into prevention." More than \$12 million in similar grants went to groups in King County, Wash. to push for changes in "zoning policies to locate fast-food retailers farther from . . . schools." And Jefferson County, Ala., spent part of a \$7 million federal grant promoting the passage of a tobacco excise tax by the state legislature.

Among those who have expressed concern about questionable and possibly illegal use of Obamacare Prevention Fund money to lobby — an ambiguous term that the Administration interprets narrowly and its critics broadly — are HHS Inspector General Daniel Levinson; Sen. Susan Collins (R, Maine); and Chairmen Darrell Issa (R, CA) of the House Oversight and Government Reform Committee and Fred Upton (R, MI) of the House Energy and Commerce Committee.

Inspector General Levinson, a respected and veteran independent investigator, was first appointed to his position overseeing the vast HHS bureaucracy by President George W. Bush. He was retained in that job by President Obama, who also named him to the Government Accountability and Transparency Board. Last June 29, Levinson sent CDC Director Thomas Frieden an "EARLY ALERT."

It warned that reports posted by CDC grantees "contain numerous examples of activities that, on their face, may violate anti-lobbying provisions," and that "some of the CDC information, as well as the non-CDC resource materials posted to the CDC web site, appear to authorize, or even encourage grantees to use grant funds for impermissible lobbying." The "alert" said that the IG would continue to "evaluate more broadly" compliance with lobbying restrictions. A Levinson spokesman declined recently to elaborate.

Collins, a leading Senate moderate, cited copious evidence in a May 1, 2012 letter to Sebelius that CDC has provided “official guidance to grantees that appears to include an expectation that federal funds are to be used for strategies that result in changes to state and local policies and laws.”

While stressing strong support for “the wellness and prevention mission of the CDC,” Collins cited examples including a report to the agency by the Pennsylvania Department of Health, which received a \$1.5 million CPPW anti-tobacco grant in 2010. Thanks to the federal money, the Health Department reported, “210 policy makers were contacted . . . 31 ordinances were passed . . . there were 26 community presentations made to local governments . . . and 16 additional ordinances were passed this quarter, for a cumulative total of 47.”

HHS and CDC say that not only have they heeded these complaints, but as HHS stressed in an April 1 letter to Upton, they have been committed all along to “proper oversight and management of appropriated funds, and to awardees’ compliance with all applicable regulations and statutes related to lobbying activities.”

Spending to influence state and local legislation, critics claim, violates a web of overlapping federal laws, beginning with the federal Anti-Lobbying Act of 1919, as amended in 2002, which says: “No part of the money appropriated by . . . Congress shall . . . be used directly or indirectly to pay for any personal service, . . . telephone, letter, printed or written matter, or other device, intended . . . to influence in any manner a member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation.”

This language is clear, unambiguous, and much broader than the HHS regulations on lobbying. To be sure, these restrictions have long been interpreted narrowly by the executive branch, a bipartisan tradition that goes back at least to the administration of President George H.W. Bush. And the Justice Department has never enforced the law against anyone.

Still, the Sebelius interpretation of the Anti-Lobbying Act takes narrow interpretation to extremes, flying in the face of the statute’s very specific language. Sebelius testified on March 1, 2012 that the statute’s lobbying provisions don’t apply to “local lobbying” or lobbying by grantees, while acknowledging that a 2012 appropriation provision — which unlike the Anti-Lobbying Act provides no penalties for violators — barred such forms of lobbying.

HHS Assistant Secretary for Legislation Jim Esquea made a more detailed argument to the same effect in an April 1, 2013 letter to Rep. Upton, asserting that the statute prohibits “only large-scale, high-expenditure, ‘grass roots’ lobbying campaigns conducted by federal agencies that expressly encourage members of the public to contact their elected representatives with respect to legislative matters.” But Esquea relied on strained interpretations of obsolete precedents predating major amendments that, in 2002, explicitly broadened the Anti-Lobbying Act to cover for the first time lobbying of state and local officials.

CDC guidelines permit the state and city agencies that it funds “to work directly on policy-related matters across their equivalent branches of state or local government.” That sounds reasonable enough. But to critics it sounds like the guidelines would allow, if not encourage, a city health department to spend federal money on lobbying (in the fullest sense of that word) state and local lawmakers to raise taxes on tobacco and sugary beverages.

Some grants seem to fit this interpretation. A \$7.6 million CPPW grant to the County of St. Louis to fund an anti-smoking “Community Action Plan” for local activists. Under that plan, “the Leadership Team will meet with the Governor and state legislators to advocate for the repeal of [the state law] that prohibits municipalities from levying their own cigarette excise taxes.” In quarterly reports to CDC for late 2010 through mid-2012 on how it had spent the federal grant, St. Louis County said: “Leadership Team members . . . met with officials from two municipalities about adopting a comprehensive smoke-free ordinance. . . . Coalition members met with two County Council members and the County Executive about strengthening the County’s new smoke-free ordinance. . . . Several people, including restaurant owners, testified at three consecutive County Council meetings in support of removing exemptions from the County’s smoke-free ordinance.”

Finally, St. Louis County used almost \$2 million of its federal grant to pay the public relations-lobbying firm Fleischman Hillard for a media campaign to strengthen an anti-smoking ordinance and push related agendas.

Many grantees and the federal bureaucrats who finance them maintain that they can legally engage in efforts to “educate” both the public and officials about, say, the public health benefits of taxing tobacco and sugary beverages so as to reduce consumption. Chairman Upton, on the other hand, rejected in an August 2012 letter what he called “the improper distinction made by CDC between lobbying and ‘education campaigns.’ ”

Enlisting other levels of government to do things [the federal government] can’t do openly on its own is the latest example of propaganda and politicizing efforts that only pretend to represent policy reform,” said Tom Miller, an expert in health policy and law at the American Enterprise Institute.

Other conservative health care policy advocates, such as Dr. Eric Novack, an orthopedic surgeon in Phoenix, complain that using federal dollars to lobby for more taxes and other liberal causes at the state and local levels is an abuse of power that skews the natural balance of state and local political forces. “With the hundreds of millions of state and federal dollars annually flowing their way, [health care advocates] are engaging in the lobbying equivalent of ‘shock and awe’ to get ever more money for themselves and to thwart efforts at real reform”, said Dr. Novack.

Critics have also suggested that Sebelius (and Obama) “lack the legal authority,” as Rep. Issa put it in his April 19 letter to Sebelius, to divert \$453.8 million in Prevention Fund dollars to help pay for the establishment and operation of health insurance exchanges. Argues Grace-Marie Turner, president of the Galen Institute, an Alexandria, Virginia-based health-care think tank:

“The Obama administration is being very creative in devising programs it says fit within the definitions of ‘prevention’ and ‘public health.’ The reality is that this is a slush fund. The administration is using taxpayer dollars to further its political goals, without any congressional input. That is an open invitation to misuse and abuse of taxpayer dollars.”

But short of an unlikely bipartisan agreement, there’s not much that anyone in Congress can do about such complaints.

Strikingly, the most passionate denunciations of the \$453.8 million diversion have come from a senior Democrat, Sen. Tom Harkin, self-described author of the Prevention and Public Health title of the Affordable Care Act. Harkin succeeded the late Ted Kennedy, (D, MA) as Chairman of the Senate Health, Education, Labor and Pensions Committee and has vowed to carry on Kennedy's legacy of seeking universal access to health care and, especially, full funding of prevention programs.

"It is ill-advised and short-sighted to raid the Prevention Fund, which is making absolutely critical investments in preventing disease, saving lives, and keeping women and their families healthy," Harkin said in his May 7 floor speech. "When it comes to Prevention, this Administration just doesn't get it. . . . To slash money from this fund . . . is to cannibalize the Affordable Care Act in ways that will cost both money and lives. It is a violation of both the letter and spirit of this landmark law."

In other words, the Democratic Chairman of the Health Committee is calling the Democratic President's "raid" on the Prevention Fund illegal. But an HHS spokesperson counters that "this short term investment will result in a long-term public health gain by helping millions of people get access to care and improve our nation's health." Other officials stress that with an October 1 Obamacare deadline to start enrolling millions of individuals online, finding the money to create and implement the insurance exchanges is a major challenge to the success of Obamacare.

And money for setting up the exchanges is very, very short, despite an overall Obamacare price tag of trillions over coming years. One reason is that the Administration underestimated the cost, in part because contrary to its expectation, only 17 states have chosen to operate their own insurance exchanges. Another reason is Congress's refusal to appropriate more money for such administrative expenses.

Meanwhile, it may not be easy to convince young or healthy people without employer-based insurance — especially men, and especially with incomes too high to qualify for Obamacare subsidies — that it would be a rational economic choice to buy a government-approved insurance policy costing (the Congressional Budget Office estimated in 2010) over \$4,500 a year for an individual. By contrast, the Obamacare fine will be far smaller for some individuals.

The alternative choice of paying a relatively inexpensive Obamacare penalty for refusing to buy insurance may seem more attractive to many, especially after the Supreme Court stressed last June that such a choice carries no stigma of law-breaking. The Affordable Care Act set the penalty (which varies depending on income and the year) at only a fraction of what the insurance would cost people who don't qualify for subsidies. At the same time, it guarantees a healthy person who chooses the penalty rather than the insurance the right to reverse course and buy the insurance at no extra cost not too long *after* he gets sick or injured.

So, as the Administration sets out to recruit enough young, healthy people to keep premiums from soaring, it may need every dollar it can find for advertising and outreach.

What some critics call a "slush fund," may well turn out to be Obamacare's own insurance policy.

Stuart Taylor, Jr. is a Nonresident Senior Fellow of the Brookings Institution. The [American Media Institute](#), a non-profit that promotes investigative journalism, contributed to this report.

Legal Insurrection

Operative in Secret McConnell Recording Publicly Confesses, Compounds His Problems

by Mandy Nagy

A Progress Kentucky volunteer who was at the center of a story involving the [secret recording of Senator Mitch McConnell's campaign meeting](#) earlier this year has publicly admitted to making the recording, and he says that his attorney has been contacted by an assistant US Attorney about the matter.

Curtis Morrison, a founder and volunteer for Progress Kentucky, admitted to making the recording in a self-confession of sorts today at [Salon.com](#).

From [ABC News \(via AP\)](#):

"A Kentucky man has admitted to secretly recording a private campaign meeting between Senate Republican Leader Mitch McConnell and his aides earlier this year.

Curtis Morrison of Louisville made the admission Friday in a first-person account posted on Salon.com, where he also said an assistant U.S. attorney has notified his attorney that a grand jury will consider bringing charges next Friday.

A spokeswoman said the U.S. attorney's office in Louisville would not comment. It was unclear who was representing Morrison. Morrison declined to comment via email Friday."

In his [Salon post](#), Morrison bemoans the betrayal from "his own side," seemingly shocked that his antics hadn't exalted him to hero status. He then goes on to explain how the consequences of his deeds ruined his relationship with cohort Shawn Reilly – whom he says was against publication of the recording – and he details how the ordeal has negatively impacted his life.

In the days that following the audio leak, I lost my friendship with Shawn. I lost my apartment. I lost my job and my career path.

Unlike Mitch McConnell, I will not paint myself as a victim. I've learned a lot in these weeks. But nothing stung like hearing Yarmuth brush me aside like that. I was so upset that all I could do is go for a long run. Frankly, I had a good cry. And as I pounded away the stress and frustration of that moment, I had to wonder: Did I make a mistake?

Morrison's first mistake was in not recognizing in advance that releasing such a recording would potentially backfire on him, as it did. The entire ordeal ended up turning McConnell, his intended target of ire, into the victim.

Secondly, he seems to have overestimated the support he thought he'd receive by releasing the tape. Judging from the reactions and portrayals of him and Progress Kentucky from some of those on "his own side" in the aftermath, I'd venture to guess that Morrison's perception of himself was also sorely overestimated.

Lastly, upon hearing that an assistant US Attorney has contacted his attorney “asking to meet with him next Friday as charges against [him] are being presented to a grand jury,” Morrison takes to a liberal blog to publish a self-confession to the world, while simultaneously cutting down those he perceives as having abandoned him.

But “I will not paint myself as a victim,” says Morrison.

The man just keeps on compounding his mistakes. Perhaps it’s time for some soul searching on his part.

Der Spiegel

[Container-Mania: World's Largest Ship Christened in Hamburg](#)

The twin sister of the world's largest container ship was set for inauguration in the German port of Hamburg on Thursday.



At 396 meters (1,300 feet) long, the mammoth vessel can carry some 16,000 shipping containers, and will frequently travel to the northern German city. Dubbed the *Alexander von*

Humboldt, it was made by French shipbuilder CMA CGM in the image of the *Marco Polo*, which was inaugurated in December 2012 -- making both boats the largest in the world.

A third ship of the same size, the *Jules Verne*, will be christened in the French port of Marseille in the coming weeks, at which point the superlative title will belong to the trio.



But not for long. The competition to create ever-larger vessels will continue, with Danish shipbuilder Maersk planning to dedicate a behemoth ship that will hold some 18,000 containers on June 28 in Korea. That ship is expected to arrive in the German port of Bremerhaven in mid August.



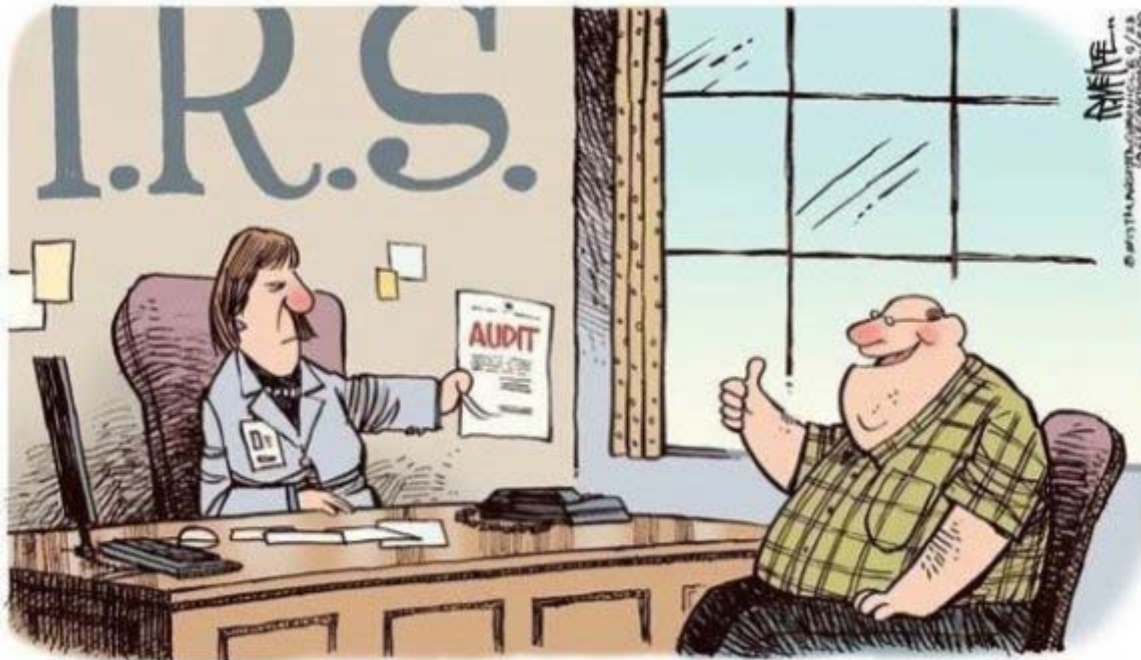
In the middle right of this picture of the ship's engine you can see a man who provides the scale.

The latest giant ship christening in Hamburg on Thursday is being interpreted as a signal to the port, which cannot fully accommodate ships of that size. Plans to deepen the Elbe River entry to the harbor have been put on hold due to [environmental concerns](#).



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