



# A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

*Virtual Engagement Series*



# A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

*Advocacy, Civic Engagement and Supporting Social Movements as 501(c)3 Organizations*

# Today's Program

- Welcome and Housekeeping Notes
- Introduction of Speakers
- Presentations
  - Moderator: Janai Gilmore, Michigan Community Resources
  - Speaker 1: Sholanna Lewis, Kalamazoo Community Foundation (TRHT)
  - Speaker 2: Nellie Tsai, Michigan Nonprofit Association
  - Speaker 3: Leo Goddeyne, Miller Canfield
- General Q&A
- Closing Remarks



# Housekeeping Notes

- This webinar is being recorded.
- Q&A time is built into each portion of the program.
- Use the “Chat” function to share your questions any time.
- Conversations based on our best understanding at the time.
- The attorney presentation features legal *guidance*, **not** legal advice.





A white computer keyboard is visible on the left side of the image. A pair of glasses with thin frames is at the top right. A gold-colored pen lies diagonally across the bottom left. The background is a light-colored, textured surface.

# Next in Our Series

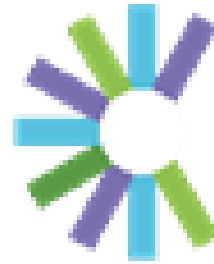
**Thursday, Sept. 24 (10am – 11:30am)**

**Final Session in the Series:**

The Opportunities and Imperatives in Defining  
Michigan's New Normal

[Register Here](#)

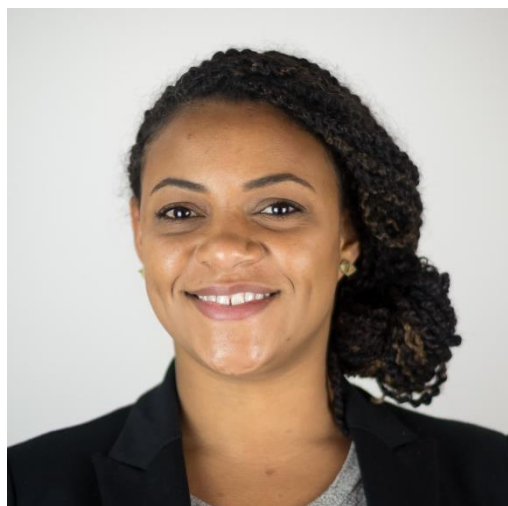
# Thank You



MICHIGAN  
COMMUNITY  
RESOURCES



# Today's Presenters



Sholanna Lewis  
Kalamazoo Community  
Foundation



Nellie Tsai  
Michigan Nonprofit  
Association



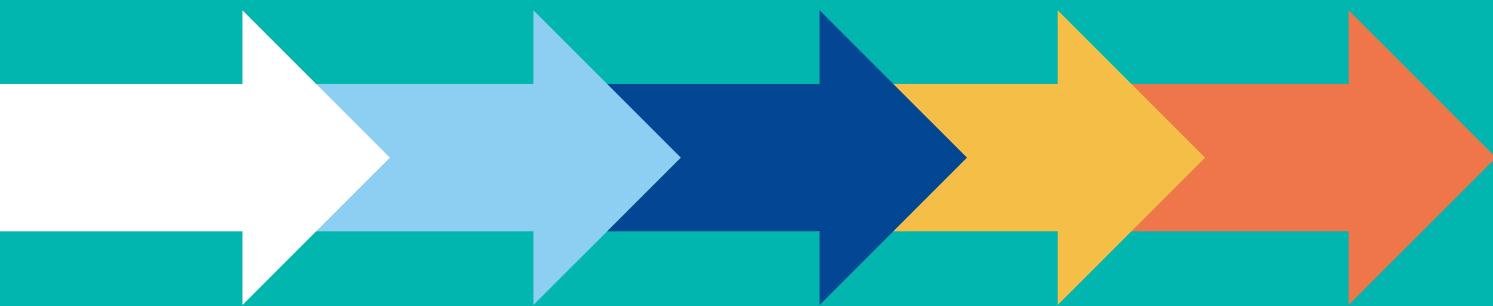
Leo Goddeyne  
Miller Canfield



**Janai Gilmore**  
Michigan Community  
Resources  
(Moderator)







# Sholanna Lewis

*Director-- Truth, Racial Healing and Transformation  
Kalamazoo Community Foundation*



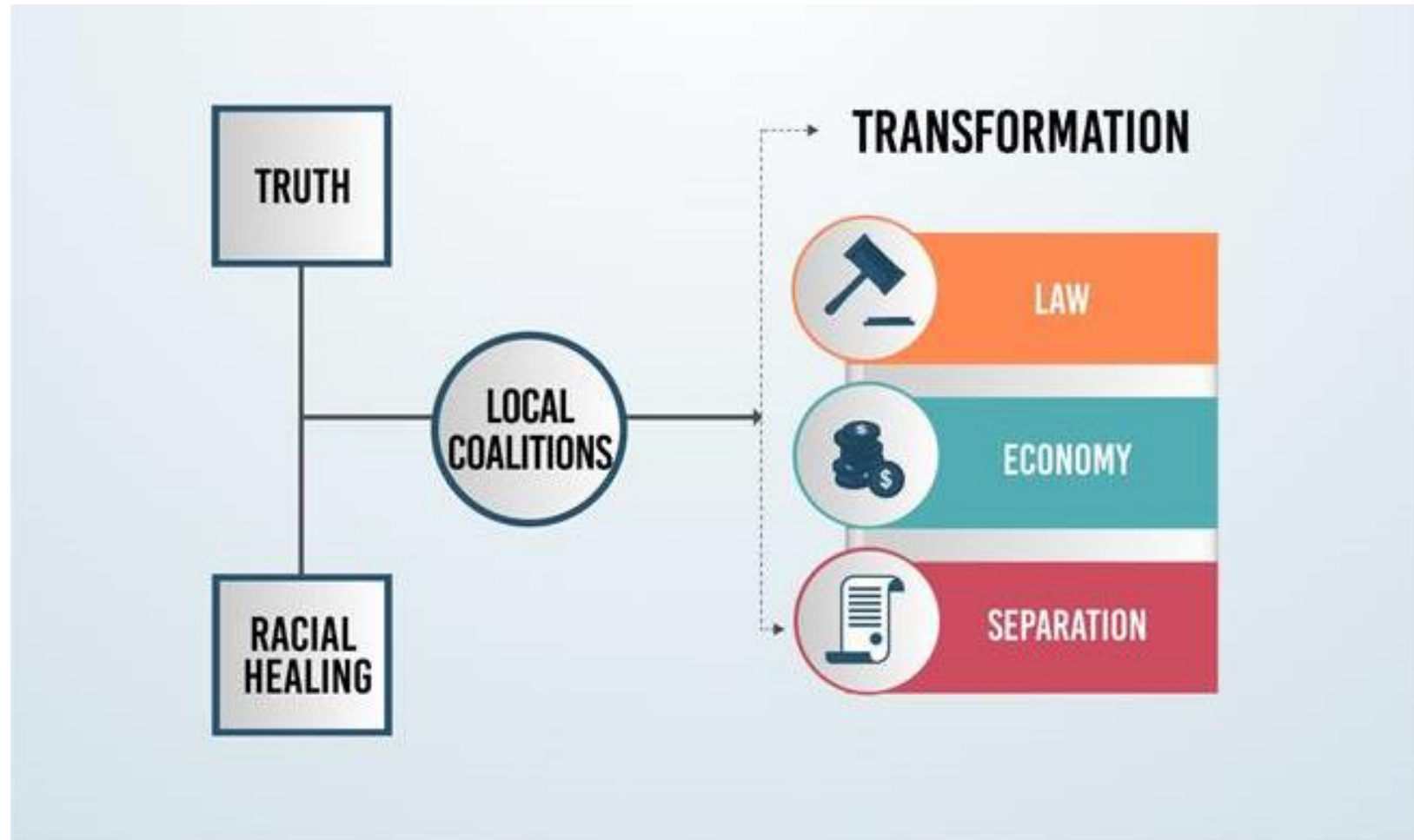
# Truth, Racial Healing and Transformation

*“Our vision is to improve our capacity as communities and as a country to see ourselves in each other, so that we can shape a more equitable future with opportunities for every child to thrive.”*

“It is time to focus our energy, resources and discourse on uprooting and eliminating the false ideology of a hierarchy of human value to grow what we value most: our common humanity.” -Dr. Gail Christopher



# A NATIONAL & COMMUNITY-BASED PROCESS



# CENTERING HEALING & RELATIONSHIPS

“...to unearth and jettison the deeply embedded belief in a **hierarchy of human value** that sustains racism, to recognize the history and continued trauma resulting from that belief, and to create policy solutions that will sustain healing and structural change...”



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LOCAL AND REGIONAL  
GOVERNMENT ALLIANCE ON  
**RACE & EQUITY**

**PARTNERSHIP**





## EXPERIENCING DISCRIMINATION



OF THOSE THAT SAID THEY  
THEMSELVES EXPERIENCED IT:

**74%** IDENTIFIED AS  
NON-WHITE OR  
PEOPLE OF COLOR  
(53% OF THOSE WERE BLACK)

## REPORTING DISCRIMINATION

**21%** OF THOSE WHO EXPERIENCED  
DISCRIMINATION ACTUALLY REPORTED IT

### WHEN ASKED WHY PEOPLE DON'T REPORT HOUSING DISCRIMINATION



# SURVEY DATA



## THE **HOUSING EQUITY ORDINANCE** WILL PUT IN EFFECT THE FOLLOWING:

- Expand housing protections to:



EDUCATIONAL  
AFFILIATION



SOURCE OF  
INCOME



STATUS AS A  
VICTIM OF  
DOMESTIC VIOLENCE



PERSONAL  
IDENTIFICATION  
METHOD



PRIOR ARRESTS  
OR CONVICTION  
RECORD

- Create a Civil Rights Board
- Protect against predatory application fees
- Strengthens enforcement for gender identity and sexual orientation

# LESSONS AND PRACTICES

## *Challenges*

- Recognizing opposition and bias
- Adapting to needs based on COVID and civil unrest
- Funding sources that support lobbying and advocacy

## *Change happens from the inside out*

- Adapting how we operate – office culture, stipends, accessibility
- Impacts the whole organization's strategy
- Uncovering uncomfortable truths about sector and realities of community
- Empowering staff



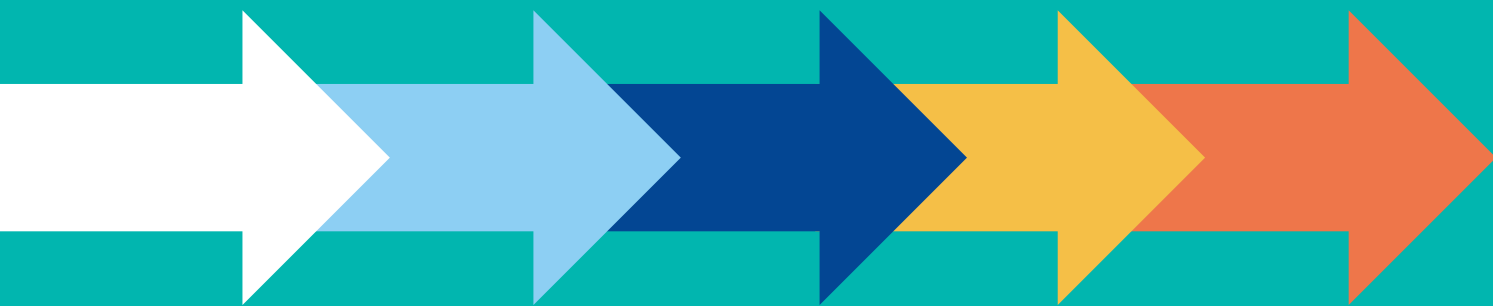


# LESSONS AND PRACTICES



## *Importance of Relationships*

- Importance of transparency and co-creation of strategy from early stage
- Follow & support grassroots community leaders
- Hold and name tension between institutions, non-profits & community
- Intentionally building norms of partnership
- Trust building, shared decision-making and calling in



# Nellie Tsai

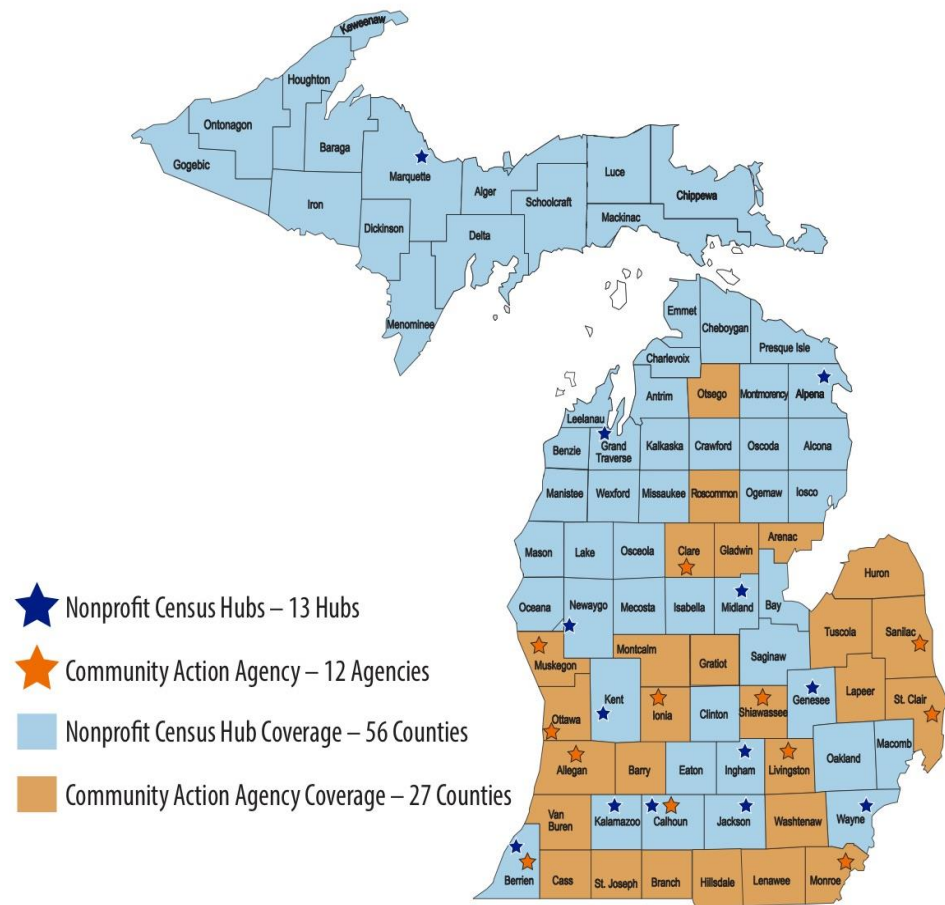
*Community and Civic Engagement Director  
Michigan Nonprofit Association*

# CIVIC ENGAGEMENT





## Census 2020 Michigan Nonprofits Count Campaign County Coverage



# 2020 CENSUS

## Michigan Nonprofits Count Campaign

The 2010 census undercounted 2.1% of the Black population; 1.5% of the Hispanic population; and American Indians and Alaskan Natives living on reservations were undercounted by 4.9% (Census Bureau).

**How would our communities be if everyone participated?**

The 2020 Michigan Nonprofits Count Campaign is a collaborative, coordinated, statewide effort to encourage participation in the census in communities that are at significant risk of being undercounted.

# VOTER ENGAGEMENT

## Engaging New Voters 2020

The 2016 presidential election only had a 56% voter turnout of eligible voters (Pew Research).

How would our communities and world be different if everyone voted?

The "Engaging New Voters 2020" campaign is a national effort that aims to establish a sustainable, scalable model for service providers and community-based nonprofits to engage their constituents and clients in nonpartisan voter engagement activities. As part of this campaign, the MNA has convened a cohort of 15 organizations from across the state.





# REDISTRICTING MICHIGAN

## Independent Redistricting Commission Initiative

District boundaries are redrawn every 10 years to ensure each district is reflective and representative of the electorate.

How would our representation be if our district lines reflected who is in our communities?

MNA will be launching part II of our program to make the new commission a success. Using the census model, we will again mobilize nonprofits with the aim reach communities historically underrepresented to educate them on the process, what's at stake and how they can get involved.

# TAKE ACTION



Fill out the census and encourage others to do so

[www.2020census.gov](http://www.2020census.gov)

Last day to fill it out:  
9/30/2020



Make a plan to learn about the ballot issues and register to vote

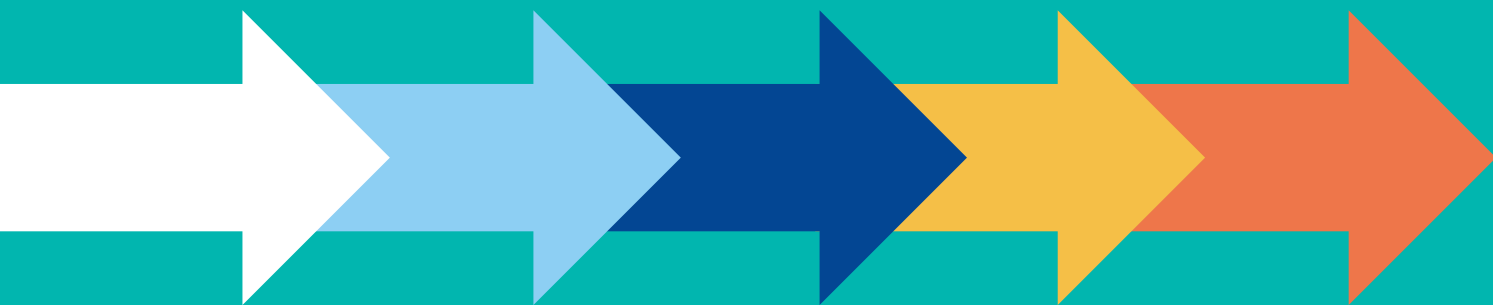
[www.minonprofitsvote.org](http://www.minonprofitsvote.org)

National Voter Registration  
Day: 9/22/2020



Stay informed on the redistricting process + plan on participating in community meetings

[www.redistrictingmichigan.org](http://www.redistrictingmichigan.org)



# Leo Goddeyne

*Miller Canfield / Senior Attorney*

Lobbying & Advocacy for 501(c)(3) Nonprofits



# Are 501(c)(3) nonprofits allowed to lobby?

- A 501(c)(3) nonprofit organization is not allowed to be involved in a campaign for the election of a person for office;
- However, it is allowed to lobby to a *limited extent*



# What is lobbying?

- To qualify for 501(c)(3) tax exemption, “no substantial part of the activities” of the organization can involve lobbying
- General definition of “Lobbying” is an attempt to influence legislation by, either:
  - a) contacting members or employees of a legislative body for the purpose of proposing, supporting or opposing legislation, or
  - b) urging the public to contact members or employees of a legislative body for the same purpose
- There are two types of lobby: “Direct Lobbying” and “Grassroots Lobbying”



# Who are you lobbying?

- A “legislative body” includes the US Congress, a state legislature, any local council or similar legislative body.
- “Legislation” is defined, for the purposes of 501(c)(3), to include action by any of these legislative bodies.
- Lobbying does not include attempts to influence the executive or judicial branch (e.g. President, Governor, or Mayor) or administrative bodies (e.g. school board, zoning board, housing authority)



# What is a “substantial part” of activities?

- Two ways of measuring “substantial”:
  - Section 501(c)(3): Multiple factors including time spent by staff and volunteers, lobby expenditures as a percent of total expenditures, type of activity, whether a paid lobbyist was used → **no bright line measure**
  - Sections 501(h) and 4911: More precise measure that sets specific limits on direct lobbying and grassroots lobbying



# 501(h) definition of “substantial”

- Organization must file an election with IRS
- Formula for how much “Direct Lobbying” and “Grassroots Lobbying” is allowed
- Direct Lobbying: a communication must (i) refer to specific legislation, and (ii) reflect a view on such legislation.
- Grassroots Lobbying: a communication must (i) refer to specific legislation, (ii) reflect a view on such legislation, and (iii) encourage the recipient of the communication to take action with respect to the legislation.





# 501(h) definition of “encourage the recipient”

- To “encourage the recipient” to take action in lobbying, the communication must:
  1. State that the recipient should contact a legislator or an employee of a legislative body or any other governmental employee or official who may participate in formulating the legislation, but only if the principal purpose of urging the contact is to influence legislation;
  2. State the address, telephone number or similar information of a legislator or an employee of a legislative body;
  3. Provide a petition, tear-off postcard or similar material for the recipient to communicate with the legislator or employee of a legislative body for the principal purpose of influencing legislation; or
  4. Specifically identify one or more legislators who will vote on the legislation as being opposed to or undecided with respect to the legislation, or being the recipient’s representative in the legislature; or being a member of a committee or subcommittee that will consider the legislation.



# 501(h) definition of “specific legislation”

- Section 501(c)(3) lobbying definition requires that a communication address “legislation” while the 501(h) definition speaks about “specific legislation”
- Legislation v. Specific Legislation
  - Legislation includes any action by Congress, any state legislature or any local council
  - Specific Legislation includes both legislation that has already been introduced in a legislative body and a specific legislative proposal that the organization either supports or opposes.



# Section 501(h) expenditure limits on lobbying

| Exempt Purpose Expenditures        | Total Lobbying Nontaxable Amount            | Grassroots Nontaxable Amount                  |
|------------------------------------|---|---|
| Up to \$500,000                    | 20% of exempt purpose expenditures          | 25% of total lobbying nontaxable amount       |
| Over \$500,000 to \$1 million      | \$100,000 + 15% of excess over \$500,000    | \$25,000 + 3.75% of excess over \$500,000     |
| Over \$1 million to \$1.5 million  | \$175,000 + 10% of excess over \$1 million  | \$43,750 + 2.5% of excess over \$1 million    |
| Over \$1.5 million to \$17 million | \$225,000 + 5% of excess over \$1.5 million | \$56,250 + 1.25% of excess over \$1.5 million |
| Over \$17 million                  | \$1 million                                 | \$250,000                                     |



# What happens if you exceed 501(h) limits?

- If an organization makes an election under Section 501(h) and exceed annual lobbying expenditure limits → 25% excise tax on excess amount
- If an organization exceeds expenditure limitations by more than 50% averaged over 4 years → excise tax + possibility of losing 501(c)(3) status



# Example

A 501(c)(3) organization contacts legislators in the State legislature to encourage them to vote for legislation that is being considered. It uses volunteers to make the calls.

- The organization is engaged in direct lobbying because it is contacting members of the legislature and referring to specific legislation.
- Is this lobbying “substantial”?





# Example (continued)

- If the organization has made an election under Section 501(h),
  - Only the money spent for lobbying is used to determine if it is substantial
  - Here, since no money is being spent for the work of the volunteers, their efforts would not be counted in determining if its lobbying is substantial.
  - Only actual amounts spent by the organization for lobbying would be counted, such as the cost of the phone calls.
- If the organization has not made an election under Section 501(h),
  - Then the time spent by volunteers could be counted along with other factors, including amounts spent for the phone calls, to determine if the lobbying is substantial.



# What activities don't qualify as "lobbying"

Exceptions:

1. Nonpartisan study, analysis, and research
2. Examination of broad, social, economic, and similar problems
3. Communication with members



# Action Organizations

- If a substantial part of an organization's activities involve influencing legislation the Regulations under the Code classify it as an "action organization" → cannot qualify for 501(c)(3) exemption.
- Example: an organization whose primary purpose is to seek to have legislators change policing practices



# Protest Marches

- If a public protest is organized or promoted by a 501(c)(3) organization, does this qualify as lobbying?
- Let's examine this question based on the rules we've discussed



# Definitions of lobbying

- Direct Lobbying: a communication must (i) refer to specific legislation, and (ii) reflect a view on such legislation.
- Grassroots Lobbying: a communication must (i) refer to specific legislation, (ii) reflect a view on such legislation, and (iii) encourage the recipient of the communication to take action with respect to the legislation.





# Direct Lobbying: Example 1

Assume that a tax-exempt organization calls for members of the public to gather in a public street and park to express support for a person who was killed after an interaction with local police and to also show their outrage at how the community's leaders are handling the investigation of the shooting and the action taken against the officer who committed the act. Protestors arrive with signs stating that "Black Lives Matter" and similar expressions asking for justice and also seeking an end to perceived police violence against black and Hispanic residents.

→ Is this lobbying?



# Direct Lobbying: Example 1

No. Why?

- Not a communication about legislation
- Oftentimes directed at chief of police or prosecutors, NOT at a legislative body



# Direct Lobbying: Example 2

Assume the same facts as in Example 1, but the State's legislative body is considering an ordinance to require police to wear body cams and to change the requirements for when police can use deadly force. A tax-exempt organization contacts a legislator and states that it plans to have 5,000 people come to the State capital on a particular day to express their support for the bill.

→ Is this lobbying?



# Direct Lobbying: Example 2

Probably yes. Why?

- Tax-exempt organization contacted a legislator about specific legislation and reflected a view on this.
- However, if the communication had been addressed to the mayor of chief of police, it would not qualify as lobbying



# Direct Lobbying: Example 3

Similar facts to Example 2, except that the organization does not directly contact a legislator but announces through the media that it wants the public to gather on the grounds of the State capital on a specific day to express support for these bills. The public arrives in large numbers and some have signs that ask legislators to support the bills.

→ Is this lobbying?





# Direct Lobbying: Example 3

Probably no. Why?

- Tax-exempt organization did not directly communicate with a legislator.



# Definitions of lobbying

- Direct Lobbying: a communication must (i) refer to specific legislation, and (ii) reflect a view on such legislation.
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  1. State that the recipient should contact a legislator or an employee of a legislative body or any other governmental employee or official who may participate in formulating the legislation;
  2. State the address, telephone number or similar information of a legislator or an employee of a legislative body;
  3. Provide materials for recipient to communicate with legislator, such as a postcard; or
  4. Specifically identify one or more legislators who will vote on the legislation



# Grassroots Lobbying: Example 4

A tax-exempt organization announces through the media that it wants the public to gather on the grounds of the State capital on a specific day to express support for these bills. The public arrives in large numbers and some have signs that ask the legislature to support the bills.

→ Is this lobbying?



# Grassroots Lobbying: Example 4

Probably no. Why?

- Communication to the public refers to a specific bill and reflects a view, but
- Unclear if there was a call to action. The communication does not:
  - Ask the public to contact a legislator
  - Give the address of a legislator
  - Provide a means for communicating with legislator directly
- Instead, organization has called the crowd to show the entire legislator that the public supports the bill





# Grassroots Lobbying: Example 5

Assume the same facts as in Example 4 except that the tax-exempt organization makes and distributes signs to persons who attend the event and some signs name particular legislators who it knows oppose the bills or are undecided and the signs call for them to support the bills. Persons who attend the event are given these signs to carry so they are visible to all. These are just a few of many signs in the crowd that reflect general messages about passing the bills and general messages about racial equality and that Black Lives Matter.

→ Is this lobbying?



# Grassroots Lobbying: Example 5

Probably yes. Why?

- The signs that named specific legislators who were opposed to the legislation may be enough to qualify as lobbying



# Grassroots Lobbying: Example 6

An organization circulates a petition asking individuals and other organizations to contact their individual State Representative and ask her to approve legislation that defunds the police. At the time this petition is circulated, there is no legislation pending to defund the police.

→ Is this lobbying?



# Grassroots Lobbying: Example 6

Probably no. Why?

- Does not refer to “specific legislation,” and therefore not lobbying if organization has made election under Section 501(h).
- However, unclear if an organization has not made an election under Section 501(h), i.e. if measuring “lobbying” under Section 501(c)(3)



# Grassroots Lobbying: Example 7

Two 501(c)(3) organizations organize a protest, one has had an election under Section 501(h) while the other has not. The organization that has made the election uses volunteers to organize the event, the other uses paid staff and volunteers.

→ Is this lobbying?



# Grassroots Lobbying: Example 7

It depends. Why?

- For the organization making 501(h) election: because volunteers are unpaid, organization does not include them in determining expenditure on lobbying
- For the organization not making 501(h) election: the amount paid to staff and amount of time spent by staff and volunteers must be counted and other factors considered to determine if lobbying actions are "substantial"





# Power of Protests

- Non-legislative bodies can help with reform:
- “Prosecutors must do now what we should have done long ago: Prosecute offending officers and adopt measures that focus on increasing transparency, accountability and equal justice . . .” (DA for San Francisco)
- Prosecutors in Michigan → decide who and to what extent to prosecute
- Chief of Police → decide whether an officer should be fired for actions
- Mayors → may have the power to suspend the officers involved



# Detroit Board of Police Commissioners

- Civilian oversight organization of the Detroit Police Department
- Supervisory and policy making board – not a legislative body
- Exerts great influence over policing practices in Detroit
- If is not a legislative body, then attempts to influence the Detroit Board of Police Commissioners will not qualify as lobbying



# Permit Requirements for Public Gatherings

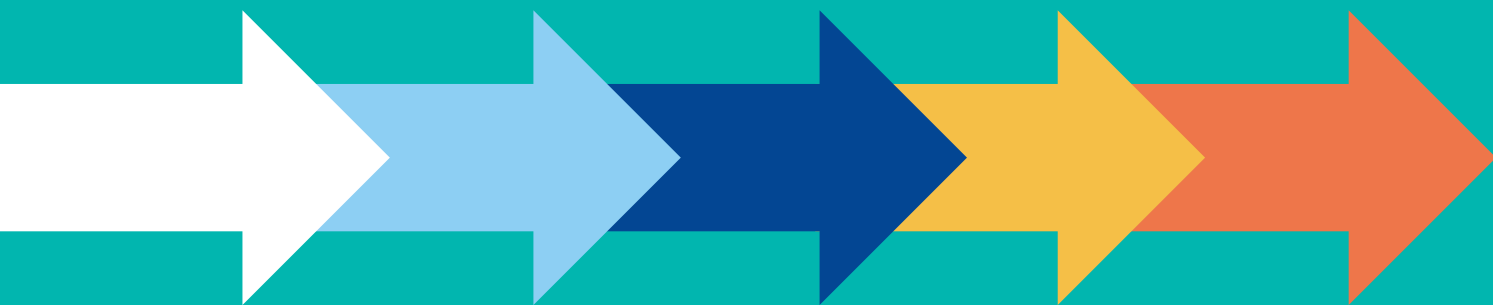
- In Detroit, public demonstrations treated the same as special public events such as street fairs and movie filming
- Special Events Permit required from City Council
- 7-page application and requires proof of insurance, emergency medical care, sanitation agreement
- Required 60 days before event
- Is this Constitutional?



# Registration as a Lobbyist

- Federal Law:
  - The Lobbying Disclosure Act requires individuals and entities to register as lobbyists if lobbying members of Congress and Legislative Branch employees and certain members of the Executive Branch, including the President and Vice President.
  - Lobbying activities must constitute >20% of time, but in-house lobbyist is exempt from registration if total lobbying expenses <\$13,000.
- State Law:
  - The Michigan Lobby Registration Act defines a “lobbyist” as any person whose expenditures exceed a specified amount in 12-month period.
  - For 2018, amount was \$2,425 over 12-month period or \$625 spent to lobby a single individual.





Q&A

Thank you for being a part of today's conversation!

Please be sure to complete the evaluation via the email link you'll receive.