

SEPTEMBER 11

Perspectives from the Field of Philanthropy



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THE FOUNDATION CENTER

The Foundation Center

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Founded in 1956, the Center is the nation's leading authority on philanthropy and is dedicated to serving grantseekers, grantmakers, researchers, policymakers, the media, and the general public.

The Foundation Center is documenting private philanthropy's response to the September 11 terrorist attacks. Using our experience in collecting and analyzing giving data, we are constructing a comprehensive picture of giving by foundations and corporations in the aftermath of 9/11, as well as tracking contributions by intermediaries and direct-service providers. We are also presenting news and in-depth interviews concerning the philanthropic response to 9/11 in the Foundation Center's online journal, *Philanthropy News Digest*. Some of these have been reproduced in *September 11: Perspectives from the Field of Philanthropy*. To learn more, please visit our Web site at www.fdncenter.org.

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"Managing Charitable Giving in the Wake of Disaster" by C. Eugene Steuerle
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Foreword

The images we share of September 11, 2001, are stark — the dark outline of a slowly banking 767, the inconceivable destruction of the disintegrating World Trade Center towers, the scorched and riven outer ring of the Pentagon, a scarred and smoking field in Pennsylvania.

Other, stirring images followed these — film footage of people risking their lives to help others, long lines of hopeful blood donors, the blossoming of the American flag all over the country, pictures of the missing filling an American city. These portrayed the nation’s pain, compassion, generosity, and patriotism. More difficult to capture in just a few images was the forceful response of America’s charitable institutions. Their volunteer and professional staffs immediately began identifying the many needs created by the attacks of September 11 and delivering aid and comfort to victims of all types, moving more quickly and comprehensively than government aid programs.

In these pages, a number of people from the charitable sector provide accounts of the days and months following September 11. Seen together, their accounts create a mosaic that reveals charities and philanthropies setting out to rebuild lives, while

grappling with a multiplicity of victims, a daunting needs assessment task, and some say, too many dollars.

Most of these accounts present similar themes. The many service gaps in our society have resulted in the creation of a rich, complex network of nonprofit organizations, which research has shown to be more innovative and flexible than government bureaucracies can be. Coordinating relief efforts for a disaster on the scale of the September 11 attacks is difficult. As one of our commentators put it, “When it comes to 9/11, the word ‘unprecedented’ has real meaning.” Nevertheless, these accounts reveal a surprisingly coordinated process of identifying charities with existing service-delivery capacities, and tapping their expertise to distribute relief aid quickly and efficiently.

There is consensus that the procedures hammered out under these extreme circumstances need to be examined closely, so that successful coordination strategies — within the charitable sector as well as between the public and private sectors — might be codified for the future. Yet even an unsparing focus on lessons learned cannot negate the monumental accomplishments of our charitable institutions in the wake of September 11: rapid distribution of assistance to thousands and thousands of people directly and indirectly affected by the terrorist attacks.

These pages highlight the penchant of philanthropic institutions to go beyond providing immediate disaster relief. Even initial needs assessments encompassed longer-term recovery and rebuilding strategies. The events of 9/11 generated a sense of urgency for investigating ways to make the world a more secure and humane place for all people. Philanthropy is uniquely positioned to play a creative and foresighted role in these critical explorations.

Some of our commentators note that historically the charitable sector hasn’t been considered newsworthy. Many acknowledge that the sector hasn’t communicated its own story effectively. In the case of 9/11, efforts to provide relief and recovery took place under a media spotlight, within an intensely emotional atmosphere. With philanthropy now attracting increased coverage, those in the field are challenged to do a better job of establishing the context for their work and telling their own stories.

The Foundation Center is conducting research to track 9/11 charitable dollars through to their distribution by direct-service agencies and programs. We also are creating a narrative account of 9/11 charitable relief efforts and philanthropy’s continuing involvement in recovery, rebuilding, and rethinking. In particular, the work of our *Philanthropy News Digest* staff has enabled us to offer this contribution to that narrative. We will continue to chronicle the philanthropic response to the September 11 tragedy as the story unfolds.

Managing Charitable Giving in the Wake of Disaster

The tragic events of September 11 stirred the goodwill and charitable impulses of millions of Americans. Individuals from all segments of society responded with an outpouring of support, resulting in reported contributions of \$1.5 to \$2 billion to U.S. charities (*The Chronicle of Philanthropy* 2002; *Renz* 2002).

Since then, a number of controversies, such as the high-profile conflict between the board of the American Red Cross and its former president and CEO, Bernadine Healy, have surrounded the management of the funds. The unusual circumstances and the size of the contributions pool account for some of the disputes; the process of learning how to meet the enormous challenges posed by the events is clearly still in play. It is important, however, to cull lessons from what's been accomplished so far and to apply them to how charities plan to raise, manage, and disburse funds in the case of future disasters.

C. EUGENE STEUERLE
FROM "CHARTING CIVIL SOCIETY," A SERIES BY THE CENTER ON
NONPROFITS AND PHILANTHROPY OF THE URBAN INSTITUTE, MAY 2002



As society comes to terms with the events of September 11, charities must devise new ways to plan for and distribute disaster relief.

This brief looks at the structure of the charitable sector and describes the unique challenges these organizations face in soliciting contributions, selecting beneficiaries, and distributing funds for wide-scale disaster relief.¹ It then outlines four classic principles of public finance that can be used to help set priorities (see sidebar). While these principles do not always lead to definitive conclusions, they do offer useful guidelines for navigating the problems of disaster relief.

RESOURCES OF THE CHARITABLE SECTOR

The charitable sector has a unique and prominent role in American society. Indeed, giving in the United States represents a relatively high proportion of income, with Americans, on average, giving about 2 percent of their income to charities, or a total of about \$203 billion (AAFRC Trust for Philanthropy 2001). In addition to providing valuable services, charitable giving allows Americans to support causes of their own choosing and to fund the organizations they care about most. The charitable sector can often be more flexible and innovative than the government sector, responding to crises quickly and encountering fewer administrative hurdles (Boris and Steuerle 1999).

These advantages make the charitable sector a valuable part of the social service safety net. Because of the limited size of the charitable sector, however, these organizations often complement, rather than directly compete with, public services. Social welfare expenditures financed through government taxes represent about 20 percent of the nation's income — 10 times the level of charitable contributions. Even the generous \$1.5 billion-plus in charitable contributions made in response to September 11 represents only a small fraction of the federal government's pledge of tens of billions of dollars in disaster relief. Moreover, the government earmarked hundreds of billions of additional dollars for defense expenditures, internal security measures, and potential economic stimulus provisions to help individuals directly and indirectly affected by the terrorist attacks. If voluntarism is taken into account, the difference between the two sectors shrinks somewhat. But by any measure, the capacity of the government far exceeds that of the charitable sector. Its more limited capacity, as well as the availability of governmental aid, makes matching resources to potential recipients' needs all the more challenging.

THE SELECTION DILEMMA

Many charities, particularly small organizations, do not keep or have access to extensive records on the individuals they serve or on their other sources of assistance. In the course of raising support, charities may ask potential beneficiaries to volunteer information — for example, requesting that they report income levels to determine sliding-scale dues — but this type of information gathering is limited. Part of the appeal of charitable giving is that individuals often receive support quickly, with minimal reporting. In addition, donors can contribute money without revealing much information about themselves. Charities do not have the government's power to enforce many types of rules on giving or receiving. To get the job done, even the most scrupulous organization must often rely on some degree of arbitrariness and goodwill.

When needs are large relative to charitable contributions, the difficulty of identifying and selecting beneficiaries is less likely to be scrutinized. A food bank that only serves some of the hungry is not likely to be criticized for helping only a small number of people. Similarly, it is difficult to fault an organization for providing housing assistance to some near-poor individuals and not others. Even when organizations, such as wealthy educational institutions or hospitals, raise large amounts of money, the need is typically so much greater than the resources available that all types of assistance can easily be targeted to more needy populations.

But when donors respond to a specific incident with an outpouring of contributions, the old rules often do not apply. Following the September 11 attacks, Americans gave around the clock. Many donors wanted their moneys to go to those individuals directly affected by the terrible incidents of that day. If one-third of the amount raised so far were simply allocated to the families of each person killed or seriously injured (with the remainder going to others directly affected, such as relief workers and businesses), the assistance per victim would approach \$150,000. How to designate funds became even more complicated when a federal airline bailout bill effectively offered government assistance to each victim's family that would range from very little to well over \$1 million in many cases, depending on pensions, life insurance, and other factors (U.S. Department of Justice 2002).

These circumstances raise the stakes of the selection problem. Charities, whether prepared or not, face dilemmas similar to those of public agencies disbursing the government's social welfare budget. While this added degree of accountability means that controversy is more likely — indeed, almost inevitable — it does not mean that charities have no roadmap to follow. The classic principles of public finance provide useful guidelines in planning for and allocating charitable contributions during times of great crisis as well as in the daily course of doing good.

FOUR PRINCIPLES OF PUBLIC FINANCE

Progressive or Vertical Equity

Under this principle, relatively greater resources are designated to those with greater needs. This principle reflects the commonsense notion that some people are capable of paying more for help and some are in greater need of assistance. Charities serving the poor obviously heed this principle, but even those that assist (or charge an equal fee to) everyone often draw more of their support from individuals with greater resources.

Some charities involved in helping victims' families after September 11 initially attempted to apply this vertical equity principle. For example, many charities offered to pay for counseling for families, fire and police personnel, and other workers. The September 11th Fund, established by The New York Community Trust and United Way of

Charities face distribution dilemmas similar to those of public agencies.

Public Finance Principles: A Framework for Charitable Relief

- *Progressivity or Vertical Equity. Individuals with greater need (less means) should be assisted more (or pay less).*
- *Equal Justice or Horizontal Equity. Individuals in like circumstances should be treated equally.*
- *Individual Equity. Individuals are entitled to the rewards resulting from their own efforts and to determine how their property is used.*
- *Efficiency. Programs should aim to maximize net benefits (benefits less cost).*

When donors respond to a specific incident with an outpouring of contributions, the old rules often do not apply.

New York City, allows individuals to apply for help for special needs. In addition, many businesses have offered scholarship help, effectively serving families with children more than those without.

Despite the good-faith effort to apply the vertical equity principle, many of the efforts broke down. So many charities were offering to cover the same needs — such as counseling, food for rescue workers, and immediate financial assistance for rent and food — that they wound up with far more money than needed for those purposes. Public pressure to use funds for individuals and families directly affected by September 11 also shifted the focus away from distributing aid on the basis of families' income and toward distributing it on a per-victim basis. Once the scope of the disaster and the amount of donations collected became clearer, charities expanded their pool of potential recipients to include others affected by the attacks, such as business owners around the World Trade Center and taxi drivers affected by airport shutdowns.

Equal Justice or Horizontal Equity

The principle of horizontal equity holds that two people in identical circumstances generally have the right to be treated equally. This fundamental concept underpins most calls for greater enforcement of civil rights, voting rights, or the equitable distribution of taxes and benefits. Charities traditionally apply the horizontal equity principle within a recipient group. For instance, every poor person who gets help from a food bank receives the same type of food assistance. Generally speaking, however, they have trouble applying the principle outside the recipient group: The same food bank cannot grant all poor the same assistance within a few square miles, much less across a wider area.

In the case of contributions after September 11, advertising by certain charities led some contributors to believe that the “recipient group” would be confined to those directly affected by the attacks on that day. Faced with an onslaught of criticism, many charities distributed most or all of their contributions according to the public's expectations — sometimes defining families of victims as “equals” by entitling them to the same amount of assistance.

Individual Equity

The principle of individual equity holds that individuals maintain the rights over their own property. As a consequence, they are entitled to keep the product of their labor. One useful application of this principle is that people should be allowed to spend their money as they see fit. A second, more complicated application is in the insurance market. Here, the application of the principle of individual equity generally means that when an insured-against event occurs, individuals in the same circumstances and subject to the event to the same degree receive an expected return proportional to what they put into the pool. Thus, wage replacement schemes such as pensions often provide benefits in proportion to wages because payments made to cover the benefits were (or were deemed to be) in proportion to wages.

Individual equity concerns seemed to have been a significant factor in determining how September 11 disaster relief would be provided in at least two ways. First, people are allowed to pick their own charitable causes, even if others would view those causes as

unworthy or inefficient. When many charities shifted away from reserving some September 11 contributions for other societal needs toward helping those affected directly by the attack, they gave significant weight in part to donor choice, one application of the individual equity principle. Second, many public and private compensation groups, including the Victims' Compensation Fund established by the government to compensate the terrorist victims' families, provided some funds on a type of "replacement" basis — either replacing lost wages in the case of the Victim Compensation Fund or replacing lost sources of payment for living expenses in the case of some charities.

Efficiency

This principle calls for maximizing net benefits or benefits less costs. One set of applications (out of many possibilities) is that a program with lower administrative costs is preferable to one with higher costs, all other things being equal. At the same time, balance is required: Much charitable activity involves unavoidable administrative costs, which must be covered in order for the charity to operate efficiently. Moreover, delegating responsibility to those who provide goods and services often promotes efficiency in charitable organizations, just as it does in business.

Efficiency also requires that all gains (and costs) to society should be considered, not just those immediately apparent. For example, in the area of education, the greatest benefits from subsidies go to those individuals who, by taking advantage of schooling, succeed the most and often attain above-average incomes. Society apparently believes that the gains from educational subsidies tend to benefit society generally.

After September 11, there were also attempts to improve efficiency by coordinating charitable activity and reducing duplicate administrative costs. In particular, the September 11th Fund served as a funnel for many (but not, by any means, all) fundraising and distribution efforts. The Office of the New York State Attorney General encouraged coordination and compiled information on all charities on its web site. Charities devoted some September 11 funds to educational assistance, likely based on an efficiency notion that it would do more good in the long run than other uses.

CONFLICTS AND CHOICES IN APPLYING THE PRINCIPLES

While these principles are straightforward in theory, they are not easy to apply. Here are a few examples where the principles conflict or pose additional questions:

- Even if a charity sets progressivity as a goal, it must determine the degree of progressivity it will apply. The most progressive scheme would give nothing to a better-off person until everyone else had been raised fully to that person's income, wealth, or some other measure of well-being. Understandably, almost no program, public or private, goes this far. But some metric must be applied to determine how progressively services will be provided.
- A charity responding to a disaster and relying on the principle of horizontal equity will attempt to respond equally to all victims in the same circumstances. But as we know from recent experience, what determines "equals" is not always clear cut. For example, should

The classic principles of public finance provide useful guidelines in planning for and allocating charitable contributions.

Much charitable activity involves unavoidable administrative costs, which must be covered in order for the charity to operate efficiently.

charities raising funds in response to September 11 exclude anthrax victims? How can one provide equal treatment to those affected by the Oklahoma City bombing and military personnel who died in Afghanistan? What about victims from future terrorist incidents? And what happens if the number of victims rises and, as a result, future collections per family decline significantly?

- Individual equity considerations establish the right of contributors to have some control over the allocation of their contributions. But efficiency, as well as progressivity considerations, could lean toward letting charities decide which priorities should prevail.
- In the event of disaster, the victims themselves suffer the greatest losses. By attempting to help victims' families, the government and charities are attempting to do what they can. This disbursement of aid follows a logical efficiency notion of putting money where it can do some good, although one could argue on equity grounds that a victim with no family or a child victim with no dependents suffered a loss equal to the other victims'.

Each principle is difficult enough to apply independently. More confounding is that they do not always lead to the same conclusion. Conflicts among progressivity, individual equity, and efficiency often arise. Horizontal equity generally tends to be consistent with all other principles.

When legislators agonize over these principles in designing social programs, they face the same types of conflicts as charities. They resolve these conflicts in a variety of ways. Some public programs, such as welfare and food stamps, are distributed with a fair degree of progressivity, restricting benefit eligibility to the poor or near poor. Other programs, such as the Federal Employee Retirement System, follow the individual equity principle and give back an amount proportional to what an employee earns.

Many programs represent some form of compromise. Some large public programs, such as public education or Medicare, are funded by wealthier taxpayers more than by poor taxpayers. On the benefit side, goods or services in these programs are provided more or less on an equal basis for all persons. Other programs, like Social Security, provide more benefits to the rich than to the poor largely on the individual equity notion that the rich contribute more to the fund. Still, if we consider that the rich get a lower rate of return on their taxes or contributions, these programs usually redistribute benefits progressively. For example, a wealthy individual might contribute into Social Security four times the amount of a low-income person, but only get back twice as much.

The complexity of these public programs illustrates how difficult it is to apply all the principles fairly even in well-established programs. For a program suddenly developed to respond to an unexpected need, the feat can be herculean. The potential conflicts show that charities must think rigorously about what they want to achieve and advertise accordingly.

MAKING CHOICES AND PLANNING FOR THE FUTURE

The principles of public finance do not provide easy answers, but they do provide a ready framework for identifying potential problems and prioritizing solutions. In

addition, charities should consider ways to strengthen giving distribution processes in the event of future disasters.

Planning for Contingencies

Charities often cannot predetermine a formula ensuring that the money they pay out will be distributed as progressively or as fairly as intended. Moreover, if charities make initial benefit payments too high, they will not have enough to pay out to everybody under the same formula, and some who are less deserving could receive help before more needy potential recipients can apply for funds. If charities make benefits too low, they will hold excess funds and will have to set up new criteria for allocating the excess money.

In the wake of September 11, many charities tried to take one step at a time, although they faced considerable pressure to use the funds immediately. Some groups at first attempted to use funds only for “emergency” relief or immediate needs, apparently to ensure that funds were not overcommitted. The caution was appropriate because the availability of other money through government aid, pensions, annuities, and life insurance makes coordinating aid difficult. Some charities, like the September 11th Fund, have tried to leave room for meeting future community needs. As demonstrated by the strong public response to the Red Cross’s initial intent to use donations for purposes not related to those directly affected by the September 11 attack, the issue of individual equity, which places a premium on individual givers’ intentions, has to be part of the decisionmaking process. If contributors expressly want their donations spent in a particular way, then the charities in question must give some recognition to those wishes, even if an organization sees some other compelling need. A weak correlation between donors’ goals and charities’ actions would surely erode the foundation of giving in this country.

One compromise might be to approach the families of victims to see how money in excess of current needs might be spent. Some individuals without significant financial need would likely be interested in seeing a portion of funds shifted to other areas of need. Organizations that give families the option to decline the funds (as well as those that do not) could offer families the opportunity to designate their funds to related purposes, for example, to help the victims of the Taliban in Afghanistan.

Advertising Successfully

In the wake of the crisis, charities are tempted to commit resources as soon as possible to meet new needs. Advertising is useful when it presents timely information to the public; it can hurt a charity’s cause when the message is premature or misleading. Some charities were buffeted by adverse publicity when people expected one thing and charities did another.

To be fair, many charities simply were not prepared to deal with the crisis. The lessons learned, nonetheless, should help organizations plan for the future. The better a charity is able to define how it plans to allocate money up-front and in public statements, the more

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In times of wide-scale need, when large amounts of money are at issue, criticism is inevitable.

likely it is to succeed in gaining the public's trust. It will be better able to balance the objectives of efficiently spending money and meeting donors' preferences. Advanced planning on ways to advertise could also mitigate some of the fairness problems outlined earlier. As the emergency relief efforts necessitated by September 11 shift into lower gear, charities have the opportunity to prepare guidelines for how to advertise in the case of future disaster relief.

Coordinating Activities

When many charities become involved in a single cause, efforts can overlap and conflict. Exchange of information among charities during times of crisis helps minimize inefficient duplication. A number of charities and private business partners devoted considerable effort to setting up some infrastructure to deal with this problem in the weeks and months following September 11. Coordination among federal subsidy programs that overlap in attempting to help needy persons could serve as a model. Meanwhile, charities that gather only a small amount of money should consider the large efficiency costs in handling such limited resources. Some organizations could merely serve as conduits when receiving funds for a purpose beyond their capability.

Government has a role to play in encouraging coordination, at a minimum by constantly informing charities about its own actions, through expedited tax filing processes for new charities and enhanced monitoring by states' attorneys general of charities set up quickly in the wake of a disaster. Many such initiatives took place after September 11; now is the time to examine which were successful and which were not.

Facing Up to Inevitable Criticism

In times of wide-scale need, when large amounts of money are at issue, criticism is inevitable. One individual will simply put more weight on one principle or standard than will other individuals. In the political realm, leaders tend to shy away from these criticisms — often by glossing over the exact activities of the programs that they have sponsored. This withholding of information usually leads to poor policy. The best strategy for charities facing controversy is to be forthcoming and to respond to criticism quickly and honestly. Advanced planning could head off some controversy.

Strengthening the Monitoring of the Charitable Sector

The charitable sector has no governing body overseeing its diverse members. One of the problems it faces is that poor advertising can “help” a particular charity but hurt the image and potential fundraising of the sector as a whole. Similarly, a small charity may believe that it enhances its own future by running a duplicate program, even if the inefficiency could lead to less aggregate societal giving if the public becomes disenchanted. In the public finance sector, government accounting rules and regulatory groups, such as the Securities and Exchange Commission and the Federal Trade Commission, help guard against unintentional mismanagement as well as fraud. In the charitable sector, watchdog groups such as the BBB Wise Giving Alliance could help develop standards to be distributed by larger organizations, such as the Independent

Sector, a national membership association of charities. The Independent Sector has already commissioned a survey on September 11 and has begun publicizing information on giving following the terrorist attacks (Independent Sector 2002; Wirthlin Worldwide 2001).

A thorough examination or audit of each large disaster relief effort, perhaps financed in part by foundations, ought to become a normal course of business. This examination could help determine how well charities were able to operate within a framework of set principles, such as those outlined here. For the sector as a whole, September 11 likely means greater public scrutiny of charitable activities in any case. It is, therefore, in the sector's own interest to lead the way in increasing scrutiny of giving activities, enhancing organizations' accountability, and rooting out inequities and inefficiencies.

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About the Author

C. Eugene Steuerle is a senior fellow at The Urban Institute, where he has focused primarily on budget and tax policy, the charitable sector, Social Security, and other social issues. His research on charity and philanthropy includes studies on the patterns of giving by the wealthy (for the Council on Foundations), the effect of taxes on charitable giving, payout rates for foundations (for the Filer Commission), and ways of simplifying and reforming tax rules for charitable contributions and charitable giving.

Note

1. This brief is based on a three-part "Economic Perspective" column appearing in *Tax Notes* magazine. Part one, "The Problem of Selection," appeared in the December 3 issue (pp. 1341–2); part two, "Applying Classic Principles of Public Finance," appeared in the December 11 issue (pp. 1493–4); and part three, "Making Choices and Planning for the Future," appeared in the December 17 issue (pp. 1641–2).

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Reflections on September 11 Legal Developments

The scope and nature of the tragedies of September 11, 2001 generated an unprecedented outpouring of support for relief and recovery efforts. Distributing such a large amount of assistance to thousands of people, and quickly, presented a huge challenge to the charitable sector. In her essay, Victoria Bjorklund describes challenges facing the legal community — how to advise charities and philanthropies on channeling assistance to the many in need within a legal framework that, because of the extraordinary circumstances, was a moving target.

Victoria Bjorklund is a Partner at Simpson Thacher & Bartlett where she heads the firm's Exempt Organizations Group. She specializes in forming, qualifying, reorganizing, and advising public charities and private foundations with regard to structure, strategic alternatives, governance, Internet planning, investments, and domestic and international grantmaking. She also advises donors on charitable-giving alternatives and

VICTORIA B. BJORKLUND¹
SIMPSON THACHER & BARTLETT



valuation issues. She was recently appointed by the Secretary of the Treasury to serve as one of six exempt-organization members of the IRS's first Tax Exempt/Government Entities Advisory Committee and was elected Vice Chair for Exempt Organizations. She was named a David Rockefeller Fellow for 1997–1998 as a rising civic leader in New York City. From 1989 through 2001, she served as a director, secretary, and pro bono legal counsel for Doctors Without Borders, the emergency medical relief organization that was awarded the 1999 Nobel Peace Prize. She is also a director of and pro bono counsel for the Robin Hood Foundation. She chairs the American Bar Association Tax Section Committee on Exempt Organizations and is a member of the Section's 9/11 Task Force. Ms. Bjorklund was honored in May 2002 as ABA Tax Section "Pro Bono Lawyer of the Year" in recognition of her 9/11 work. She also accepted the "Pro Bono Firm of the Year" award from the NYS Bar Association in recognition of the firm's 9/11 work. Ms. Bjorklund speaks and writes frequently on exempt-organization subjects.

Bjorklund earned her J.D. at Columbia University School of Law, a Ph.D. in Medieval Studies from Yale University, and a B.A. magna cum laude from Princeton University, where she graduated in three years and was elected to Phi Beta Kappa.

On the morning of September 11, 2001, I stood at a window in the Simpson Thacher offices at 425 Lexington Avenue and watched as the collapsed Twin Towers burned a short distance away. This image will be seared in my memory forever. But in the immense pain of that moment, I knew that our Exempt Organizations group at Simpson Thacher was uniquely positioned to help in the aftermath of the terrorist attack. Our role would be to facilitate the delivery of charitable aid to the unknown thousands of survivors: We would manage the legal "plumbing" so that the charities could serve victims of the attack in this time of unprecedented need.

In analyzing the aftermath, it is critical to remember that the terrorist attack created an unfathomable cloud of unknowing. How many victims were there in New York and Washington and Pennsylvania? Were there 10,000, as the press initially speculated? Who were their survivors? How would charities find them? What needs would they have? Given the likely geographic dispersion, how would they be served? Would there be follow-on attacks in New York and Washington? Elsewhere in the United States? On Americans overseas? Would the American economy suffer severely? Would charities' "normal" missions continue or be badly disrupted?² "Locked down" in our almost deserted offices (Penn Station was still closed to train travel) with no working telephones, I knew that we would soon be summoned.

The first call came the next day, September 12. A client called to report that thirteen of their employees from around the world had been gathered at Windows on the World in the North Tower for a business breakfast and were presumed dead. The company must help their families. Could the company foundation pay for the funerals? Bring the families to New York City from around the world? Collect money for scholarships for the children who had lost their parents?

That first call raised a plethora of legal issues under existing law. Were thirteen victims a “charitable class” eligible for aid? Since the victims ranged from a managing director to a young associate, were their survivors “needy and distressed,” a prerequisite for charitable aid? Could near-term aid be dispensed more liberally than aid for the longer term? Would the survivors have taxable income on amounts received from the company foundation, given adverse authority issued by the Internal Revenue Service (the “IRS”) in 1999 treating company-foundation aid as taxable employee benefits?

I told the client that, while the law was uncertain, we could not afford to be. We would create a charitable giving program and a funds-acceptance program for their company foundation by the next week. We would apply our knowledge of the current state of the law, act based on where we thought the law should go, and in the future, focus our energy on getting the law to go there. Thus, we drafted on September 13 for a legal end result that the charitable legal sector did achieve, but not until many months later. Even as I write on July 11, 2002, the law on 9/11 disaster relief is still evolving.³

The public’s charitable response was nearly instantaneous. Within twelve hours of the attack, the American Red Cross had collected more than \$1 million.⁴ Only two weeks later, the Red Cross reported that it, alone, had collected more than \$200 million in donations and pledges.⁵ For the first time, online donations to the Red Cross outpaced donations to the Red Cross’s toll-free number.⁶ More than \$57 million was raised in the first week following the disaster on the Web sites of six Internet companies.⁷ Within six hours of e-mailing its employees, one client’s company foundation received approximately \$260,000 in online contributions. By October 1, charitable donations to all relief agencies totaled more than \$600 million.⁸ Approximately 65 percent of American households or individuals reported donating money to September 11 relief.⁹ Others donated goods in kind, donated blood, and volunteered their time. This spontaneous and voluminous public response was a clear indication of how deeply the tragedy had affected so many Americans. Rather than sitting at home passively, Americans donated to charities because they wanted to help. Dr. Emary Aronson, Director of the Robin Hood Relief Fund, one of the larger September 11 charitable funds, noted the unusually national response to this disaster: “This,” she said, “was considered an attack on the entire country.”¹⁰

I have tried to write this essay in a chronological order so that the reader can recall with me how the legal events affecting charities unfolded:

1. The question of charitable class;
2. The determination of need;
3. The IRS’s quick response with expedited review of new 9/11 applications for exemption, the advance and the revised text on disaster relief, and the notice anticipating Congress’s relaxation of the need standard for 9/11 victims only;
4. The September 11th Victims Compensation Fund of 2001, and Special Master Kenneth Feinberg, who have given new meaning to inclusion, exclusion, calculating

We would manage the legal “plumbing” so that the charities could serve victims of the attack in this time of unprecedented need.

A charitable organization must be organized and operated to serve public, rather than private, interests in order for the IRS to recognize it as exempt and for donors to be able to claim income-tax charitable deductions.

need, and the concept of offsetting insurance and other payments against federal relief awards in lieu of tort litigation;

5. The Victims of Terrorism Tax Relief Act of 2001, its blessing of the new qualified disaster relief payments for employees by employers, and its legislative history giving explicit examples of need where victims are not poor;
6. The emergence of charitable aid to small businesses and the IRS acknowledgment that such aid is excludable from taxable income as gifts;
7. Privacy as a sword and as a shield in the disaster-relief arena;
8. The public debate over charitable solicitation, donor intent, and victim entitlement, and the Red Cross's new transparency program, Donor Direct.

CHARITABLE CLASS

One of the first issues that our corporate client, and many other charities, encountered in the first week after the attack was the issue of how properly to define the charitable class. The law is well settled that a charitable organization must be organized and operated to serve public, rather than private, interests in order for the IRS to recognize it as exempt and for donors to be able to claim income-tax charitable deductions.¹¹ This has meant for centuries that a charity must serve a class of people that is large and indefinite, rather than particular, pre-selected individuals.¹² One may not form a "charity" to benefit a particular individual or a small number of specified individuals harmed by a disaster (although one could create a "private trust" and accept nondeductible gifts).¹³ Rather, the charitable organization must benefit the community as a whole.¹⁴

Providing aid to a closed class, even if they are suffering to a great degree, does not qualify as a charitable activity under section 501(c)(3).¹⁵ What did that mean for our class of survivors of thirteen known victims? We knew that the *Parker* opinion is a primary authority in this area.¹⁶ In that case, Wendy Parker's parents set up a foundation to benefit victims of comas. Their creation of the foundation was directly in response to an accident in which Wendy became comatose, and the foundation proceeded to spend approximately 30 percent of its income for the benefit of Wendy only. The Tax Court memorandum held that the 30 percent of income to a pre-specified person constituted "inurement" which is prohibited under section 501(c)(3) and corresponding regulations.¹⁷ Because Wendy Parker was pre-selected as a substantial beneficiary of those charitable funds, the foundation did not qualify as benefiting the public and was therefore denied tax exemption. Thus, we knew that we must not draft the company foundation's relief fund mission as narrowly as "the families of employees who were victims of the September 11 attacks." A number of well-intentioned but uninformed draftspersons did just that in their documents.¹⁸

Instead, we drafted their mission as "to provide disaster relief, including financial assistance, to the victims of any natural or civil disaster and their families, and to others who experience suffering as a result of such a disaster."¹⁹ We believed that by adding the words

“of any natural or civil disaster” to our statement, the class would be opened both in size and in indefiniteness.

Even with this more broadly defined class, we advised the company foundation that it could later decide to distribute all of the money it received after September 11 solely for September 11 victims. An IRS official informally confirmed that position later.²⁰ We also advised the company foundation not to accept gifts designated for any particular victims or survivors. The recipient charity is expected to exercise real and meaningful discretion when it makes a decision to select any particular beneficiary from among its eligible class.²¹

I remember well our Simpson Thacher team’s work on this point for, at that moment, we were called upon to evacuate our offices. A suspicious package had been found across the street at Grand Central Station. We gathered our papers and calmly but nervously crept down the fire stairs and away onto Third Avenue with thousands of other office workers. The sirens at that time were still almost continuous day and night. The crowd, in contrast, was subdued and almost silent. After standing alert in the street for a while, our team (Dave Shevlin, Jennifer Goldberg Reynoso, Joanna Pressman, and I) headed downtown to Dave’s apartment in the “frozen zone” below 14th Street. This required passing through checkpoints manned by military personnel and enduring the acrid smoke from the still-burning Ground Zero. Finally, armed with cell phones, we called Jane Wilton (General Counsel, New York Community Trust), Cathy Livingston (Caplin and Drysdale, Washington, D.C.), and finally Marv Friedlander (disaster law expert at the IRS National Post of Duty, Washington, D.C.).²² Isolated that day in the frozen zone, it was reassuring to be able to call upon these colleagues for informal feedback and to advise them on the steps we were taking for clients.²³

DETERMINATION OF NEED

By September 13, charities were already grappling with a legal issue almost unknown to the public but central to the work of charities: determining “need.” Must all recipients of charitable aid be poor? The charities were confused, with good reason, because the law concerning the determination of charitable need was not clear as of September 11, 2001. Generally, explanations of an IRS interpretation of the Code may be found in the IRS regulations. However, at the date of the attack, IRS regulations did not directly address whether recipients of charitable relief must demonstrate financial need. Long-standing Treasury regulations defined charity as “relief of the poor and distressed or the underprivileged.”²⁴

In a perfect world, charities would have enough money to provide for the needs of all victims. Before September 11, however, adequate funds had almost never been available at an early stage in any crisis (hence, the Red Cross’s now much-discussed practice of setting aside funds from a current disaster for future disasters). Thus, intrinsic to the charities’ role in disasters has been identifying victims, sorting them by relative and specific need, and providing goods, services, or funds to address those needs to the best of the charities’ ability and to the extent of their resources. The shorthand term for this sensitive, often heart-wrenching process is “determining need.” It is sometimes performed by trained volunteers, sometimes by social workers, or sometimes by mental-health professionals. I

Donors give to charities precisely because of charities’ skills in determining relative need. If charities did not determine need, fraud would likely be rampant in any disaster’s wake.

When determining need, charities consider what the victim lacks, what the victim has, what the victim needs in the short term and in the long term, and then, according to their mission and their financial and other resources, they deliver relief.

believe that donors give to charities precisely because of charities' skills in determining relative need. If charities did not determine need, fraud would likely be rampant in any disaster's wake.²⁵ Further, if donors did not want charities to administer aid by determining relative need, donors could instead give relief funds to private trusts managed by banks or mutual fund managers who would likely be more efficient than charities as pure payout agents.²⁶

The September 11 killings, however, constituted mass murder of an unknown (until months later) number of victims across a huge economic spectrum, from security guards to securities executives, whose plight attracted heretofore unprecedented donations from the public. Who among them left survivors who were "needy" within the boundaries of the law?

In talking about need as a determinant of charitable relief, I have traditionally given the following example:

If Ted Turner is racing his yacht in the Bermuda Triangle and becomes endangered, he is "distressed" at that moment and is thus worthy of charitable rescue assistance, despite his neither being "poor" nor "underprivileged."

Once safely back on shore after his rescue, Mr. Turner remains eligible for mental-health charitable services (e.g., counseling services) if his ordeal has left him "distressed." But he is not eligible to receive cash from charities because he is not poor or underprivileged.

This example illustrates the core principles of how charities determine need. They consider what the victim lacks, what the victim has, what the victim needs in the short term and in the long term, and then, according to their mission (e.g., emergency relief, scholarships, medical care) and their financial and other resources, they deliver relief. To avoid many pitfalls (e.g., diversion, waste, the "helpful" brother-in-law stockbroker, lack of transparency for donors, etc.), conventional wisdom has been that it is preferable to deliver services rather than money. In the past, in those relatively rare cases where money was delivered, it was generally as reimbursement for or, less often, payment of critical bills such as house repairs after a natural disaster, rent or utilities costs for the poor, or scholarships for either the highly meritorious or the poor or underprivileged.

IRS Explanation of Need

The IRS has articulated this principle in its publications for years. In its most recent text for the public, "Disaster Relief: Providing Assistance Through Charitable Organizations," the IRS has provided a clear statement of the needy or distressed requirement:

Generally, a disaster relief or emergency hardship organization must make a specific assessment that a recipient of aid is financially or otherwise in need. Individuals do not have to be totally destitute to be financially needy; they may merely lack the resources to obtain basic necessities. Under established rules, charitable funds cannot be distributed to individuals merely because they are victims of a disaster.

Therefore, an organization's decision about how its funds will be distributed must be based on an objective evaluation of the victim's needs at the time the grant is made. The scope of the assessment required to support the need for assistance may vary depending on the circumstances.

A charity may provide crisis counseling, rescue services, or emergency aid such as blankets or hot meals without a showing of financial need. The individuals requiring these services are distressed irrespective of financial condition. In contrast, providing three to six months of financial assistance to families to pay for basic housing because of a disaster or emergency hardship would require a financial need assessment before disbursing aid.

An individual who is eligible for assistance because the individual is a victim of a disaster or emergency hardship has no automatic right to a charity's funds. For example, a charitable organization that provides disaster or emergency hardship relief does not have to make an individual whole, such as by rebuilding the individual's uninsured home destroyed by a flood, or replacing an individual's income after the person becomes unemployed as the result of a civil disturbance. This issue is especially relevant when the volume of contributions received in response to appeals exceeds the immediate needs. A charitable organization is responsible for taking into account the charitable purposes for which it was formed, the public benefit of its activities, and the specific needs and resources of each victim when using its discretion to distribute its funds.²⁷

The IRS's statements that a victim "has no automatic right to a charity's funds" and that a charity "does not have to make an individual whole" are critically important in the wake of the press reports on the September 11 survivors. Some have been strident in their criticism of charities for not turning over to them what they perceive as their pro rata share of the amounts contributed.²⁸ But the fact remains that donors gave largely (but *not* exclusively) to charities rather than to private trusts because our laws have entrusted the charities with the responsibility to distribute goods, services, and funds so that no recipient enjoys excessive private benefit.²⁹

Probably the most *untold* story after 9/11 is how many people were rapidly well-served by charities.³⁰ Within weeks of the attack, Safe Horizon served an estimated 17,000 survivors.³¹ Subsequently, Safe Horizon alone has distributed more than \$111 million to 42,800 people.³² But still the press pursues stories criticizing charities for not having distributed more cash more rapidly to more middle- and upper-class victims than we have ever seen served by the U.S. charitable relief system. Why hasn't the question been analyzed: "Should the charitable dollar ever be a substitute for life insurance?" I think the answer is that it should not, but this is a difficult statement to make to survivors who are understandably afraid for their futures and angry at their circumstances. In the early aftermath of September 11, it quickly became clear that the charities' legal obligation to determine need (and the attendant paperwork) was unknown and misunderstood by the press, the survivors, and by the donor public.

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Importantly, the September 11 terrorist attack affected a spectrum of victims rarely seen since the *Titanic* sank: can previously wealthy or middle-class families receive charitable aid in cash? If so, for what purposes? Alerted to this uncertainty by practitioners, Congressional staff created a useful legislative history for this and future disasters. Contained in the Joint Committee on Taxation Technical Explanation of the “Victims of Terrorism Tax Relief Act of 2001” (the “Act”), this text provides:

It is expected that, because of the severity of distress arising out of the September 11 and anthrax attacks and the extensive variety of needs that the thousands of victims and their family members may have, a wide array of expenses will be consistent with operation for exclusively charitable purposes. For instance, payments to permit a surviving spouse with young children to remain at home with the children rather than being forced to enter the workplace seem to be appropriate to maintain the psychological well-being of the entire family. Similarly, assistance with elementary and secondary school tuition to permit a child to remain in the same educational environment seems to be appropriate, as does assistance needed for higher education. Assistance with rent or mortgage payments for the family’s principal residence or car loans also seems to be appropriate to forestall losses of a home or transportation that would cause additional trauma to families already suffering. Other types of assistance that the scope of the tragedy makes it difficult to anticipate may also serve a charitable purpose.³³

This text, previously tucked away for lawyers to find, has now been widely circulated by the IRS as applying to victims of all disasters.³⁴ For this clarification, we have to thank the charities lawyers who worked quietly with Congressional staff to educate them on existing law and how to open the door for more aid to victims and survivors.

Need and the Oklahoma City Bombing

The issue of charitable need had previously arisen in connection with the Oklahoma City bombing. After the bombing, the IRS provided an information letter indicating that recipients of charity need not be poor.³⁵ However, the letter went on to indicate that a charity must still bear the burden of justifying its distributions, especially to individuals of wealth.³⁶ Treasury regulations do indicate that care of the needy or distressed must relate to the particular need that causes the person to be needy.³⁷ After September 11, however, press frenzy and public opinion pushed charities to the absolute limits in the need analysis, with the result that first the IRS and then Congress and then President Bush stepped in.

Clarifying the IRS’s Position on Need: A Relaxed Standard for 9/11 Victims

In advising clients how to administer cash relief, we quickly came to believe that regulators would have to relax the needs-determination standards for this disaster. Simply put, too much money was available for too few survivors for typical guidelines to apply. By November 2001, our advice was justified by two particular developments. First, on November 19, 2001, the IRS published Notice 2001-78, in order to clarify what constitutes

charitable need and to provide a more generous standard for gifts to September 11 charities. The notice states that the IRS will treat payments made by charities to September 11 and anthrax survivors as related to the charity's exempt purpose provided that the payments are made in good faith using objective standards.³⁸

Second, on December 20, 2001, the Act was passed by the House and Senate. On January 23, 2002, President George W. Bush signed this Act into law. The Act provides special rules for charities making payments to survivors of September 11 or an attack involving anthrax occurring on or after September 10, 2001 and before January 1, 2002.³⁹ The Act provided that any such payments are to be treated as related to the purpose or function constituting the basis for such organization's exemption under Code Section 501(c)(3) if such payments are made in good faith using a reasonable and objective formula, which is consistently applied.⁴⁰

This relaxed standard for September 11 charitable aid was reportedly sought because certain prominent funds had distributed money without directly investigating the need of those who received that assistance.⁴¹ After the IRS notice and then passage of the Act, charities reconsidered how best to deliver direct cash relief to survivors. They generally elected to make relief payments in one of three ways: (1) a pro rata gift to the family of each victim, (2) gifts based on ongoing living expenses, or (3) gifts based on the composition of the deceased victim's family.

A cogent example of the first approach is the Robin Hood Relief Fund. Aware that many families were approaching the holidays without having yet received cash aid, the Robin Hood Relief Fund took a significant percentage of the cash it received in connection with the October 20 Concert for New York City at Madison Square Garden and provided a \$5,000 gift to the family of each victim. The Fund paid these gifts (totaling more than \$15 million) irrespective of the survivors' financial status.

The Salvation Army utilized the second approach, making payments to victims based on their living expenses, without researching whether the survivor presenting a bill for payment was, in fact, financially needy. A Salvation Army news release indicates that the charity paid up to \$2,000 a month in rent or mortgage, and up to \$750 for all other household bills.⁴² This bill-payment service was provided by the Salvation Army to the victims' families, unemployed workers, and displaced residents of Lower Manhattan.⁴³

Using the third approach, the Twin Towers Fund made varying payments to the families of deceased public safety officers based on a grid system. In making these payments, the Twin Towers Fund did not determine actual need, but rather determined whether the deceased officer had a surviving spouse and how many children survived. The fund paid \$85,000 to a surviving spouse, \$25,000 for each child under age twenty-four, and \$10,000 for each child age twenty-four or older.⁴⁴ Despite making some reference to the financial need of recipients by taking into account the size and makeup of the family, this system did not directly address the actual needs of each family. It gave equally to families based on a survivorship grid, regardless of whether or not the family owned their own home or whether the surviving parent was entitled to a large inheritance.

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Although government officials had originally praised the Victims Compensation Fund for being a straightforward alternative to litigation, precisely how difficult it would be to administer the Fund was unknown.

The money provided by the Twin Towers Fund, and other sources, to the families of deceased public safety officers added up quickly. All of these families were already provided for by existing programs for families of officers killed in a work-related accident. Moreover, a recent study has indicated that the families of firefighters (one of the Twin Towers Fund’s primary recipients of aid) have already received, on average, about \$1 million each.⁴⁵ That amount, the study noted, is approximately ten times the figure that has typically gone to the families of others killed in the attack.⁴⁶ Other money set aside for the families of the deceased firefighters could bring their per-family totals above \$2 million by the end of 2002.⁴⁷

The unprecedented amount donated in the aftermath of September 11, and the limited missions of some of the recipient charities, has raised the specter of inequitable financial distributions. This specter may cause the pendulum of public opinion to swing back in favor of charities’ determining relative need before paying out additional cash. Clearly, potential gifts of over \$2 million to a single family exceed the “basic-needs” standard of prior law. But, in light of the unprecedented degree of public emotion and scrutiny focused on 9/11 charities and the huge amounts contributed, the IRS and subsequently the Congress determined that a more lenient standard was appropriate for these victims alone.⁴⁸ The impact of this change and whether this result was reached in order to achieve the desires of those who donated the money, or to facilitate the disbursement of life insurance substitutes to those affected by the disasters, are important topics for historians to consider.

Another Factor: The Victims Compensation Fund

Another factor complicating the “algebra” in determining need is the “September 11th Victims Compensation Fund of 2001 (the “Fund”).”⁴⁹ Although the federal relief awards were styled as a tort-litigation substitute, they also function as a life insurance substitute.⁵⁰ This comparison is supported by the fact that individual awards are offset by insurance and other payments. Therefore, the family of a victim who had planned well and had sufficient life insurance coverage will receive less or almost no federal assistance from the Fund.

Special Master Kenneth Feinberg estimated that the Fund will award \$1.85 million to each family, with deductions for insurance payments and other government benefits leaving a net average of \$1.5 million.⁵¹ This is not a guarantee, however, and families “sense that the fund is a malleable work in progress responsive to public pressure and subject to frequent clarifications,” which may be why fewer than ten families of the 3,200 individuals killed or injured on September 11 have completed their applications.⁵²

Although government officials had originally praised the Fund for being a straightforward alternative to litigation, precisely how difficult it would be to administer the Fund was unknown.⁵³ For example, difficult family dynamics have created dueling claims. In the case of victims with families abroad, determining eligibility is a legal puzzle.⁵⁴ Special Master Feinberg has observed that “it is one thing to look at the law of New York or New Jersey; it’s quite another thing when I have to look to the law of Norway, or Yemen, or the People’s Republic of China. It’s very unclear to me at this stage of the process exactly how we will

mesh those laws in determining who gets what.”⁵⁵ Given this uncertainty in the most significant source of government financial assistance, charities are being forced to assess need and calculate additional gifts with a major variable still unknown.

Why Charities Determine Need

In the past eight months, the debate over charitable need has revealed that people give to charities, rather than to individual victims and/or survivors or to their private trusts, because they assume that the charities will better be able to apply dollars to relieve suffering. By transferring their money over to charities, people cede their control over the need determinations to the charities. Victims in future disasters, however, will not likely benefit from the relaxed 9/11 need standard. Traditionally, charitable funds have not been considered compensation funds, or insurance and lawsuit settlements. Instead, their basic purpose has been to relieve dire financial need and distress. In the future, charities will again be called upon to make valid, efficient, and thoughtful determinations of who qualifies for their aid under the laws of charitable need. When the final analysis of September 11 aid is written, will the press and the donor public chastise the charities for having given aid to those who did not “need” it, or for not having given freely enough?

UNCLEAR RULES ON EMPLOYER-SPONSORED FOUNDATIONS

Prior to 1999, the IRS’s treatment of employer-sponsored private foundations was quite favorable.⁵⁶ Specifically, the IRS had issued private letter rulings helpfully concluding that employer-sponsored private foundations offering disaster relief to employees were tax-exempt and that their distributions to employees who were victims of disaster were not acts of self-dealing.⁵⁷ However, in 1999, the IRS revoked these earlier rulings, indicating that their prior favorable treatment of employer-sponsored private foundations had been incorrect because the programs had given the employee a significant benefit.⁵⁸

Thus, when the September 11 terrorist attack occurred, it was these 1999 negative rulings that were in effect. We believed that the IRS’s post-1999 position was incorrect and should not stand and advised our company foundation clients accordingly. We were therefore relieved when Congress elected to direct the IRS to return to its pre-1999 approach. Specifically, the Act provided that employer-sponsored private foundations that make payments in connection with a “qualified disaster” to employees (and their family members) of an employer that controls the foundation, are consistent with the requirements of section 501(c)(3), so long as the class of beneficiaries is large or indefinite and the recipients are selected based on an objective determination of need by an independent committee of the foundation.⁵⁹

The new term “qualified disaster relief payment” was brought into the law in new Internal Revenue Code section 139. Putting the provision in the employee benefits portion of the Code, rather than the charitable foundation portion, means that the new term can easily be missed by advisors. In summary, a qualified disaster relief payment is a payment made in response to a qualified disaster, which includes disasters that result from “certain terroristic

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... this change in the law will inspire companies to create anticipatory disaster-relief charitable programs inside their employer-sponsored foundations.

or military actions, a Presidentially declared disaster, a disaster that results from an accident involving a common carrier or any other event that the Secretary of the Treasury determines is catastrophic.”⁶⁰

I predict that this change in the law will inspire companies to create anticipatory disaster-relief charitable programs inside their employer-sponsored foundations. These disaster-relief programs will be put “on the shelf” for future use when disaster strikes. Companies realize that disaster relief is not a hypothetical exercise and that their boards, their employees, their shareholders, and the press expect them to have response plans. By planning today using the new law, they will be able to maximize their preparedness for future disasters.

ASSISTANCE TO BUSINESSES, RATHER THAN INDIVIDUALS

By the third week in September, our clients were making us very aware of how adversely small businesses in New York City’s frozen zone were being affected. Not only were their suppliers and customers physically unable to come to them, Lower Manhattan lost office space in the terror attack equal to all of the office space in Indianapolis, Indiana, America’s twelfth-largest city.⁶¹ With so many offices, restaurants, and stores destroyed, serious economic disruption was inevitable.

We were called immediately by our client Civic Capital Corporation, the charitable arm of the New York City Investment Fund chaired by Henry Kravis and led by Kathryn Wylde and her colleagues Maria Gotsch, Janice Roberts, and Alberto Robaina, Esq. of the New York City Partnership and Chamber of Commerce. Civic Capital requested assistance with creation of its relief fund documents. In performing our legal research, however, we were disappointed to find no precedent on public charities making charitable grants to needy businesses. Yet, we knew that for forty years private foundations had made so-called “program-related charitable investments” in for-profit businesses.⁶² Thus, we had a well-established body of law promoting charitable support of businesses by private grantmaking foundations for purposes such as assisting a business to stay in a disadvantaged location to retain jobs. We drafted Civic Capital’s relief fund documents with this law in mind and then sought to assist them in attracting funds.

One problem was an IRS official’s informal advice in a 1995 letter to charitable officials working on the Oklahoma City bombing. That letter stated that “a business is not an appropriate charitable beneficiary.”⁶³ The letter did go on to say that a business may be helped if the charity can determine that the owner is having difficulty meeting basic needs, and helping the business is an indirect way of helping the owner.⁶⁴

Although I was a staunch supporter of charitable grants to small businesses in the wake of the September 11 attack, I had difficulty in convincing any charities officials that such aid was legally permissible. The only time I have been reduced to tears in my professional career was when, in those already stressful days, I called foundation funders around the country to beg for grants to small businesses. Over and over again I heard sophisticated funders say they were not sure if they could get comfortable with such grants under existing law, despite their program-related investment histories. It was then that I decided

that we at Simpson Thacher would have to clarify the law because this was going to be a huge issue, one that would have a leveraged impact on people. If small businesses were pushed into bankruptcy, their employees would be forced out onto the street.⁶⁵

Charitable Organizations Funding Small Businesses

Fortunately, a few funders did step into this charitable void. The Civic Capital Corporation and Seedco are the two most prominent charities that provided grant aid to small businesses struggling in the wake of the September 11 attack. In an interview with Civic Capital Corporation staff responsible for administering the grants, they noted their reasoning for providing aid despite the unclear tax consequences: “The need for money was so much greater than concern about the tax consequences.”⁶⁶ However, they did note that Civic Capital structured its aid primarily in the form of recoverable grants, a form of very lenient loan. These charitable grants did not require interest payments or collateral, and the loan contract provided for a five-year payback with an option to extend that for five more years.⁶⁷ Thus, these payments would likely be treated by the business accountants as loans, and not as taxable income to the recipients. Nevertheless, the Civic Capital staff did admit that they were “very much relieved when we found out that there would be no adverse income-tax consequences associated with it.”⁶⁸

An Initiative to Clarify the Law

This good news for Civic Capital and Seedco came as a result of our initiative to clarify the law concerning charitable aid to small businesses. A Simpson Thacher team led by Jennifer Franklin drafted a request to the IRS. Struggling with how best to frame the issue, we decided to seek clarification that charitable aid to small businesses would be treated as nontaxable gifts rather than taxable income to the recipients. The American Bar Association Tax Section 9/11 Task Force on which I served kindly agreed to submit this request. So, on October 16, 2001, a letter was sent from members of the ABA Committee on Exempt Organizations and the 9/11 Tax Task Force of the Section of Taxation to the Commissioner of the IRS asking him to clarify whether or not charitable loans and grants provided to for-profit business entities affected by the September 11 terrorist attack are excludable from income.⁶⁹

This question caused significant concern in Washington, D.C. On November 8, 2001, Michael Hirschfeld, Chair of the American Bar Association Tax Section 9/11 Task Force, was called upon to deliver testimony before the Subcommittee on Oversight of the House Ways and Means Committee. The Simpson Thacher drafters received clarifying calls from various officials. An attorney-advisor at the Treasury Department requested that the ABA members requesting the advice send additional materials, providing examples of recipients seeking assistance and the mechanics for obtaining assistance. These responsive materials were sent on November 19, 2001, and included redacted forms of the documents used by Simpson Thacher clients (models of which were posted on our Web site in September for all to use), as well as a detailed explanation of possible instances in which such assistance to small businesses would be

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Finally, the Department of the Treasury responded . . . that certain charitable loans and grants to for-profit small businesses would be excludable from income.

charitable.⁷⁰ Those examples were drawn largely from the applications received to date by Civic Capital Corporation.

Finally, the Department of the Treasury responded on April 15, 2002, that certain charitable loans and grants to for-profit small businesses would be excludable from income.⁷¹ The letter stipulated that in order for the businesses to qualify for this treatment, the charities must require the businesses seeking grants to provide detailed information describing operations and losses, to use grant funds solely in accordance with the intended uses, and to allow charities access to financial records to evaluate whether the grant funds are being used as intended. The Treasury Department said further that it will evaluate each situation based on the facts and circumstances surrounding a charity's transfer to the for-profit business.⁷² Nonetheless, six months to the day after the question was asked, one September 11 mystery was somewhat resolved.

Civic Capital's Criteria for Aid and Sources of Aid

Though the Civic Capital Corporation was pleased that the IRS had issued this clarification, the staff there had already set up a system through which to analyze applications for aid. Initially, Civic Capital was contacted by 930 businesses asking about aid. Of those companies, only 53 percent satisfied Civic Capital's criteria, which included a location south of Chambers Street, a viable business prior to September 11, four to 100 employees, and ability to show a direct impact from the September 11 attack. The approximately 470 businesses that qualified were sent applications, and fewer than 250 of those businesses completed and returned their applications to Civic Capital.⁷³ As of June 2002, the Civic Capital Corporation had distributed \$6.1 million among 44 companies.⁷⁴

After receiving the completed applications, Civic Capital made its decision to divide the aid among 44 companies by looking at the viability of the company going forward and making sure that the company did not have other aid available to it.⁷⁵ Of the 44 businesses receiving aid, grants ranged in size from \$25,000 to \$250,000, with an average grant of \$140,000.⁷⁶ Grant amounts were decided based on a study of the business's total need and its proceeds from other sources, including insurance.

To fund these grants, Civic Capital Corporation raised \$6.9 million.⁷⁷ These funds came exclusively from charitable and corporate donors, not individuals. The largest donations were \$2.5 million from the September 11th Fund, \$1 million from the Civic Capital Corporation to fund its own activities, and \$700,000 from Goldman Sachs.⁷⁸

Charitable Cooperation to Avoid Overlapping Programs

In order to ensure that Civic Capital and Seedco did not duplicate each other's efforts, the two charities cooperated by dividing the potential applicants into two groups. Seedco took responsibility for providing aid to small retailers with fewer than 50 employees and manufacturing corporations. Civic Capital, then, provided most of its aid to a diverse group of companies that did not qualify for Seedco aid. These included technical companies, catering companies, and professional service companies.⁷⁹

Today, Civic Capital has expended all of its initial funding.⁸⁰ However, on June 24, 2002, it received a grant letter from the September 11th Fund, confirming that it would advance an additional \$5 million to Civic Capital for distribution.⁸¹ Nongovernmental grants to businesses affected by the September 11 terrorist attack constitute another story that I believe has not been sufficiently discussed.

THE 9/11 CHARITY DATABASE AND PRIVACY LAW

Of all the legal issues discussed in this essay, the privacy law issue is perhaps the one that could most benefit from focused discussion now in anticipation of future disasters. Privacy law played a central role in information sharing and blocking among charitable organizations in response to September 11. Although relief organizations, grantmakers, and government agencies recognized the need to cooperate in order to provide efficient and effective assistance, that need was balanced against the obligation to protect the privacy rights of the victims and survivors. The “informational privacy issue” included confidentiality, anonymity, and security concerns surrounding information sharing. Charities were forced to ask themselves: “Can we share personal information to facilitate assistance from other charities without the survivors’ prior consent?”

Although the U.S. Supreme Court has broadly defined “privacy” as the right to control the dissemination of personal information, there is no universally accepted definition of the “right to privacy.”⁸² Popularly, it is identified as “the right to be left alone.”⁸³

Charities felt obligated to protect recipients of charitable assistance from unwanted interference. Privacy was tremendously important to the families of the victims of the September 11 attack who needed to grieve without intrusion by well-intentioned, but unwelcome charities and individuals, as well as curious onlookers, financial advisors, and others. At the same time that some survivors chose to grieve in private, however, others considered silence by charities to be neglect. Still others, such as the families of the undocumented victims in New York, considered the right to control the disclosure of personal information to be critical. If those families believed that their names and financial information would be turned over to government officials, they would not have applied for assistance. Consequently, there was a shared understanding that relief-service charities would serve those families while maintaining confidentiality. Although privacy rights have been recognized by these charities, they are not legally absolute. Even “fundamental” privacy interests can be overcome by “compelling state interests.”⁸⁴

Unfortunately, there is no comprehensive privacy law that addresses a situation approaching the mass murder of the September 11 terrorist attack. Privacy law in the United States has been enacted on an “ad hoc” basis through federal and state legislation and common law.⁸⁵ Due to the unprecedented nature of this attack, charities were left in a legal vacuum. As the charities tried to work together, their disparate privacy policy concerns clashed. Charities already in crisis now had to balance confidentiality and fairness, speed and accountability, collaboration and agency independence.

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Grantmaking organizations that were not direct-service providers could not determine who the victims and their survivors were to facilitate the distribution of their particular funds.

Therefore, in spite of the financial outpouring from the American public, grantmaking organizations that were not direct-service providers could not determine who the victims and their survivors were to facilitate the distribution of their particular funds. Instead, knowledge of the victims' and survivors' identities and contact information was spread unevenly among a relatively small group of direct-service providers, former employers, and the airlines. Further, some survivors who elected not to seek charitable aid or who were overseas and lacked physical access simply were not known to any charity at any time. Conversely, some survivors who desperately wanted as much aid as they could qualify for were chagrined to be asked by each charity to complete an application that was then used only by that charity. Criticism for the lack of coordination became a consistent theme in the press.⁸⁶ Due to the absence of a comprehensive list, survivors, some with pressing medical needs and funeral expenses, complained that they were not receiving any aid.⁸⁷ Survivors claimed that they were forced to "run the gauntlet" of agencies, filling out multiple applications for assistance. One victim commented that she was made to feel like a "beggar" as a result.⁸⁸

Attorney General Spitzer's Proposal

On September 26th, in an effort to coordinate financial relief efforts, New York State Attorney General Eliot Spitzer, whose office monitors charities, proposed a limited-access database of victims. The purpose of the database was to address fairness, and to avoid duplication, overlapping, and fraud during the massive relief effort.⁸⁹ IBM volunteered equipment and services to get the database running. McKinsey & Company offered to help coordinate the project on a pro bono basis. Accenture also volunteered its expertise to assist in the relief effort.

A much smaller group of nonprofit organizations had used a similar database system to track aid to a smaller number of survivors of the Oklahoma City bombing, which killed 168 in 1995.⁹⁰ The Oklahoma database was part of a cooperative effort "to maximize the assistance which was given while minimizing the bureaucratic hassle for the families."⁹¹ The database was an extremely important method of assisting individuals having to deal with multiple agencies, discouraging fraud, and "insuring that everyone who needed assistance was provided an opportunity to receive it."⁹²

Although the Attorney General proposed the database, the government could not contribute its records. Information in government records is protected from non-consensual disclosure by the Federal Privacy Act of 1974 and the privacy exceptions to the Freedom of Information Act. The fact that an organization is a registered charity would not give it a basis for entitlement to personal information. There are relatively few statutes governing the use of personal information by the private sector.⁹³ There are, however, several New York State statutes that may protect client privilege in the social-service sector.⁹⁴ In the absence of specific statutes, private entities are generally limited by their own privacy policies, cultural norms, and business practices. Therefore, Attorney General Spitzer looked to the companies that lost employees and to charities such as Safe Horizon, the Salvation Army, and the Red Cross to provide the essential information.

The 9/11 Charity Database and the Red Cross

As a first responder, the American Red Cross had the largest list of victims among the charities and was by far the biggest recipient of donations. One reporter noted, “without its cooperation and the names of the 27,000 families with which it has already had contact, the database would be useless.”⁹⁵ Despite the public support for the proposal, American Red Cross representatives expressed their concern and reluctance to disclose information because it would violate their clients’ privacy and might deter victims from asking for help. The Red Cross also pointed out that it participated in the Oklahoma City database only because the families consented to the submission of information about counseling and other services.⁹⁶ Apparently such consent had not been requested of the September 11 survivors.

Red Cross President Dr. Bernadine Healy explained, “People will not come to us if they think that we are going to put their names in some big database.” The Red Cross position was reported to be that this type of “information is considered as sacred as patient medical records and ‘will not be shared under any circumstances.’”⁹⁷ Red Cross spokesman Christopher Thomas also added, “It goes against our policy to share that information with anyone unless it is subpoenaed by law.”⁹⁸ Critics commented that the Red Cross’s refusal to share information was not solely motivated by privacy concerns, but by turf wars.⁹⁹

Supporters of the database insisted that the Red Cross could amend its privacy policy by making a public announcement giving recipients the opportunity to opt out. According to federal statutes and case law, private entities, such as financial institutions and cable-service providers, can share certain nonpublic personal information (names and addresses) if they have provided consumer notice and offered a valid opt-out.¹⁰⁰

Private charities, however, cannot be forced to amend their privacy policies in order to permit the disclosure of nonpublic personal information. Charities must assess the needs of their clientele and make their own policy. Each charity has different needs to consider. In addition, some charities are bound by privilege due to ongoing litigation and state law.¹⁰¹

Balancing Service and Client Privacy

Generally, charities feel strongly about protecting their client records to the fullest extent of the law and providing their clients with the utmost protection. Attorney General Spitzer, however, was not asking these charities to turn over their files or provide privileged medical information. Rather, the database required the names of the victims, the names of their survivors, and financial information to effectuate the distribution of charitable aid. In this unusual situation, charities were called upon to balance serving their clients with privacy concerns.

During such a balancing, charities consider the relationships of the charities and the aid-seekers and their “reasonable” and/or “legitimate” expectations of privacy.¹⁰² Despite the fact that September 11 families did not intend to make public disclosures of personal information, they gave their information to relief charities for the purpose of registering for assistance. It does not appear to violate a “legitimate expectation of privacy” that their

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information would be shared with other charities in a secure manner for relief purposes. The families of undocumented victims, however, expected that their information would not be shared with the government or the Immigration and Naturalization Services.

Coordination through Co-Location

At the Pier 94 Family Assistance Center, direct-service providers, such as the American Red Cross, Safe Horizon, and the Salvation Army, were able to overcome privacy barriers due to co-location and agency cooperation.¹⁰³ These charities held daily and weekly meetings, which allowed them to better coordinate the relief response.¹⁰⁴ Staff also escorted survivors to booths to meet with other representatives of relief agencies. Thus, the survivors did not have to navigate the maze of relief organizations alone. As the months went on, volunteers and staff filled out their own agency's application and the applications of other co-located charities.¹⁰⁵ Since the survivors were physically present, they could object to meeting with other agencies or to filling out additional applications if they opposed disclosure. The result was that, in the case of applicants who came to one of the co-location facilities, volunteers were not required to make assumptions about the recipients' expectations of privacy.¹⁰⁶ Relief recipients could be asked personally whether they would consent to disclosure of information.

One senior relief official described the Pier 94 operation as "New York delivering social services at its highest level."¹⁰⁷ Gordon Campbell, CEO of Safe Horizon, had this to say about the collaboration: "The disaster required those of us in the nonprofit world to work together and collaborate more than we ever have before, which is good. But we've had to create this relief response as we go. It wasn't as if we were able to turn on some ready-made program for responding to terrorist attack. In a collective sense beyond Safe Horizon, I think nonprofits have done a very good job."¹⁰⁸ If charities were not able to "turn on some ready-made response," what is the next best option for future disasters?

The participating direct-service charities were in a much more advantageous position with regard to survivor information than were the indirect funders and grantmaking organizations, which could not benefit from this effort because they were not among the charities housed at Pier 94. For these organizations, the need for a coherent list of the victims and their survivors remained.

On the survivors' side, my informal assessment suggests that survivors of the plane crash victims, immigrants, and undocumented workers were most likely to complain about difficulties in *accessing* aid, as opposed to complaints about the *amount* of aid they were receiving. Many of the survivors illegally residing in the United States were afraid to physically enter Pier 94 due to the presence of government security personnel checking identification at the entrance and the Immigration and Naturalization Services station, which was located immediately upon entrance to the Pier.¹⁰⁹ Survivors who were overseas or otherwise outside New York City and lacked access to Pier 94, or survivors who elected not to seek charitable aid, were also unable to benefit from this particular form of agency cooperation. As a result, many such survivors remained unknown to the charities.¹¹⁰

The 9/11 Charity Database and the United Services Group

On October 24, one month after the charity's initial protest of a common database, the Red Cross and Attorney General Spitzer negotiated an agreement to create a database system.¹¹¹ The Red Cross agreed to participate based on accounting and confidentiality assurances, including assurances that the database would not be regulated by the public sector.¹¹²

This agreement came about after the departure of Dr. Healy and a change in privacy understanding. Harold Decker, Red Cross interim Chief Executive Officer, apologized for "a failure in communications between the American Red Cross and the American public."¹¹³ Mr. Decker explained that the Red Cross would continue to protect recipients' privacy by providing the option of not being included in the database.¹¹⁴ An individual's decision to opt out did not affect his or her eligibility to receive assistance.

On December 14, 2001, the 9/11 United Services Group ("USG"), a coalition of nonprofit organizations, including Safe Horizon, the American Red Cross, the Salvation Army, the UJA Federation, and Catholic Services, announced that USG would be maintaining a database of September 11 attack victims and gathering basic information to facilitate coordination among social-service providers.¹¹⁵ Attorney General Spitzer reiterated, "The formation of the database is a critical step forward in making this process as easy and efficient as possible for the victims. Now, instead of the victims trying to work their way through 200 different organizations, we have created a 'one-stop-shopping' way for them to have their needs met."¹¹⁶ In addition to maintaining this database, the USG also announced that it would assign a personal case manager from one of the member charities to assist each survivor.¹¹⁷

Although these charitable groups had contemplated creation of a database for some time, execution of the idea was not immediate. In fact, the USG database was not created until three months after the terrorist attack. The information available for inputting was not uniform. Individual charities that had created their own databases had done so in different formats that required streamlining.¹¹⁸ Several of the charities participating in the relief efforts did not even have a client database or a networked computer system prior to September 11. Charities have traditionally had difficulty raising funds for infrastructure, computers, and networking. Therefore, charities' online capacities were significantly overestimated by the press and the public. Additionally, individual charity procedures and intake forms were evolving during the relief process. This caused duplication and inconsistencies that needed to be addressed. In large part due to these challenges, I believe that a fact little-known to the public and the press is that the USG database did not become fully operational until March 2002 and even now, access to it remains limited to direct-service providers.

The Consequences of Limiting Access

In order to protect the privacy of the victims and survivors, access to the database has been strictly monitored. After meeting confidentiality requirements in order to gain access, each qualified charity then selects a representative with social-service experience who is

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The debate over charitable cooperation and the creation of a centralized database was well-covered by the press. . . . Even more prevalent were articles centering on a public debate over the charities' use of funds and whether that use corresponded with the expectations of donors.

required to undergo USG training. That individual, not the charity as a whole, then receives access to the database. The group of qualified charities is limited to the direct-service providers in the tri-state area, and does not include other charities and grantmaking organizations. Direct-service providers like Safe Horizon, the Salvation Army, and the American Red Cross have continued to provide disaster relief using their own registries as well as the USG database. But indirect-service providers without access to the database have then and now had to work independently.

On December 7, 2001, the Robin Hood Relief Fund decided that due to the approaching holiday season and reports that some survivors had received no assistance, it would distribute checks for \$5,000 to each victim's family. In the absence of both a completed database and access to it, Robin Hood sought to create its own list of victims and their families. We quickly realized that the Robin Hood Relief Fund could not access even limited name-and-address records without assuring confidentiality. Thus Simpson Thacher & Bartlett drafted and Robin Hood officials executed fifty-seven separate confidentiality agreements. The Robin Hood Relief Fund contracted with each of the companies whose employees were killed (such as Cantor Fitzgerald and Marsh & McLennan) and with each of the direct-service provider charities to which it already allocated \$13.3 million for survivors. Robin Hood Relief Fund staff worked with the Pentagon to address envelopes in such a way as to guarantee that the Pentagon never lost control over its data. Working around the clock, Robin Hood staff went through each company's or charity's list by hand, called survivors to verify information, and compiled a master list within ten days. The first check was cut on December 17 and 3,200 checks were distributed over the holiday season and early in the New Year.

In response to their mailing, the Robin Hood Relief Fund received letters and phone calls from several hundreds of survivors. That correspondence revealed that many victims' families had at that time "fallen between the cracks." Dr. Emary Aronson further noted that many families in Europe and California reported at that time that they had not received financial assistance from any other organization.¹¹⁹ Of course, these families, who were far removed from Pier 94, may have not sought aid or thought there was any aid for them or they did not know how to seek assistance or feel entitled to it or even want to claim it. Survivors' preferences would also have been useful for charities to know.

Unfortunately, neither government nor other charities were able to benefit from the Robin Hood Relief Fund list because the charities and employers who had provided data required that the master list be destroyed as a condition of the confidentiality agreements. Thus, privacy concerns led to consequences (i.e., destruction of this particular list) not known to or desired by some or all of the survivors.

Now, nine months after the attack, government and charity officials have commented privately that they still do not have a complete and coherent list of the victims' families. On July 9, 2002, I learned that the USG member charities have agreed upon a minimum release form and a model confidentiality agreement for use with vendors.¹²⁰ These forms would be an excellent starting point for review projects. Policy organizations and foundation funders,

however, must also be involved in these discussions and can play an important role in assisting social-service charities to advance the goal of more efficient information sharing.

CHARITABLE SOLICITATIONS

The debate over charitable cooperation and the creation of a centralized database was well-covered by the press. However, even more prevalent were articles centering on a public debate over the charities' use of funds and whether that use corresponded with the expectations of donors. This debate focused primarily on the topic of charitable solicitations and what moral and legal obligations charities have to distribute money in a particular manner.

New York Solicitation Law

New York law regulates charitable solicitations within the state. The New York Executive Law states that charities must provide a clear description of the activities for which funds are being solicited, or a statement that such information is available from the organization.¹²¹ That law prohibits charities from: (1) making false or materially misleading statements; (2) failing to apply contributions in a manner substantially consistent with the solicitation; and (3) failing to maintain certain books and records.¹²² New York law also prohibits an organization from raising money specifically for one of its programs, and then applying the funds raised to another program.¹²³

Due to the binding nature of this law, and the intense public scrutiny charities were subject to following September 11, many charities were subject to criticism by the press for a supposed discordance between their charitable solicitations, or requests for money, and the ways in which they subsequently proposed spending that money. The Red Cross, notably, was subject to the most pointed public criticism.

Charitable Solicitations and the Red Cross

Initially, it is important to note that in a disaster situation, such as that following September 11, many charities do not explicitly indicate plans for funds received. Further, in most cases, there may not have been actual charitable solicitations. Often, it is the pre-established reputation of the charity or news reports that determine where the public sends its charitable donations, not a written solicitation letter. Rather than looking to clear, contemporary statements about what charities would do with the 9/11 funds, most donors simply gave money to those charities with which they were familiar prior to September 11, or whose work they heard or read about in the weeks immediately following the attack.

It is difficult to talk about the legal impact of 9/11 on charities without talking about the debate over the Red Cross. The Red Cross was the largest recipient of charitable contributions, ultimately receiving nearly half of the over \$2 billion raised by charities for the aftermath of September 11.¹²⁴ Despite this fundraising success, the Red Cross did not find itself inoculated by donor trust when it attempted to expend these funds.

The Red Cross's treatment in the press initially following the terrorist attack was highly positive. On September 25, 2001, the *New York Times* promptly highlighted the Red Cross's

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announcement that it would immediately distribute grants of as much as \$30,000 to the families of each individual who had then been reported dead or missing in the September 11 attack.¹²⁵ Chris C. Thomas, a spokesman for the Red Cross, was quoted as saying: "Tell us what you need, and if it's reasonable we'll help you. We're not going to be interrogators or auditors. We've tried to make this as simple as possible."¹²⁶

However, the treatment of the Red Cross quickly deteriorated when on October 29, 2001, the Red Cross acknowledged that a portion of the Liberty Fund, the special fund established after September 11, had been set aside for a strategic blood reserve, a nationwide community outreach program, and the building of relief infrastructure.¹²⁷ The press focused on some donors' beliefs that money donated would go directly to victims of the September 11 attack, specifically as cash payments to the families of those killed in the attack. The Red Cross's plan to set aside a substantial portion of the September 11 donations for building infrastructure for future attacks was contrary to what many September 11 donors claimed they had desired. This sentiment was clearly expressed in a *New York Times* editorial entitled "Charity and Red Tape," which appeared in the newspaper on October 30, 2001.¹²⁸

David McLaughlin, the Red Cross chairman of the board of governors and interim chief executive, responded to the editorial with a letter that was published the following week. He wrote: "There has been no 'diversion' of money raised for Sept. 11 victims, and Dr. Healy's approach was in full concert with the board."¹²⁹ Nonetheless, Dr. Healy had resigned a few days earlier, claiming that she had been forced out.¹³⁰

On November 7, 2001, the American Red Cross was the focus of more public criticism when it became the subject of a Congressional hearing. Congress criticized the charity for its decision to withhold more than \$200 million in charitable donations that members of Congress felt were "intended" for the families of the victims of the September 11 attack.¹³¹ When interviewed by Congress, Dr. Healy indicated that it would be "fiscally irresponsible to simply divide the \$564 million by the number of victims and then send each family a check."¹³² Dr. Healy's statement was likely instigated by a belief that such a large sum of money equally divided among the families of the deceased was contrary to the legal standard of charitable need. However, Congress's opinion and press sentiment were clearly against her.

Was the Red Cross simply the innocent exemplar caught in the middle of a political debate, or had it solicited money in a manner deserving of such scrutiny? One article describing the Congressional hearing did indicate that a review of Red Cross advertising showed "no explicit statements that some donations would be set aside for victims of future acts of terrorism" and that advertisements for the Liberty Fund said that the fund was "for this tragedy and the emerging needs from this event."¹³³ From those statements it seems that the Red Cross, like other prominent 9/11 charities, utilized language that should have legally cleared it to distribute money to survivors, including survivors who were displaced or lost their jobs and not just those whose family members were killed.

Such criticism of the Red Cross for allegedly diverting funds for future needs was not new. In 1989 the Red Cross received approximately \$52.5 million in response to the Loma Prieta Earthquake.¹³⁴ Initially, the Red Cross only planned to spend half of these funds on earthquake relief.¹³⁵ However, after the mayor of San Francisco accused the Red Cross of diverting funds earmarked for victims of the Loma Prieta Earthquake to its general relief fund, and general public protests, the Red Cross conceded and spent all of the funds on earthquake relief.¹³⁶ Moreover, the Minnesota Attorney General accused the Red Cross in a similar vein in 1997 of not using \$4.3 million of \$16 million received after floods in Minnesota and North Dakota for victims of those floods.¹³⁷

As it had in the previously mentioned disasters, the American Red Cross decided on November 15 to spend all money raised as a result of September 11 to needs directly related to September 11.¹³⁸ However, likely because the public criticism remained so strong, the Red Cross went beyond simply agreeing to spend the money on September 11, to also adopt other provisions to ensure that such spending actually occurred. On December 27, 2001, the Red Cross announced that Senator George Mitchell of Maine would become an independent overseer for the Red Cross Liberty Disaster Fund.¹³⁹ In order to increase Red Cross transparency, Senator Mitchell announced on February 1, 2002, that he planned to make public reports every three months.¹⁴⁰ On April 30, 2002, he released the first Red Cross Quarterly Report, which indicates that the Red Cross had by then distributed \$567 million of the more than \$967 million it had raised.¹⁴¹

Yet, despite these actions, the public criticism did not cease. For example, on May 7, 2002, Iowa Senator Charles E. Grassley, a member of the Senate Finance Committee, sent a letter to the American Red Cross, requesting that it answer his questions concerning its charitable solicitations following September 11, 2001. The Senator indicated that he had heard that the Red Cross “had been unclear about how it will use donations.”¹⁴²

A New Benchmark: Donor Direct

Eventually, the Red Cross made a public announcement of new policies in order to prevent such public criticism in future fundraising campaigns. On June 5, 2002, almost nine months after the attack, the Red Cross announced that it would drastically change its fundraising practices in response to criticism after September 11.¹⁴³ The new policy, called Donor Direct, was intended to go into effect immediately at the national organization and by July 31, 2002 in the local chapters.¹⁴⁴ Donor Direct provides guidelines for a new, clearer model for accepting donations, in the hopes that such a practice will minimize future public misunderstandings such as the one experienced by the Red Cross in the aftermath of September 11.

In Donor Direct, the Red Cross announced that it “will use specific language consistently across all Disaster Relief Fund solicitations.”¹⁴⁵ The Red Cross also noted that, “Donors who make contributions to the Disaster Relief Fund through the Red Cross’s own solicitation channels¹⁴⁶ will be asked to confirm that they understand the purpose for which their donations will be used before their donations will be accepted.”¹⁴⁷ Moreover, “Donors will

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receive an acknowledgment after their contributions have been received that will reconfirm their intent and the purposes for which their contributions will be used.”¹⁴⁸ Finally, the Red Cross announced that when it appears that sufficient contributions have been received for a particular disaster, it will “explicitly inform potential donors that enough money has been received for the current disaster and encourage them to give to the local chapter or to the Disaster Relief Fund to support the victims of future disasters.”¹⁴⁹

The Donor Direct announcement was a clear response to more than seven months of public criticism of Red Cross charitable solicitation practices. The new plan provides for much greater institutional transparency and clarity. Rather than simply abiding by the rules, the Red Cross has decided to go the extra step in an attempt to prevent confusion over intended uses of donated funds. The new policy thus provides a benchmark for all future disaster-relief solicitations, including those by charities other than the Red Cross.

LESSONS LEARNED

September 11 proved that U.S. charities can mobilize overnight to provide immediate and longer-term assistance to tens of thousands of survivors. But that ability to mobilize does not mean that the mobilization itself was so seamless or efficient that charities experts would say, “We must do it the same way the next time disaster strikes.” Instead, the “philanthropy in a fishbowl” legacy of September 11 makes learning from this experience all the more important. I set out below six lessons I consider worthy of ongoing analysis.

Granting Cash to Survivors

While charities and the IRS believe that survivors have no “entitlement” to charitable dollars, some of the press, donor public, and survivors clearly believe otherwise. This issue may be confused by the availability of large cash payments from the Federal Victims Compensation Fund which was part of the airline bailout legislation. Elimination of the requirement to determine need for certain September 11 payments also raises questions about how aid can and will be delivered in the future, where need determinations are expected to apply. In the meantime, charities and sociologists should watch and evaluate whether the direct delivery of cash, rather than services, will come to be seen as a mistake or a milestone.

Ensuring Transparency

Donor Direct is clearly an important and monumental step for the charitable field. However, clarity of solicitations is not enough. Consistent messages must be delivered early and often, even if the press and public are not then listening. Charities should also make efforts to promote transparency in their dealings in order to maintain public trust. Many individuals have asked for a clearer picture of what the September 11 charities have done with the donated money: “I just think people are frustrated because they don’t know where it’s gone,” said Elizabeth McLaughlin, whose husband died in the World Trade Center.¹⁵⁰ Charities need to consider how better to tell their stories on the expenditure side.

This idea is underscored in Senator Grassley's May letter to the American Red Cross. Senator Grassley wrote: "I believe that accountability is critical to any charity's continued operation since transparency instills public confidence that taxpayer dollars are used wisely."¹⁵¹ Though there may not be legal requirements to produce such detailed public reports of their spending, it is wise for charities to assume this practice in future disasters. The Red Cross's Quarterly Reports, written by Senator Mitchell of Maine, are a good example of how charities can make their operations more transparent. In the first Quarterly Report, released on April 30, 2002, Senator Mitchell explained how much money the Red Cross had spent on the September 11 relief effort and to which sources these funds had been distributed.¹⁵² Moreover, in a June 25, 2002 *Washington Post* article, the American Red Cross provided details of its plan for the remaining \$400 million in funds from the Liberty Relief Fund in an effort to promote institutional transparency.¹⁵³ Whether the public, the press, and government officials will take the time to review such documents, if proffered by the charities, remains to be seen.

Obtaining Waivers

The need for a more uniform privacy policy waiver cries out for immediate attention. After observing the bureaucratic and privacy obstacles which slowed the early 9/11 relief effort, I believe that charities must learn better to obtain waivers on their initial intake forms, use the waivers to avoid duplicate paperwork, and use technology better to create databases. I recommend that charitable privacy policy become more uniform by having the charities work now to achieve consensus on the optimal privacy policy; that all major service providers revise their intake forms uniformly to allow applicants to opt in to sharing information for the limited purpose of providing relief; and that charities devise a model confidentiality agreement for direct-service providers so that such agreements will be in place if and when needed.

Avoiding the Mismatching of Funds

Another issue related to charitable solicitations was the debate over a mismatching of funds. In the immediate aftermath of September 11, donors gave money to some of the most prominent disaster-relief charities, such as the Red Cross. Many sources acknowledge that the Red Cross is an excellent charity for the immediate response to a disaster. However, is it the best source of charitable spending in the intermediate and long term?

One option for future consideration is whether those charities left with money after the initial response should contract with other charities more suited toward spending money in the long term. Although it may be heresy to suggest turning over grants to another charity, such "pass-along" grantmaking may be one way for charities and their regulators to seek greater efficiency in the delivery system. This is because charities obviously have very different missions and philosophies about how they can best provide aid. For example, Red Cross officials have pledged to spend most of their remaining \$400 million by September 11, 2002.¹⁵⁴ In contrast, the September 11th Fund plans to distribute its remaining \$180 million over many years to meet the long-term needs of victims and their

Though there may not be legal requirements to produce detailed public reports of their spending, it is wise for charities to assume this practice in future disasters.

Charities should now reach out to create the public debate about the ongoing needs of direct and indirect victims, rather than assuming the “public” wants each and every charity to follow the same payout duration and pattern.

families.¹⁵⁵ Despite public urging to speed up the distribution,¹⁵⁶ I strongly believe that distributing all funds collected within the nine months following September 11 is an unwise plan. Recovery from such an unprecedented disaster will surely take a number of years. For example, Oklahoma City charities are still paying for the mental-health care of those affected seven years after the bombing. Perhaps charities should now reach out to create the public debate about the ongoing needs of direct and indirect victims, rather than assuming the “public” wants each and every charity to follow the same payout duration and pattern. In my opinion, each charity must deliberately choose its own course of payment and duration.

Ensuring Inclusion of All Groups

In addition to making their plans more transparent, charities responding to future disasters should reconsider how better to provide access to certain groups of victims who have been hard pressed to obtain current assistance. For example, in New York, there is a large population of undocumented aliens who may have been limited, directly or indirectly, from access to September 11 aid. It has been reported that the low-wage employees and recent immigrants working in the hospitality industry were often not represented in the discussions where charities attempted to coordinate a unified response.¹⁵⁷

Reports from Robin Hood Relief Fund grantees providing aid to these populations and others have noted these high barriers. Because undocumented aliens often lack birth certificates, marriage certificates, and similar documents, their families often have difficulty in obtaining death certificates. Without a death certificate, surviving family members are often not eligible to receive much of the charity earmarked for victims. Moreover, undocumented aliens are not eligible for unemployment insurance, state workers’ compensation, or federal Social Security benefits for survivors. Even some private organizations, such as the National Association of Realtors, have refused to give aid to the relatives of illegal immigrants killed in the disaster.¹⁵⁸

Foreigners, in general, have also been excluded from many sources of aid. A recent *New York Times* article indicated that aid to foreigners has been especially problematic for September 11 charities.¹⁵⁹ Some charities have failed to provide equal aid to foreigners due to complicated national laws, unfamiliar ethnic customs, polygamy, and extremely large families. Others have simply not been able to find the relatives of foreigners to whom they wish to send aid.

Preventing Fraud

Despite these concerns, there is good reason for maintaining many of the documentation requirements. Though such documentation requirements may require extra effort from illegal immigrants and other foreigners, they also serve to prevent fraud. Requirements for documentation directly serve to prevent claims by those who did not truly lose their loved ones in the September 11 attack, but rather simply want to take advantage of the limited defenses set up to prevent the undeserving from collecting. Like many of the other charitable

issues relating to September 11, we must consider for the next disaster how better to perform the difficult task of balancing these opposing concerns.

CONCLUSION

Despite all of the public scrutiny, few would deny that the charitable response to September 11 was extraordinary. Charities were put under extreme stress due to the unprecedented amount of money that poured into their coffers in the short, tense weeks following the attack. But the charities did continue functioning despite many hardships unknown to the public¹⁶⁰ and they did deliver huge amounts of goods, services, and cash to survivors. The IRS delivered too, by expediting review of charities' applications for exemption on Form 1023 from a three-month to a three-day cycle and by generally giving quick advice. The IRS's more lenient standards for charitable organizations dealing with September 11 victims allowed a large percentage of the massive amount of donations to pass relatively quickly and efficiently to those in need.

The magnitude of the charitable response was due not only to the impact of the attack on the American psyche, but also to the new technologies through which the public could quickly and easily donate money. The emergence of the Internet as a popular tool for donation facilitated the rapidity of this giving. The nearly immediate nature of online transfers allowed the charities to utilize donations in the relief effort with little delay, but it also created massive legal obligations to deliver prompt and accurate substantiation letters to donors. For the first time in history, huge numbers of substantiation letters were delivered by e-mail.

The charitable work in response to September 11 is not yet complete and will not be for years to come. Many charities have husbanded a significant portion of their funds. They have good reason for doing so. Experts on the Oklahoma City bombing have indicated that there is a great need for charitable funds in the years immediately following such a grave disaster. For example, Oklahoma City charities spent more on counseling in years two and three following the bombing than they had in year one.¹⁶¹

Many issues have been identified from the public scrutiny of the charitable community's response to the terrorist attack. Now, charities in this moment of spare reflection may be proud of all they did accomplish, thoughtful about what they should have done better, and open to considering whether they can break through barriers of custom, law, and technology to bring the profoundly compassionate art of delivering disaster relief to the next level.

NOTES

1. Victoria Bjorklund heads the Exempt Organizations Group at the law firm of Simpson Thacher & Bartlett. She is a director of and pro bono counsel to the Robin Hood Foundation and serves on the Robin Hood Relief Fund. The author wishes to thank Simpson Thacher & Bartlett summer associates Logan Hennessey and Karin Holmberg for their extensive assistance in preparing this essay. She also thanks Nancy Anthony, Emary Aronson, Sam Awad, Hank Bjorklund, Julie Goldscheid, Prof. Robert Katz, and Alberto Robaina for their constructive comments.

The charitable work in response to September 11 is not yet complete and will not be for years to come. Many charities have husbanded a significant portion of their funds. They have good reason for doing so.

2. U.S. disaster relief charities found themselves facing a new breed of disaster that their customary structure could not address. It was not about making the water potable or rebuilding houses, like after a hurricane. As relief charities faced these issues, charities with more traditional missions found themselves thrust into relief work. Aronson, Emary, Director of the Robin Hood Relief Fund. June 20, 2002. Interview with author.
3. One of the first programs we implemented out of Simpson Thacher was a daily e-mailed charitable update. These updates ultimately reached up to 500 people daily in the legal and charitable community. The update covered fast-breaking legal developments and events affecting the charities' ability to deliver aid. We knew that the law was not clear to us as charitable experts and that its quirks would be all the more perplexing to the many generalists and other lawyers who would be called upon to provide pro bono advice, as we were being called upon. Thus, we took the approach that the law was a moving target. We would supply ideas based on the law, as we understood it at that time, and would adjust those ideas as new information emerged. Our goal was to try to supply key decisionmakers in the charitable community with a common set of information and vocabulary. This uniform information was important because it encouraged our contacts to make their decisions based on a common appraisal of the fast-changing legal regime.
4. Christensen, Jon, "Relief Agencies Retool to Handle Online Flood," *The New York Times*, September 26, 2001, H1.
5. Barstow, David, "The Red Cross: Agency Offers Up to \$30,000 to Each Victim's Family," *The New York Times*, September 25, 2001, B8.
6. *Ibid.*
7. Christensen, Jon, "Relief Agencies Retool to Handle Online Flood," *The New York Times*, September 26, 2001, H1.
8. "An Outpouring of Dollars," Editorial, *The New York Times*, October 1, 2001, A22.
9. Katz, Robert A., "The Charitable Response to September 11: Overwhelming the Law," draft of Thursday, April 18, 2002 quoting "America Gives: Survey of Americans' Generosity After September 11." In a survey conducted from October 22 to November 28, the Center on Philanthropy at Indiana University found that 65.7 percent of adults reported that they or their households had contributed money for the victims. The average donation was \$133.72, and the median \$50 (available at <http://www.philanthropy.iupui.edu/AmericaGivesReport.htm>). *See also* poll by USA TODAY/CNN/Gallup (December 14–16, 2001). Sixty-four percent of respondents reported making contributions to funds for the victims.
10. Aronson, Emary, Director of the Robin Hood Relief Fund. June 20, 2002. Interview with author.
11. Treas. Reg. §1.501(c)(3)-1(d)(1)(ii).
12. *See* Rev. Rul. 67-325, 1967-2 C.B. 113, Rev. Rul. 56-403, 1956-2 C.B. 307, and W.L. Parker Rehabilitation Foundation, 52 T.C.M. 51 (1986); *see also* Internal Revenue Service, Exempt and Government Entities, Exempt Organizations, *Disaster Relief: Providing Assistance Through Charitable Organizations*, 5. Livingston, Catherine E., New York State Bar Association Section of Taxation Meeting, January 22, 2002, Panel on Disaster Relief Activities of Charitable Organizations, 1–2.
13. Several of our clients elected to form private trusts for specific, named victims so that their survivors would legally be entitled to the funds for their basic living needs. One employer asked its employees to specify on their checks which families they wished to benefit. Of course, these gifts were not tax deductible by donors because they are not paid to a charity. So long as they were below \$10,000 per recipient, they fell within the gift tax annual exclusion.
14. *Ibid.*

15. See Rev. Rul. 67-367, 1967-2 C.B. 188 (describing an organization that does not qualify for exemption under IRC Section 501(c)(3) because it awards scholarships exclusively to specifically named individuals selected by subscribers who contribute money to fund the scholarships). All section references are to the Internal Revenue Code of 1986, as amended.
16. W.L. Parker Rehabilitation Foundation, 52 T.C.M. 51 (1986).
17. Treas. Reg. §1.501(c)(3)-1(c)(2) states that an organization is not operated exclusively for exempt purposes if its “net earnings inure in whole or in part to the benefit of private individuals.”
18. To avoid such problems, Elizabeth Guggenheimer of Lawyers Alliance for New York, a nonprofit organization whose clients include grassroots charities and firehouse funds, provided legal information to 500 nonprofits located in lower Manhattan. “The September 11th tragedy reinforced the importance of breadth of charitable purpose. If you are creating a new organization, don’t be too narrow in your purposes, not only because you want to satisfy the IRC law regarding charitable class, but also because the full scope of the organization’s services are not necessarily foreseeable in the beginning needs.” Elizabeth Guggenheimer, Legal Director of Lawyers Alliance for New York. June 28, 2002. Interview with author.
19. Documents for our client, completed on September 17, 2001.
20. Friedlander, Marv, “Marv Friedlander on Disaster Relief Developments,” *Paul Streckfus’ EO Tax Journal*, Volume 7, Number 3, March/April 2002, 9.
21. *Ibid.*, 10. This decision has traditionally been based on need.
22. Another important early development was the IRS’s announcement of an expedited review process for recognition of exemption of new September 11 charities. This process accelerated review from four months to four days, greatly facilitating fundraising by these charities. Internal Revenue Service, *IRS News Release IR-2001-82*, September 18, 2001, <http://www.irs.gov/pub/irs-news/ir-01-82.pdf>; Internal Revenue Service, *IRS News Release IR-2001-91*, October 2, 2001, <http://www.irs.gov/pub/irs-news/ir-01-91.pdf>.
23. We appreciate the dialogues we had during these weeks with many colleagues, including Prof. Jill Manny of NYU Law School (who with Prof. Harvey P. Dale conducted on November 8, 2001, the National Center on Philanthropy and the Law Mini-Conference: Charitable Activities After September 11th: Legal Issues); Sean Delany and Elizabeth Guggenheimer of the Lawyers Alliance for New York; Jonathan Small of the Nonprofit Coordinating Committee of New York; Rochelle Korman of Patterson Belknap Webb & Tyler; Betsy Adler of Silk Adler & Colvin; Michael Feller of the JP Morgan Chase Foundation; and Jack Rosenthal of the New York Times 9/11 Neediest Fund.
24. Treas. Reg. §1.501(c)(3)-1(d)(2).
25. One senior charity official has reported receiving only approximately 90 subpoenas relating to alleged fraud, which is less than 0.2 percent of the estimated 50,000 people served post September 11.
26. Dr. Nancy Anthony, Executive Director of the Oklahoma City Community Foundation, has often made this point more eloquently than I in her publications and speeches.
27. IRS Exempt and Government Entities, Exempt Organizations, *Disaster Relief: Providing Assistance Through Charitable Organizations*, <http://www.irs.gov/pub/irs-pdf/p3833.pdf>, 7–8.
28. Steve Miller, IRS Director of Exempt Organizations, noted, however, that charitable funds cannot simply be divided among victims on a pro-rata basis. He explained that: “Charities can provide ‘disaster relief in a variety of ways,’ but the people served must belong to a ‘charitable class,’ which includes persons that are distressed, needy or victims of a Presidential- declared disaster. The charity must also control its own program, and gifts that are not made with ‘disinterested generosity’ are not deductible contributions.” “Congress Looks At Nonprofit Response to September 11,” *OMB Watch*, November 13, 2001, <http://www.ombwatch.org/article/articleview/373/1/3>.

29. See *United Cancer Council v. Commissioner*, 165 F.3d 1173, 1179 (1999), where Judge Posner says in dictum that it is a “Route for using tax law to deal with the problem of improvident or extravagant expenditures by a charitable organization that do not, however, inure to the benefit of insiders.” I thank Prof. Robert Katz for this insight on this point.
30. One reporter told my colleagues and me that, “A charity doing its job is not a story.”
31. “New York City: Safe Horizon Goes to Work,” *Networks: National Center for Victims of Crime*, Winter/Spring 2002, Vol. 17, Nos. 1–2.
32. Becky Michaels, Director of Communications of Safe Horizon, e-mail to author. July 10, 2002.
33. Joint Committee on Taxation, JCX-93-01, *Technical Explanation of the “Victims of Terrorism Tax Relief Act of 2001,”* as passed by the House and the Senate on December 20, 2001.
34. The Internal Revenue Service, Exempt and Government Entities, Exempt Organizations, *Disaster Relief: Providing Assistance Through Charitable Organizations*, <http://www.irs.gov/pub/irs-pdf/p3833.pdf>, 8.
35. Letter from Richard Hanson, Internal Revenue Agent, to Jon. H. Trudgeon, 9/25/95, 2. The letter from Mr. Hanson stated: “Persons may qualify as distressed even if they would not otherwise have qualified as poor.”
36. *Ibid.*
37. Treas. Reg. §1.170A-4A(b)(2)(ii)(E).
38. Internal Revenue Service, IRS Notice 2001-78, <http://www.irs.gov/pub/irs-drop/n-01-78.pdf>.
39. H.R. 2884, 107th U.S. Congress, *Victims of Terrorism Tax Relief Act of 2001*, §104 (2001).
40. *Ibid.*
41. See Barstow, David, and Henriques, Diane B., “Victims Funds May Violate the U.S. Tax Law,” *The New York Times*, November 12, 2001. On November 9, 2001, the Twin Towers Fund administered by Mayor Giuliani announced that it would be distributing checks to the families of rescuers who died, without first checking individual family finances and receiving formal board approval. This plan contravened existing IRS rules, which typically require such charities to serve those in “dire financial need.” The Twin Towers Fund said that it hoped that the IRS would be more flexible concerning uniformed rescuers in the aftermath of a disaster.
42. Katz, Robert A., “The Charitable Response to September 11: Overwhelming the Law,” draft of Thursday, April 18, 2002, 13. Citing telephone interview with George Burke, International Association of Fire Fighters, Washington, D.C., April 10, 2002. Citing *Salvation Army News Release*, “A Community of Unity — Salvation Army Helps WTC Victims Get Back on Their Feet,” November 7, 2001.
43. *Ibid.*
44. *Ibid.*, 14.
45. Sun, Lena H.; Cohen, Sarah; Salmon, Jacqueline L., “Much of Sept. 11 Charity Remains to Be Disbursed: \$2.3 Billion Exceeds Estimates, Overwhelms Groups,” *The Washington Post*, June 11, 2002, A1.
46. *Ibid.*
47. *Ibid.*
48. One prominent charity official has noted that victims of future disasters will have a lot more anger if need is not relaxed in their cases as well, which will likely put charities under continuing pressure.
49. H.R. 2926, 107th Congress, *Air Transportation Safety and System Stabilization Act*, (2001). The Fund was established in Title IV of the *Air Transportation Safety and System Stabilization Act* passed by the House and Senate on September 21, 2001, and signed into law by President Bush on September 22, 2001.

50. Chen, David W., “Many Relatives, Wary and Anguished, Shun Sept. 11 Fund,” *The New York Times*, June 1, 2002, B1. The fund was created as part of an “airline bailout package.” Families must waive the right to sue in order to receive payment.
51. *Ibid.*
52. *Ibid.* As of June 1, 2002, about 500 families had filed partial claims with the Victim Compensation Fund. As of the date of this writing (July 11, 2002), no final award has yet been paid to any Fund applicant. Nonetheless, the Fund is likely to result in faster payouts than would occur if the applicants were instead to litigate.
53. *Ibid.*
54. *See* Chen, David W., “Struggling to Sort Out 9/11 Aid to Foreigners,” *The New York Times*, A1, June 27, 2002. “Determining who is entitled to what is, in reality, a baffling puzzle complicated by differing national laws, unfamiliar ethnic customs and extraordinarily complex family relationships from Mexico to the Middle East. In England, where the government has declined to follow Washington’s lead in waiving victims’ income taxes, families are pleading with American officials to increase their awards in the name of equity with their American counterparts. In Mexico, sprawling family trees, some rooted by common-law marriages, could result in claims being made on behalf of a dozen or more dependents of one victim.”
55. *Ibid.*
56. Private Letter Ruling 9516047 (January 23, 1995) and Private Letter Ruling 9544023 (August 3, 1995); *see also* Livingston at 6.
57. *Ibid.*
58. Private Letter Ruling 199914040 (April 12, 1999) (revoking PLR 9516047 (January 23, 1995) and PLR 199917077 (January 29, 1999) (revoking PLR 9544023 (August 3, 1995)).
59. Joint Committee on Taxation, JCX-93-01, *Technical Explanation of the “Victims of Terrorism Tax Relief Act of 2001,” as passed by the House and the Senate on December 20, 2001*. *See also* H.R. 2884, 107th Congress, *Victims of Terrorism Tax Relief Act of 2001*, §104 (2001).
60. The Internal Revenue Service, Exempt and Government Entities, Exempt Organizations, *Disaster Relief: Providing Assistance Through Charitable Organizations*, 15. I note that this definition does not appear broad enough to cover natural disasters outside the United States in countries where U.S.-based multinational corporations may have operations and needy employees. Specifically, the President and Secretary of the Treasury do not normally declare disasters when Germany experiences catastrophic floods or Turkey experiences earthquakes. This is an issue worthy of further consideration.
61. Robaina, Alberto, Civic Capital Corporation. July 10, 2002. Interview with author. *See* “Working Together to Accelerate New York’s Recovery,” New York City Partnership and Chamber of Commerce, November 2001, 74.
62. Section 4944(c) and the regulations promulgated thereunder.
63. Hanson, Richard, Internal Revenue Agent, letter to Jon H. Trudgeon, August 25, 1995, 12–13.
64. *Ibid.*
65. Herbert, Bob, “The Sadness Within,” *The New York Times*, November 12, 2001. “As many as 80,000 jobs will have been lost by the end of the year, most of them paying less than \$25,000 annually.”
66. Robaina, Alberto; Davis, Judy; Sproule, Martha, Civic Capital Corporation. June 25, 2002. Interview with author.
67. *Ibid.*
68. *Ibid.*

69. Lipton, Richard M., Chair of the ABA Section of Taxation, letter to Charles Rossotti, Commissioner of the IRS, re: *Request for Confirmation from the Internal Revenue Service that Charitable Loans and Grants Provided to For-Profit Business Entities Affected by the September 11, 2001 Terrorist Attacks Are Excludable from Income*, October 16, 2001. Lawyers who worked on this submission included: Victoria B. Bjorklund, Dickson G. Brown, Jennifer L. Franklin, Catherine E. Livingston, Kim Maxfield, Jennifer Goldberg Reynoso, and Michelle Wandler.
70. Lipton, Richard M., Chair, ABA Section of Taxation, letter to Susan Brown, Attorney-Advisor for the Department of Treasury, re: *Supplemental Material Relating to Submission on Treatment of Charitable Contributions Made to For-Profit Businesses Affected by the September 11, 2001 Terrorist Attacks*, November 19, 2001.
71. Fernandez, Lewis J., Deputy Associate Chief Counsel (Income Tax and Accounting), Internal Revenue Service, letter to Richard M. Lipton, Chair of the American Bar Association's Section of Taxation, April 15, 2002.
72. *Ibid.*
73. Draft of *Civic Capital Corporation Financial Recovery Fund Donor Report*, June 2002; and Robaina, Alberto; Davis, Judy; Sproule, Martha, Civic Capital Corporation. June 25, 2002. Interview with author.
74. Draft of *Civic Capital Corporation Financial Recovery Fund Donor Report*, June 2002.
75. *Ibid.* Other aid included assistance from a wealthy entrepreneur who founded the business or from a venture capital firm that had supplied the initial capital for the business.
76. Draft of *Civic Capital Corporation Financial Recovery Fund Donor Report*, June 2002.
77. Robaina, Alberto; Davis, Judy; Sproule, Martha, Civic Capital Corporation. June 25, 2002. Interview with author.
78. Draft of *Civic Capital Corporation Financial Recovery Fund Donor Report*, June 2002.
79. Robaina, Alberto; Davis, Judy; Sproule, Martha, Civic Capital Corporation. June 25, 2002. Interview with author.
80. *Ibid.*
81. *Ibid.*
82. *See U.S. Dept. of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 109 S. Ct. 1468, 1476 (1989). "Privacy encompasses the individual's control of information concerning his or her person. In an organized society, there are few facts that are not at one time or another divulged to another. Thus the extent of the protection accorded a privacy right at common law rested in part on the degree of dissemination of the alleged private fact and the extent to which the passage of time rendered it private."
83. Allen-Castellitto, Anita L., "The Origins and Growth of U.S. Privacy Law," First Annual Institute on Privacy Law, *Practicing Law Institute*, Volume 607, Page 13, June 2000. Anita Allen-Castellitto has more fully defined the "right to privacy" as "the claim that society is obligated to adopt laws and promote practices that shield against unwanted intrusion, disclosures, publicity, and interference with matters of personal decision making and conscience."
84. *Ibid.* "Privacy is protected by law, but also by cultural norms, ethics, and business and professional practices.... It is common for courts to balance privacy interests against interests in, inter alia, law enforcement, public health, national security, and the public's right to know."
85. Brown, Peter, "Privacy: Legislation Regulations & Cases," *Privacy Issues in Cyberspace*, The Association of the Bar of the City of New York, April 11, 2001, 3. "As new technologies have developed, the response has often been to enact laws designed to target specific privacy-related issues and selected audiences."
86. Cohen, Rick, "The US Non-Profit Sector in the Wake of September 11," *Alliance*, 2002. "Maybe it was due to the number of charitable providers or simply the complexity and scale of the

disaster, but coordination among the charities themselves occurred only slowly and relatively late in the process. Even the logical task of generating a common application bedeviled the major charities — though the process got much better over time.”

87. Fazlollah, Mark and Nicholas, Peter, “9/11 Tests Charities Sense of Fairness,” *The Philadelphia Inquirer*, April 29, 2002.
88. Kauffman, Matthew, “Charity: So Much May Turn Out to Be Too Much; Responding to Terrorism,” *The Hartford Courant*, November 2, 2001, A1. *See also* Barstow and Henriques, “Charities Abundant, But So Is Red Tape, After Terror Attack,” *The New York Times*, October 28, 2001, A1. Another September 11th widow, Mrs. MacLaughlin of Pelham, NY, said that she had compiled an 18-page spreadsheet and three binders full of applications and forms in order to coordinate her effort to apply for aid.
89. *See* “City and State Agree on Distributing Funds,” *New York Law Journal*, October 3, 2001, 29. Attorney General Spitzer’s office succeeded in quickly compiling a list of over 140 charities willing to provide services to individuals in need, which was posted on its Web site. Safe Horizon also created a Resource Referral Guide within a week of the attack. *See* http://www.uwnyc.org/sep11/resource_list.html. The 9/11 Trauma Response Database for mental health services was online by October 5th, 2001. *See* www.traumaresponse.org.
90. Anthony, Nancy B., “Remarks to the NY State Assembly Hearing,” Oklahoma City Community Foundation, November 7, 2001. “The database which was primarily a registry of the family members of those who were killed, injured, or in the affected buildings. Eventually it contained the names of most who had received any significant assistance. It was operated by the United Way and each of the 40 primary agencies providing direct service had a terminal with a direct link.”
91. *Ibid.*
92. *Ibid.*
93. Brown, Peter, “Privacy: Legislation Regulations & Cases,” *Privacy Issues in Cyberspace*, The Association of the Bar of the City of New York, April 11, 2001, 3.
94. *See* NY CLS CPLR §4508 (2000). *See also* NY CPLR § 4510b (2002) (Rape Crisis Counselor Privilege); NY CLS Men Hyg §33.13 (2002) (Mental Health Clinical Records Confidentiality); NY CLS Pub Health § 2780-2787 (2002) (Confidential HIV and AIDS Related Information); 42 USCS § 290dd-2 (2002) (Confidentiality of Records Relating to Substance Abuse and Mental Health). Charities worried about sharing client information and breaching New York State law privilege. For charities providing assistance to victims of domestic violence, just revealing that an individual is a client can be sensitive and place her in harm. Goldscheid, Julie, General Counsel of Safe Horizon. June 24, 2002. Interview with author.
95. “Timely Turnaround by the Red Cross,” *The New York Times*, November 17, 2001, A22.
96. Mahoney, Joe, “Red Cross Hits Charities Database,” *Daily News* (New York), September 28, 2001, 46.
97. Barstow, David, and Henriques, Diana B., “A Nation Challenged: The Donations,” *The New York Times*, September 27, 2001, B1.
98. Mahoney, Joe, “Red Cross Hits Charities Database.” *Daily News* (New York), September 28, 2001, 46.
99. *See* Saltonstall, David, “Red Cross Boss Faces Big Task; Also Confronted by Critics,” *Daily News* (New York), October 22, 2001, 20.
100. *See* 15 U.S.C.S. §6803. *See also* Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq. (1991 & Supp. 1999); *Parker v. Time Warner Entertainment Co., L.P.*, 1999 U.S. Dist. LEXIS 18883 (November 8, 1999).
101. *See* NY CLS CPLR §4508 (2000).

102. *See Katz v. United States*, 389 U.S. 347 (1967).
103. Goldscheid, Julie, General Counsel of Safe Horizon. June 24, 2002. Interview with author. Direct-service providers were those who provided goods, services, or money directly to the survivors and many of them were represented at Pier 94. Other charities, however, provided relief grants indirectly through grants to the direct-service providers. These “wholesale” funders generally were not present at Pier 94 alongside the “retail” providers and did not have access to any of the information being collected.
104. *Ibid.* Charity representatives at these meetings performed a central coordination function by being fully appraised of the caseworker capacity at each charity and assigning the survivors who called Safe Horizon’s 9/11 hotline to the appropriate caseworker.
105. *Ibid.*
106. *See* <http://www.safehorizon.org/>. The Family Assistance Center was first located at the Armory, and later moved to Pier 94. Then at the request of Governor Pataki, Safe Horizon created additional assistance centers in all five boroughs.
107. Aronson, Emary, Director of the Robin Hood Relief Fund. June 20, 2002. Interview with author.
108. Hinds, Michael DeCourcy, “Nonprofits at Ground Zero,” *Carnegie Reporter*, Vol. 1, No. 1, Spring 2002.
109. *Ibid.* Asociación Tepeyac de New York, a charity dedicated to promoting the social welfare of Latino immigrants, opened its offices to representatives from the American Red Cross and other charities, allowing undocumented individuals to apply for relief funds away from the government presence at Pier 94. Safe Horizon also provided multilingual assistance in many of its borough offices for the same purpose.
110. One senior official has correctly noted that these families represented a small percentage of the tens of thousands of survivors served. Nonetheless, the extraordinary success of the Pier 94 co-location model raises the question of how to expand its reach.
111. Barstow, David, and Henriques, Diane B., “The Donations: Plan to List Who Receives Disaster Aid Stirs Concern,” *The New York Times*, September 27, 2001, B1.
112. Kauffman, “Charity: So Much May Turn Out to Be Too Much.”
113. McCaffrey, Shannon, “Red Cross Heeds Outcry, Redirects Fund,” *The Charlotte Observer*, November 15, 2001, A1.
114. Hill, Alma E., “Red Cross Won’t Reroute Funds,” *The Atlanta Journal and Constitutional*, November 15, 2001, 1A.
115. Saul, Stephanie, “Umbrella Group Hopes to Help Cut Red Tape; Forms Database for Sept. 11 Victims & Families,” *Newsday*, December 15, 2001, A19.
116. http://www.9-11usg.org/news_pr4.html#
117. *Id.*
118. Barstow, David, “Victims’ Families Lack Voice in Effort to Coordinate Relief,” *The New York Times*, December 14, 2001, A1.
119. Aronson, Emary, Director of the Robin Hood Relief Fund. June 20, 2002. Interview with author.
120. Goldscheid, Julie, General Counsel of Safe Horizon. July 9, 2002. Interview with author.
121. New York Executive Law §174-b(2).
122. New York Executive Law §172-(d).
123. New York Executive Law §172-d(4).

124. Fazlollah, Mark, and Nicholas, Peter, "9/11 Tests Charities' Sense of Fairness; Out of \$1 Billion, Families Got 16 Cents on the Dollar," *The Philadelphia Inquirer*, April 29, 2002, A1; Wilhelm, Ian, "Half of \$2-Billion Raised for September 11 Given Away; Other Recovery Updates," *The Chronicle of Philanthropy*, March 7, 2002, 15.
125. Barstow, David, "Agency Offers Up to \$30,000 to Each Victim's Family," *The New York Times*, September 25, 2001, B8.
126. *Ibid.*
127. "Red Cross Shifts 9/11 Funds," *Newsday*, October 30, 2001.
128. "Charity and Red Tape," Editorial, *The New York Times*, October 30, 2001, A16. "Seven weeks after the disaster, the level of coordination among the 180 charitable groups involved in the relief effort is not what it ought to be. Nor has anyone devised a system of one-stop shopping — a simple, comprehensive way for victims' families to apply for the full range of benefits and services they may need." The editorial also noted that the president of the American Red Cross had been fired, possibly due to her "decision to divert some of the \$500 million the Red Cross had collected since Sept. 11 to programs with little direct relationship to the disaster."
129. McLaughlin, David, "Editorial Re Charity and Red Tape," *The New York Times*, November 6, 2001.
130. Henriques, Diana B., and Seelye, Katharine Q., "Red Cross President Quits, Saying That the Board Left Her No Other Choice," *The New York Times*, October 27, 2001, B9.
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142. Wilhelm, Ian, "Senator Asks Red Cross About Its Fund Raising," *The Chronicle of Philanthropy*, May 16, 2002.
143. Strom, Stephanie, "Red Cross is Pressed to Open its Books," *The New York Times*, June 5, 2002.
144. *Ibid.*
145. "Red Cross Announces New Disaster Fund-raising Practices," *American Red Cross Press Release*, June 5, 2002, www.redcross.org/press/press/disaster/ds_pr/020605dsfunds.html; See also Strom, Stephanie, "Red Cross is Pressed to Open its Books," *The New York Times*, June 5, 2002.

146. The Red Cross' problems may have been compounded by its inability to control the messages of Web-gathering sites, public-service announcements, and other third-party solicitors. That difficulty is hinted at by the reference in the new policy to the charity's "own solicitation channels."
147. "Red Cross Announces New Disaster Fund-raising Practices," Red Cross Web site, June 5, 2002, www.redcross.org/press/press/disaster/ds_pr/020605dsfunds.html; *See also* Strom, Stephanie, "Red Cross is Pressed to Open its Books," *The New York Times*, June 5, 2002.
148. *Ibid.*
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150. Sun, Lena H.; Cohen, Sarah; Salmon, Jacqueline L., "Much of Sept. 11 Charity Remains to Be Disbursed: \$2.3 Billion Exceeds Estimates, Overwhelms Groups," *The Washington Post*, June 11, 2002, A1.
151. Quoted in Sun, Cohen, and Salmon, "Much of Sept. 11 Charity Remains to Be Disbursed."
152. *American Red Cross Liberty Disaster Relief Fund Quarterly Report*, April 30, 2002.
153. "Red Cross Prepares More Sept. 11 Aid," *The Washington Post*, June 25, 2002.
154. Sun, Cohen, and Salmon, "Much of Sept. 11 Charity Remains to Be Disbursed."
155. "Red Cross Prepares More Sept. 11 Aid," *The Washington Post*. The September 11th Fund held a press conference on July 11, 2002 detailing its plans for its remaining relief funds.
156. Strom, "Families Fret as Charities Hold a Billion Dollars in 9/11 Aid," *The New York Times*, June 23, 2002, A1.
157. Freeman, Terri Lee, "How Will We Respond to the Next Disaster?," *Washington Business Journal*, April 19–25, 2002, 63.
158. Navarro, Mireya, "For Illegal Workers' Kin, No Paper Trail and Less 9/11 Aid," *The New York Times*, May 6, 2002, B3. This article notes that a major source of financial assistance to survivors — the federal Victims Compensation Fund — is available to survivors of illegal immigrants who were killed. However, some of the Fund's requirements, such as proving economic loss, may prove difficult for illegal workers to satisfy.
159. Chen, David W., "Struggling to Sort Out 9/11 Aid to Foreigners," *The New York Times*, A1, June 27, 2002.
160. For example, the Robin Hood Foundation had to abandon its office space immediately adjacent to the World Trade Center site in the wake of the attack. It moved into the midtown building, which houses the *New York Post*, only to be evacuated for anthrax contamination. Finally, Foundation employees resettled in borrowed space over the Strand bookstore and have only recently moved to newly leased office space at that site.
161. *Ibid.*

Disaster Relief, Donor Intent, and Public Accountability

The catastrophic events of September 11, 2001 galvanized an unprecedented outpouring of volunteer and monetary support for relief and recovery efforts. The lion's share of individual contributions to those efforts were directed to the American Red Cross, which by mid-October had collected more than \$452 million in donations for 9/11 relief (a figure that would rise to \$550 million by the end of the month, when the organization closed its Liberty Fund to further donations). However, the sheer magnitude of the charitable response to the events of September 11, coupled with the decision by Red Cross executives to use a significant portion of the donated funds for programs other than direct emergency relief, soon drew the attention of the national media, and the resulting firestorm of criticism eventually led to the resignation of Red Cross president Bernadine Healy and a reversal of the controversial policy.

MARK EDELMAN
CHIEF EXTERNAL RELATIONS OFFICER
GREATER NEW YORK CHAPTER
AMERICAN RED CROSS



This is America, and Americans are very giving — they just want to help — but the outpouring after the eleventh was unbelievable.

In early October 2001, the Foundation Center’s *Philanthropy News Digest* sat down with Mark A. Edelman, the chief external relations officer of the Greater New York Chapter of the American Red Cross, to discuss the events of September 11 and the relief agency’s response to those events. In subsequent conversations, Mr. Edelman responded to additional questions about the criticism and turmoil that, for a time, engulfed the organization and also offered his view that, while mistakes had been made, the Red Cross had moved quickly and publicly to rectify them.

Mark Edelman joined the American Red Cross in Greater New York as chief external relations officer in June 1999. In that capacity, Mr. Edelman is responsible for managing the organization’s financial development, health and safety services, and community outreach and marketing efforts.

Before joining the Red Cross, Edelman served for eight years as director of marketing and communications for the national headquarters of the Anti-Defamation League, where he was responsible for marketing the organization, including its headquarters’ divisions and thirty regional offices. Prior to joining the Anti-Defamation League, he owned his own advertising and new products agency in New York, and was vice president/management supervisor at Cabot Communications, where he managed accounts for, among others, the American Red Cross National Blood Drive.

Originally hailing from Walden, New York, Edelman is a graduate of the United States Military Academy at West Point and served as an officer with the U.S. Army Corps of Engineers for five years. He is currently an adjunct professor at the New York University School of Education, where he teaches a popular course in “Communication and Advertising.”

Foundation Center (FC): Mark, where were you on the morning of September eleventh?

Mark Edelman (ME): I think, as with John Kennedy’s assassination, everybody’s going to remember exactly where they were that morning. I was at a breakfast business meeting, right across the street from our offices on Amsterdam Avenue. Around ten after nine, my secretary ran in — I was kind of shocked, because I’ve never seen her do that — and she said to the four of us at the table, “They think an airplane hit the World Trade Center; they need you right away.” So we got up, rushed back over to the operations center here, and watched television, mesmerized, like everybody else.

FC: When did you realize this wasn’t an ordinary disaster?

ME: When the second plane hit, I knew this was no accident.

FC: Were you surprised by the outpouring of support, both financial and from people who wanted to volunteer, in the days and weeks following the disaster?

ME: I think everybody was, to some extent. It’s hard to say that we were totally surprised, because this is New York, this is America, and Americans are very giving . . . they just want to help. But the outpouring after the eleventh was unbelievable — it’s hard to even

quantify. This building seemed to be a magnet for people in the first couple of days after the attacks. They just came — they didn't even know why they were coming, a lot of them. It got so incredibly chaotic here that we had to separate various functions. We were taking blood right here in this building, and the very next day we started taking blood in the Martin Luther King high school building across the street because we couldn't handle the thousands, literally thousands, of people who were just walking in. It was amazing. Kids walked in with their piggy banks. People who had been out on the street collecting money would just walk in and dump out checks and dollar bills. I think the first day or two there were some ten or twelve thousand people who just walked in off the street to volunteer. As a result, we now have twenty-five thousand names of volunteers in our database that we didn't have before. It's really, really gratifying.

FC: Were you and your colleagues going twenty-four hours a day that first week?

ME: Pretty much. I would say eighteen to twenty hours a day that first week, and nobody took a day off. For the first month, I didn't wear a tie because I just didn't have the time to bother with it. At some point, I actually met with a crisis counselor for a debriefing, and he said, "You know, you should try to get back to normal in little ways." So one of the things I did was to start wearing a tie again. And it helped somewhat.

FC: What was the most difficult thing for you personally in the immediate aftermath of the attacks?

ME: I think it was the overwhelming feeling that there were just too many things that had to be done and not enough resources or people to do them. But the Red Cross is an amazing organization; there's an incredible support structure in place. Our office — or for that matter, any of the 1,200 Red Cross offices — is responsible for handling a major disaster in their area for the first day or two. I think we handled the World Trade Center effort ourselves for three or four days before staff from other chapters started to come in. In the first few days, staff from Syracuse and Rochester came in to help, and then people from the national office began to come in. The way it works is that eventually the national office takes over the job from the local chapter and volunteers from around the country are sent to the scene of the disaster. So for the first three or four days we did it, and then we started to transition it to the many, many Red Cross volunteers who came from other places.

Right now we have twenty-five hundred Red Cross volunteers and staff at our Brooklyn headquarters running this huge, huge relief operation. No local organization can handle that kind of operation without a great deal of support. The people in the Red Cross are well trained; they've responded to other disasters. There are twenty-three different functions, from accounting, to running a service center, to processing in-kind donations, and everything is very well organized, with policies in place for everything.

What we learned from this disaster, which was unprecedented in its magnitude and very unlike the hurricanes or floods or tornados we're used to, because it occurred in an urban environment and because it had to do with terrorism, was that we had to think outside the box. We're not operating in our normal fashion; we're operating in a very different way.

This disaster was . . . very unlike the hurricanes or floods or tornados we're used to, because it occurred in an urban environment and because it had to do with terrorism.

The more typical role of the Red Cross is to work with individuals. So that's been the focus of our operation here in New York.

We're trying hard to understand the needs of the different population groups that have been affected. No matter what Red Cross policy is, we're looking at it in terms of, "Well, should we do this, or should we do that?"

For example, the Family Gift Program we created for families of those who died or were severely injured is unprecedented in the history of the Red Cross. We've never really done anything like it before. But it was an idea that everybody recognized was completely appropriate, and so within hours we got the program going. In fact, we announced the program on September 18 and we were in the office the prior weekend calling our board members and all of their friends and contacts to try to locate the CEOs of the three hundred and fifty companies that were in the World Trade Center before the towers collapsed. We were trying to get the names and phone numbers of family members of the victims. Once we had that information, we conducted a brief interview with each of them over the phone and then provided them with checks to meet their financial needs for the next three months. That was unprecedented for the Red Cross.

FC: I think it would be helpful for our readers to put this into context. What was the largest disaster handled by the New York City Chapter of the Red Cross prior to the attacks on the World Trade Center?

ME: Well, I've been here for two and a half years, so my personal knowledge only goes back that far. The Red Cross, on the other hand, has been in New York City since 1906, so we've handled large disasters. But the biggest one in the last few years was the crane that fell over in Times Square about three years ago. It toppled into a building where a lot of elderly people live, and it became a very large operation. There were many people displaced and people who needed medication, so service centers were set up. Then there was the crash of TWA Flight 800 in the summer of 1996, which was a major disaster. In my time with the organization, we've had to assist with the EgyptAir disaster [editor's note: EgyptAir Flight 990 plunged into the Atlantic Ocean shortly after takeoff from John F. Kennedy International airport on October 31, 1999], where our role was to provide mental health and grief counseling to the families.

FC: Have your September 11 efforts been confined to individuals, or have you helped small businesses and nonprofit agencies that have been affected as well?

ME: The more typical role of the Red Cross is to work with individuals. So that's been the focus of our operation here in New York. We've helped people whose apartments have been damaged, or people whose employment status has been affected, people who were or are emotionally traumatized, and so on. However, as I said earlier, everything about this disaster is unprecedented. We know that there were many small businesses in the area immediately around Ground Zero that were destroyed. And there are many businesses — shoeshine shops and newsstands — whose physical plant is pretty much intact but whose customers haven't returned, for whatever reason. So we're continuing to explore what role, if any, there is for the Red Cross to play. We're working with the New York City Partnership, with the state and the city and other nonprofits and governmental agencies,

because there's great concern about the economic fallout from this disaster. I saw a number somewhere — something like fourteen or fifteen thousand businesses were affected. We don't have the answer yet, but we have staff working on it.

FC: Many people, including members of Congress, have criticized the Red Cross for taking advantage of September 11 to raise funds for purposes other than direct disaster relief. Did the Red Cross mislead people as to the ultimate use of the cash contributions it received in the weeks after the attacks on the World Trade Center and the Pentagon?

ME: First of all, the Red Cross honors donor intent. If a donor was specific about his or her desires on the check, or in the letter that accompanied the check, that's where the money goes. And we set up different accounts with just this option in mind. There's the Liberty Fund, which was created for this particular disaster. And there's a general disaster relief fund, which we try to keep filled with a certain amount of money in the event a disaster hits somewhere. For example, during the months of April, May, and June of this year, that fund had gotten down to levels that were, in our view, sort of dangerous. So we began a national campaign to persuade people to contribute to that fund, to get it back to more normal levels, just in case there was a disaster that required the Red Cross to go in and do the things that the public expects of us. I think it makes a lot of sense to do it that way.

Regarding the funds raised since September 11, I don't think anyone at the Red Cross anticipated just how generous Americans could be. As the amount of contributions continued to climb, we announced how we envisioned the funds would be utilized. But it became clear that this wasn't what the public wanted, and so we changed course on November 14 and announced that all contributions to the Liberty Fund would go to those who were directly affected by the September 11 tragedy and to support the emergency workers at Ground Zero.

FC: The Red Cross also has been criticized for taking too long to distribute the contributions that poured into the Liberty Fund and for creating an application process that was excessively bureaucratic. Is that criticism justified?

ME: I think there's some validity to it. But I think we've corrected the problems. You have to understand, first of all, that the numbers are huge. I think we've opened twenty-seven thousand cases, which means there are potentially twenty-seven thousand families or individuals who have or could get some sort of assistance from the Red Cross, and we've been opening about three hundred new cases every day. That's a huge number and it just underscores how unprecedented this disaster is.

But we did start to disburse funds quickly. We announced the unprecedented Family Gift Program a week after September 11 and we called every victim's family we could find and offered them three months' worth of living expenses. To date, the total distributed through that program is about \$56 million. And we're contacting all the families now — about twenty-six hundred families in total — and, after a short needs assessment by a qualified caseworker, we'll send checks for six more months of expenses.

The Red Cross honors donor intent. If a donor is specific about his or her desires . . . that's where the money goes.

The Red Cross fully supports efforts that coordinate relief resources.... We will share information as long as we know that the confidentiality of the people involved is being protected.

FC: There has been a lot of reporting on, and confusion about, tax liability issues. Is that something that families of the victims should be concerned about?

ME: I'm not a tax expert, so I can't tell you much, other than that the Family Gift Program I mentioned is a tax-free program. Those gifts are not stipends. They're gifts, and they're tax-free.

FC: In November, after weeks of media criticism, the Red Cross announced that it would return donations to any and all individuals who requested a refund. Is that still the official policy?

ME: That is and has always been our policy. If someone changes his or her mind, we always return the donation. You should know, however, that very few people asked for their donation back; the number was extremely small here in New York and elsewhere.

FC: I think it was a surprise to almost everyone when Dr. Bernadine Healy, the president of the national organization, announced her resignation, effective December 31, back in October. To what extent was the fairly widespread belief that the Red Cross had been less than forthcoming about its plans for the Liberty Fund a factor in Dr. Healy's resignation?

ME: Dr. Healy's resignation was a matter between her and the National Red Cross Board of Governors. I have no inside information on that issue.

FC: Do you think Harold Decker, who was appointed interim CEO of the Red Cross on the same day that Dr. Healy announced her resignation, will be asked to stay on as CEO?

ME: I have heard Harold Decker say publicly that he is not a candidate for the job. I believe the Board of Governors will appoint a search committee to find Dr. Healy's successor.

FC: Back in September, New York State Attorney General Eliot Spitzer announced that his office planned to create a centralized 9/11 database of donors and recipients, with an eye to coordinating the efforts of various nonprofit and government agencies involved in relief and recovery efforts. Initially, the Red Cross expressed its reluctance to join in that effort. Now the organization says it will cooperate with the attorney general's office. Why the change?

ME: The American Red Cross fully supports efforts that coordinate relief resources with other organizations. The concern that we expressed early on is in the area of confidentiality — we're always vigilant when it comes to that. And we do not believe that personal information should be shared unless the people we are dealing with provide us with a release form that allows us to share that information. This is standard with the Red Cross. We will share information as long as we know that the confidentiality of the people involved is being protected. To that end, we will offer those who received assistance the opportunity to protect their personal information by restricting its use only to relief agencies and not by making any future assistance conditional on participation in the database.

FC: How badly has the national organization been hurt by the controversy of the last few months?

ME: I think the Red Cross heard what Americans were saying, and I give the organization a lot of credit for admitting a mistake and for publicly regretting that it took so long to get back on course. But, in reality, it was only a two-month period, whereas the Red Cross has been a credible, trusted mainstay of the public life of this country for more than a century. Most importantly, let's not forget that the Red Cross was on site at the World Trade Center within minutes of the second plane hitting the South Tower, and we've been there every day since helping anyone and everyone who needs assistance.

FC: Are you confident that, in the event of another major disaster, the New York Chapter is prepared to respond in its usual fashion?

ME: On November 12, just two months after the World Trade Center tragedy, we had to go into action again when American Airlines Flight 587 crashed in the Rockaways. Without missing a beat, the Greater New York Chapter responded — as the public expects us to — within minutes, and we are still working with the victims' families in a variety of ways.

At some point, the presence of the national office at the World Trade Center will get smaller, and eventually the Greater New York Chapter will take over again. Based on our experience in Oklahoma City, where six and half years later the Red Cross still has a very active service center and is still regularly providing services to many of the one hundred and sixty-eight families, we think we're probably going to be dealing with this disaster for the next eight to twelve years.

So, we know we're going to be here for a long time, dealing with the consequences, known and unknown, of September 11. And I would say that the Red Cross knows that it has to be prepared for any domestic disaster; that's our mission. So, yes, the Red Cross will be prepared.

FC: Looking ahead, is the New York City Chapter preparing for any specific contingencies?

ME: If you're talking about terrorism, the answer is yes. We've been working on the possibility of a bioterror attack since Oklahoma City. We know this is a threat. In fact, the very Saturday before September 11, there was a bioterror drill at LaGuardia airport. So we're always in preparation mode, and I think we'll be ready for the next disaster, whatever it is.

FC: Finally, what would you say to the average individual who has been following the 9/11 story, particularly as it relates to the Red Cross, and is maybe thinking twice about sending in a donation?

ME: This has been a challenging time for the Red Cross. This organization is working day and night to meet the needs of people affected by the tragedies, and at the same time we've found ourselves in the position of having to account for our actions at an unprecedented level. We understand that we have an enormous public responsibility — which is why we've

This has been a challenging time for the Red Cross. We understand that we have an enormous public responsibility — which is why we've made changes.

made changes to narrow our activities and put them in line with the expectations and desires of the American people. I think we will come out of this better and stronger.

FC: Well, Mark, thank you very much for agreeing to speak with us. While the last few months have been difficult for all of us, I think when people finally find the time to reflect on the extraordinary events we've been through, one of the things they'll be thankful for is the strong, capable, and comforting presence of the Red Cross in a time of national need.

ME: Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Mark Edelman at the headquarters of the Greater New York Chapter of the American Red Cross in early October 2001 and subsequently solicited Mr. Edelman's view of unfolding events via e-mail.

Regulating Charitable Relief

The New York City offices of the New York State Attorney General are located at 120 Broadway, due east and about five hundred yards from the former site of the World Trade Center. On the morning of September 11, Attorney General Eliot Spitzer was standing at the window of his office on the twenty-fifth floor overlooking the World Trade Center when the first of two hijacked jetliners crashed into the North Tower. Charities Bureau Section Chiefs Marla Simpson and Karin Goldman were not in the office that day, but in the days and weeks that followed watched closely and, in many cases, were direct participants in the rush of events that transformed 9/11 into one of the biggest philanthropic stories in many years. From the creation of the September 11th Fund on the afternoon of the attacks, to the unprecedented outpouring of donations to relief and recovery efforts, to the imbroglio surrounding the American Red Cross, September 11 raised the profile of the

MARLA SIMPSON, SECTION CHIEF
KARIN GOLDMAN, REGISTRATION SECTION CHIEF
CHARITIES BUREAU, OFFICE OF THE ATTORNEY GENERAL, NEW YORK STATE



entire nonprofit sector in a way that was as surprising as it was sometimes painful. The Foundation Center's *Philanthropy News Digest* sat down with Simpson and Goldman in mid-February, five months after that terrible day, to get their unique perspective on the sometimes-confusing welter of news and events that followed in the wake of September 11. Assistant Attorney General Marla Simpson has served as a section chief for litigation and investigations in the New York State Attorney General's Charities Bureau since 1999. Among the matters of public record from the Bureau's recent docket, cases overseen by Simpson include the investigation and restructuring of the \$3 billion Wallace-Reader's Digest Funds, the defense of the intellectual property rights of the Martha Graham Center of Contemporary Dance, the investigation of Hale House, and many current Charities Bureau initiatives relating to various September 11 charities. She also coordinates the Bureau's legislative initiatives.

Prior to joining the Law Department, Ms. Simpson was general counsel and operations director for then-Manhattan Borough President Ruth W. Messinger. Before joining city government in 1990, Simpson held a number of positions in the public and private sectors, including senior counsel with New York Lawyers for the Public Interest; associate at Fried, Frank, Harris and Jacobson; and staff attorney with the Food Law Project of New York City Legal Services. She has also taught at the Benjamin N. Cardozo School of Law and the Columbia University School of Architecture, Planning and Preservation.

Simpson is a graduate of the University of Michigan Law School and Michigan State University and a member of the Committee on Government Ethics of the Association of the Bar of the City of New York.

Karin Kunstler Goldman is an Assistant Attorney General in the New York State Attorney General's Charities Bureau. As a staff attorney from 1982–1990, she handled investigations and litigation, coordination of statewide and multistate litigation, preparation and presentation of educational material for the public, and legislative drafting. Since 1990, Ms. Goldman has been the Registration Section Chief, where her responsibilities include supervision of the registry of approximately 40,000 charities in New York State, enforcement of their statutory obligations, public education projects, and legislative drafting. She is president of the National Association of State Charity Officials, serves on the Advisory Committee of the National Center for Charitable Statistics, and is a member of the Leadership Council of the Alliance for NonProfit Governance.

Goldman has a law degree from Rutgers University Law School, a B.A. from Connecticut College, and an M.A. from Columbia University.

Foundation Center (FC): Where were you two on the morning of September 11?

Marla Simpson (MS): The eleventh was primary election day in New York, and I was in Brooklyn.

Karin Goldman (KG): I was in Washington. I heard about it on the news. I immediately realized that while my husband and children knew where I was, my mother didn't. So I called

my mother and said, “I’m fine, I’m in Washington.” And then I was on a bus going to my meeting, and a woman just started shrieking. She was on a cell phone with her mother, who was telling her that the Pentagon had been bombed. Washington immediately shut up tight, the buildings were evacuated, so by the time I got off the bus the streets were swarming with people. I was supposed to come back to New York that day, but of course I couldn’t.

FC: Your offices on lower Broadway in Manhattan overlook the World Trade Center site. What was it like down here that day and in the days that followed?

MS: Since I was in Brooklyn, I could see what was happening both from the window where I was and on TV. So I called in here and spoke to people on the third floor, at a point when nobody had really heard or understood what was going on and encouraged them to get out of the building. But while I was still on the phone, it was clear that people were being evacuated from the building. I believe Eliot [New York State Attorney General Eliot Spitzer] and a couple of people with him were among the last to leave. Eliot was actually standing at his window on the twenty-fifth floor when the second plane hit and then as the first tower collapsed.

Of course, people from the building who were on the street when the first tower collapsed have harrowing stories. And at that point, we did not have a well-functioning phone tree. So the first few days after the attack were consumed with accounting for all eight hundred employees of the attorney general’s office.

KG: Because I have a fax machine and computer at home, my specific assignment during those two days was to make sure that each and every person in the bureau got home and to get their contact information and e-mail addresses so that we could keep in touch. The attorney general assigned people from the investigative team to coordinate that, and there were people in Albany, who were not affected, who were assigned to update the information as it came in.

FC: How long was it before you could return to the building?

KG: The attorneys officially came back on Friday the twenty-first, and then the whole staff came back the following Monday.

MS: I came in on Friday the fourteenth, because I had about twenty-five boxes of records from a case that I’m working. I had the original records, many of which dated from the 1920s, in my office, and I was imagining the windows blown out and that I would be held personally responsible for losing all those fragile records. So I came in and got close enough to see that the windows weren’t blown out. But at that point it became clear to me that the air downtown was a problem.

FC: When did it become apparent to both of you that this was likely to be the biggest philanthropy story of the last ten years, if not longer?

KG: Pretty early on.

MS: I’d say within the first two weeks. The first week was sort of taken up by assessing what was going on in the office and how we were going to deal with it.

People from the building who were on the street when the first tower collapsed have harrowing stories.

One of the first things we did was contact people from Oklahoma City, who'd had experience with this kind of disaster, on a much smaller scale . . . but similar in the way it hit the public in the gut.

KG: We had our first meeting with the charities on September 26 and began working on the recipient list coordination process and the database idea at about the same time.

MS: I remember talking to the people in Oklahoma City a few days before that first meeting, and it was evident at that point that the amount of money that was being collected was substantial.

FC: Who was at the meeting on the twenty-sixth?

KG: Representatives of the major charities, the United Way, the Salvation Army, the Red Cross, Catholic Charities, the Jewish Federation, FEMA [Federal Emergency Management Agency], the [*New York Times*]. . . .

FC: Was the State Emergency Management Agency there?

KG: I know we spoke, but I can't remember whether someone from the state was actually at the meeting.

MS: The city was also there.

FC: So the idea of coordinating the database effort came out of that meeting, or was it something that was brought to the meeting by one of the attendees because it was already apparent by the twenty-sixth that there was a need for coordination?

KG: We realized there was a need for coordination. I'm not sure whether the database idea came out of that meeting, but if it didn't, it was suggested soon thereafter.

MS: One of the first things we did was to try to contact people from Oklahoma City, who'd had experience with a disaster of this kind. Obviously, the bombing in Oklahoma City in 1995 was on a much smaller scale, but it was similar in the way it hit the public in the gut.

FC: There was disagreement between your office and the mayor's office about the database effort in those early weeks. What was the source of that disagreement?

MS: The disagreement became evident later, but it wasn't central to the circumstances at the beginning at all. Frankly, it never occurred to us that New York City authorities had a role in coordinating charities' efforts. The state charities regulations are pretty clear on that. And the capacity in which the city attended the first meeting was actually as a charity, as the representative of the Twin Towers Fund, which is a captive not-for-profit of the city. The city probably has dozens of captive not-for-profits; that one is called New York City Public/Private Initiatives. And like all the city's not-for-profits, it's a registrant here. We regulate them.

So I don't think in the early stages that we were much concerned with the city stepping in and trying to coordinate the effort. But one of the things that was evident in that early meeting was the reluctance of the various charities in attendance to share information with each other. We were prepared for that, actually. But we were not prepared for the vehemence with which they stated their positions. We understood that, basically, these

people relate to each other as competitors; they don't relate to each other as members of a shared enterprise. And we felt that our role was to try to encourage them to join together under a single umbrella and make life as easy as possible for the victims of the tragedy. And, in effect, Mayor Giuliani tried to step in and say, "Well, I'm going to coordinate this."

To everybody's credit, no one really engaged. There were a couple of news stories about the disagreement, but within a news cycle or two it was being reported that Eliot and the mayor were in agreement. There really was no choice. We were trying to get the charities to understand that we weren't going to be satisfied with only having a law enforcement perspective on this. Typically, our role is to audit and investigate what charities do after their annual financials are filed and to identify problems and remedy them. So normally it would be the spring of 2003 before we would begin to see the financials for the post-9/11 period. But our goal in this situation was to *prevent* problems from occurring. And it took a while to get the charities to understand how we could play a role in that respect and how important it was to them that someone play that role.

KG: There were quite a number of people from the charitable sector who said, "You want us to participate in this and provide our information but you're a law enforcement agency, and we need to protect the beneficiaries of our charities and protect ourselves, so we don't want you involved." Because it was an unusual stance for this office to take, they were concerned, understandably, though we made it clear from the start that we weren't doing this for law enforcement purposes. You can imagine it was hard for them to believe that. But finally we were able to make it clear that, as far as a database for beneficiaries of the relief effort was concerned, we were not suggesting that we would have access to it.

FC: What was the primary goal of the database effort in the first few weeks after 9/11?

MS: One of the lessons from Oklahoma City was that, in a much smaller situation, it was indeed possible for the lead charities to get to a point where they really knew all the families and could coordinate with each other verbally. They actually had a very sophisticated database, but they also developed enough institutional memory after a point where they could deal with the victims' families in human terms, even without access to the data. But that clearly wasn't going to be possible here. The number of victims, particularly in the early stages of the relief and recovery effort, when everyone was expecting the worst, was astronomical.

FC: We should remind people that city and fire department officials were anticipating more than six thousand victims.

MS: Correct. And even, frankly, if you're talking about twenty-eight hundred victims — which was the final tally — and tens of thousands more who were injured or displaced, you're really talking about too many people and too much information for a group of caseworkers to keep in their heads. Remember, the number one thing people were struggling with was how to achieve equity in the distribution of relief funds. There was an awareness early on that you had people from vastly different economic circumstances. And

Typically, our role is to audit and investigate what charities do after their annual financials are filed . . . but our goal in this situation was to prevent problems from occurring.

Initially, one of the difficulties was that many people were caught in this strange limbo, because there was a collective effort to hold out hope that people would be pulled out alive.

while we made it clear to the charities that we were not going to tell them that they couldn't give more money to this family because they'd already received a quarter of a million dollars from other sources, we were saying that it wasn't in anybody's interest — donors, which is one of the constituencies we're supposed to speak for, or beneficiaries, or, frankly, the charities themselves — for there not to be a mechanism that enabled agencies to check what a family had received in the way of compensation. Even if at the beginning, when you have \$500 million to give, you don't feel it's that important, at some point the money will be viewed as a scarce resource and you, the charity, will be making decisions about who does and doesn't get help. And if you decide to give another \$50,000 to a family that already has a quarter of a million, you should know how and why you're doing it; it should be transparent enough so that it's obvious to everyone that a rational choice was made.

If you look at Eliot's early testimony, he went to Congress twice in that time period and to the state legislature a couple of times. And the theme he kept hitting was that the public expects accountability. The public was extraordinarily generous in the aftermath of 9/11, and the public was well aware that many of the victims' families were going to collect generous pension and insurance benefits. The public wanted people to have this money, but that doesn't mean that the public didn't care how it was distributed. We assumed that stories would begin to come out about the misuse or misallocation of donated funds, about poor families that were falling between the cracks. Our notion about having a database and coordinating that effort among the various charities involved was to try to introduce some level of rationality and equity into the process.

KG: So the first database we developed, with assistance from outside companies, described the organizations that were providing relief and the kinds of relief they were providing, and was searchable so that victims' families and their advocates could know what was out there. That was actually working on October 10.

FC: So far, you've mentioned equity and transparency as reasons behind your interest in seeing a coordinated database effort. Were you also concerned about efficiency and the perception, in some quarters, that the money wasn't being dispersed quickly enough?

MS: Certainly. Eliot's testimony to Congress began the first week of November, and by that point, yes, absolutely, we were concerned.

Frankly, in the first few days it seemed that things had gotten up and running pretty quickly, at least for the day-to-day kinds of emergencies. It was clear, for example, that money was being dispensed from the pier [the Family Assistance Center established by the Red Cross and other agencies at Pier 94, on Manhattan's West Side]. Initially, one of the difficulties was that many people were caught in this strange state of limbo, because there was a collective effort to hold out hope that people would be pulled out of the rubble alive. So it was two and a half to three weeks before victims' families really started focusing on what they needed to do. As a result, there was a disconnect in terms of what constitutes a financial crisis and how long it takes to do something about it. It's one thing to say, "Okay, here's \$1,500" — which was the standard amount that people were getting at the pier in the first few weeks — "go pay your living expenses, buy groceries." But you had people

who had \$5,000, \$6,000 mortgage payments to take care of. And the charities, at least initially, were not equipped to handle that.

And I don't think they would have received the amount of criticism they received had they not also underestimated the amount of money that was going to come in, as well as the intensity of the media scrutiny that the outpouring of donations inevitably was going to generate. We were trying to warn them about that, and then two things happened simultaneously. Stories began to come out about widows who claimed not to have received any assistance. Never mind that many of those stories were false — not that the widow was being untruthful, but that the reporter had shaded the truth. The victims' families had gotten something, just not what they were asking for, and they were feeling desperate. I don't want to minimize their grief, but those kinds of stories were coming out, and simultaneously the stories about the Red Cross and what it planned to do with some of the money started to come out. And with the combination of the two, it became very clear to us that efficiency was becoming a problem, and that the drumbeat for a single application process would soon follow. Single application still hasn't been achieved, but this whole notion that you've got people that are supposed to find relief by going to two hundred charities is scary.

FC: You mentioned that you had an inkling that the charitable response to this disaster would be unprecedented. What were the signs you saw that led you to believe that would be the case?

MS: One of my reactions had nothing to do with being a charities official in the New York State Attorney General's Office — it may just be because of my background as someone who grew up in the Midwest. But one of the really stunning things to me was the degree to which this was not seen as New York City's problem. It was viewed as the whole country's problem. And that feeling was palpable, and something I hadn't experienced previously in my twenty-three years as a resident of New York City. It was pretty clear from day one that it was not going to be business as usual. And in that kind of situation you are not going to get away with saying to the public, "Trust us, you'll see an annual report about what we do in June of 2003." That wasn't going to work.

KG: The public perception was, "I gave my dollar today; tomorrow it's going to be in the hands of a needy family or widow." Over the years, whenever there has been a tragedy — a flood, or an earthquake somewhere in the world — we see charities springing up here in the States and collecting money. I've been an employee of this office for twenty years and I've never seen anything that even remotely approaches 9/11. Also, I think what's happened over the years, especially over the last couple of years, is that people have been taught that they're entitled to have access to information about charities. So, at the same time we're experiencing unprecedented levels of giving, we also have a more sophisticated donating public — a public that wants and expects to know more. And when they see an immediate need, they expect aid to flow to that need immediately.

MS: There definitely were organizations, the September 11th Fund for example, that got caught up in the maelstrom, even though they were clear from the very beginning that they were not primarily seeking money for individual relief. Their goal, as it was described in their earliest solicitations, was pretty similar to what the United Way and the New York

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Community Trust normally do. Which is to empower organizations to work with subgroups, constituencies, communities, and people who were in some way affected by the tragedy. In the case of the September 11th Fund, our expectation, consistent with the track record of the United Way and the New York Community Trust and the solicitations we saw, was that they would be funding services, not cash. But they got caught up in the controversy because of some less-responsible commentators on the scene, and so their board ended up making the decision to distribute money to victims' families, even though that's not what they were originally set up to do.

FC: So it was clear to your office from the beginning that the stated objectives of the September 11th Fund were different than those of the Red Cross?

MS: Yes. We were very active in trying to keep the Red Cross from expanding what it was going to spend the funds on to activities that were perfectly consistent with its organizational mission but not at all consistent with the solicitations it sent out. While we were trying to go beyond our standard role and get the charities to work together, what we normally do is enforce those aspects of the law that prioritize donor intent. So solicitations matter, particularly when criticism starts to appear in the press. And when we compared the criticism to the solicitation, we saw a marked difference between what the Red Cross said to the public and what the September 11th Fund said to the public. So we were supportive of the September 11th Fund and their effort to try and explain, in the face of criticism, what they were about.

FC: Without naming names, why do you think charities got caught up in the media backlash? What could they have done differently, and what might your office have done differently, in hindsight, to prevent that backlash?

KG: Well, I think it was obvious to everybody that this was a situation where the donors were really expressing their concern about where their money was going. And I think it would have been extremely wise for all the organizations to listen to that concern. While we understand that overhead is part of the cost of doing business, even for charities, doing things other than exactly what you said you were going to do is not appropriate in this kind of situation. And I think the message on that score was loud and clear. Now, I don't know whether the Red Cross simply didn't hear it, or had poor public relations, or what...

MS: It's not just a question of not listening. They should have known early on that the amount of money they were receiving was outstripping the need, even when the talk was about the possibility of six thousand victims. I would say that within a week of September 11, it should have been evident to the Red Cross, the September 11th Fund, the Salvation Army — the big ones — that the amount of money they were collecting was beyond what a rational public, if the facts were explained to them, would have expected to be handed out to the victims' families. And, mind you, this was before the federal government had begun to really consider the question of a federal relief fund, although the subject had come up. We knew, for example, that people were either going to be able to file lawsuits or there was

going to be some sort of federal compensation program, if for no other reason than that had always happened in situations involving plane crashes.

Frankly, if the Red Cross had gone out there and said, “Look, we already have \$300 million, we’ll be able to provide emergency relief in significant amounts to every family. But we think there are some other things we need to do, and here they are. Please continue to support us, and the money we get from now on will be put toward these goals” — had it been made clear, I don’t think the public would have lost its enthusiasm for the organization’s funding needs. That’s twenty-twenty hindsight, and I’m sure that a week, ten days out, certainly here in New York, that not one employee of the Red Cross was working on a whole night’s sleep, not a one. It’s easy to sit here now, five months after the fact, and say, “Why didn’t you do this or why didn’t you do that?” But surely some of it was shock, exhaustion, and just running to keep in place.

KG: We heard from some of the smaller charities that they were overwhelmed by the amount of money they received. There are a lot of smaller charities that got a lot more money than they ever thought they’d see and needed to regroup and figure out how they were going to use it. It was overwhelming at the beginning.

MS: The decision by those charities to regroup and call a board meeting and think it through was entirely rational. But by that time a sizable segment of the public was clamoring about the pots of money that charities were sitting on. Clearly, Eliot’s public statements were consistent with what we were saying in terms of encouraging rational decisionmaking. But maybe there were things we could have done to keep the education process going and to confront the notion that it’s wrong for a charity to have money that it hasn’t decided how to spend. With the media frenzy, it would have been a tough sell. If you read through our statements and testimony and press releases, you’ll see that we weren’t singling anybody out for criticism. But we were addressing specific situations in which people appeared to be doing something other than what they’d promised to do.

FC: Putting aside the overheated rhetoric and some sloppy reporting, do you think the media played a constructive role in the weeks and months after September 11?

KG: For the most part, I think they did. I think there was a lot of emphasis early on about disagreements between the city and the state, which from my point of view probably existed more in the press than it did in reality. But on balance I think the press was pretty good.

MS: I think it was messy, and at times it was painful — certainly for the charities, and a little bit for us, too — but I think no question that the press expedited solutions or partial solutions to many of the problems we all had to deal with. One might wish that it could have been done with fewer people being skewered and fewer negatives, which is something that always seems to come with press coverage. But given the magnitude of the tragedy and the intensity of the country’s connection to it, the press absolutely did what it’s supposed to do. In the case of the Red Cross, for example, a solution occurred much faster than it would have otherwise.

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KG: And the focus on the Red Cross and related issues forced other charities to think about what they were doing. They didn't want to be the next story. I'm sure that prevented a lot of problems.

FC: I'd like to get back to the topic of databases. Your office was out early gathering information about charities that were created in response to 9/11. Was it ever your intention to coordinate the victims database effort?

MS: Only if no one else stepped up.

KG: That's really not information that's appropriate for this office to have. The only way we might need or use that kind of information is when we're investigating a charity that allegedly is not performing the services it's supposed to perform.

MS: In fairness to the charities, even ones like the Red Cross that were objecting early on to the non-confidential nature of the process, they always said, "Look, if you have reason to believe there's fraud going on, give us a call, send us a subpoena, and we'll give you what you need." That's always been the way we get information.

KG: But to have that information absent allegations of illegality is not appropriate for us. The concerns that were raised to us by the charities, by representatives of the victims, had to do with the issue of privacy. Should a law enforcement agency have information about what widows receive in connection with their claim? It's not part of our normal work, and I don't think we want it to be.

FC: So who is in charge of the victims database effort and where does it stand at this point?

MS: It's now the responsibility of an organization called the 9/11 United Services Group, a coalition of about a dozen charities, including the New York Red Cross and the September 11th Fund. Robert Hurst, a vice-chair at Goldman Sachs, is heading it up.

KG: The for-profit companies that are involved in working on that include IBM, McKinsey and Company, Qwest, Silverstream Software, and KPMG.

FC: And they're making good progress?

MS: Yes, I think so. Again, many of the people who were close to the situation might wish that certain aspects of it were done more quickly. But it's a voluntary effort, and they've made more progress than the circumstances, and the magnitude of the tragedy, would have suggested. They're trying to bring organizations together that don't have a history of operating in lockstep, and they're trying to get them to at least apply some common standards. While it's frustrating for victims that they still have to go to multiple places and apply under multiple criteria, what people need to bear in mind is that this relief effort, particularly for the young families involved, will go on for years. There will be situations that nobody would have imagined in a given family that will cause them to come back for additional assistance. It's not too late is my point. People keep saying, "Well, haven't all the victims been helped yet." And the answer is no. There are actually victims who haven't, on an economic-need basis, been brought into the system yet.

People are still emerging who suddenly realize that they're going to need to find out what's available to help them with such-and-such a problem. And that will continue. According to everything we've heard from the folks in Oklahoma City, there will be rescue workers who will first seek assistance four, five years out.

FC: Whose responsibility is it to ensure the confidentiality of the information in the victims database?

MS: That United Services Group was formed for that purpose. In effect, that's their mission. Confidentiality is important, particularly if the promise of confidentiality is the only reason why someone decides to seek help — for example, an undocumented worker who is reluctant to get involved with the process even though his family desperately needs aid. I had a discussion yesterday with some advocates who were representing economically injured victims during which I tried to suggest that this is charitable relief. It is, by definition, discretionary aid. It's not a government benefit or an entitlement. It's a private, charitable donation to meet a family's needs. So you need to balance people's right to complete confidentiality with the fact that this is a voluntary system. They voluntarily have sought aid — aid given by donors with the expectation of some level of accountability. In other words, confidentiality is important, but there are other things that come into the equation.

FC: Does your office have a position on the federal government's Victims' Compensation Fund as it currently stands?

KG: We did an extensive comment on it.

MS: But those comments are a coordinated effort that goes beyond the activities of the charities bureau.

FC: And Attorney General Spitzer, in his testimony to Congress, indicated that there were some elements of the Fund that were problematic?

MS: We've actually done three rounds of written comments, and it's really complicated.

KG: Some of the definitional issues — for example, what constitutes a family — have yet to be resolved.

MS: Right. I mean, we basically took the position that the rules needed to be made more flexible as to definitions of injury, the inclusion of non-traditional families, and the methods of proving one's eligibility.

FC: Has 9/11 changed the way your office approaches the regulation of charities in New York State?

KG: We still have the same concerns that we had before September 11. We've spent a lot of time focusing on issues that we didn't focus on before that are non-regulatory. And some of the positive fallout from this involves activities of the IRS. They're expediting their approval of 9/11 charities as tax-exempt organizations, for example, and they're providing

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information about new organizations in New York State on a regular basis, making it a bit easier for us to carry out some of our responsibilities. So, what we do hasn't changed, but the way we do it perhaps has changed a bit.

I think another positive bit of fallout is that there is more interest within Congress in issues that pertain to charities, and more interest in the statutes that we've been interested in over the years. On the state level, there's interest with regard to regulation of charities, to improving the statutory framework. That hasn't changed anything yet, but I think there will be some legislation in the near future that will address some of the issues we've been concerned about for years.

MS: I think it's a little early for us to have actually changed what we can do from a law enforcement standpoint, but the focus and the possibility of new legislation may, over time, change. My section is focused on litigation and investigation, and for me the biggest change is the awareness and interest of the public in charitable organizations. Our investigations and law enforcement initiatives have always come from a range of sources. One major source is public complaints. Another major source is the press. Still another is the team of accountants here who randomly look at the annual filings of charities registered in the state and find anomalies. And I think there's no question that the public's awareness of charity issues has skyrocketed, particularly on the issue of truth in solicitations. I would say that in the wake of 9/11, there's been a subtle shift in that we're getting more information and more leads, not all of which are 9/11-related. Again, it's a little early to tell, but at this point, looking at things that we're considering for investigation, I would say that we have more solicitation cases than we have had — many of them, as I say, not related to 9/11 at all. If anything, I think the conclusion to Eliot's testimony says it best: it's still our belief that, given the volume of charitable activity that followed in the wake of September 11, what's really noteworthy is the low level of solicitation fraud that we've seen.

FC: We'll have to leave it on that note for now. I want to thank both of you for your time and your hard work in what I'm sure must have been difficult circumstances. Thanks again, Marla and Karin.

KG and MS: Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Marla Simpson and Karin Goldman at their offices on lower Broadway in February 2002.

Supporting the Recovery of Nonprofit Organizations

The New York City-based Nonprofit Finance Fund (NFF) is a national community development institution that provides financial and advisory services to nonprofit organizations. Within weeks of the September 11 terrorist attacks, NFF had created the Nonprofit Recovery Fund to assist nonprofits that had suffered damage to their offices or had been hurt economically by the attacks. The Recovery Fund provides flexible financial-aid packages designed to help affected nonprofits return, financially, to where they were before September 11. Aid packages may consist of a combination of grants, recoverable grants, and loans. As of late July 2002, NFF had received \$8.5 million in support from corporate and private foundations and had awarded more than \$7.5 million to 145 nonprofit organizations.

On April 3, the Foundation Center sat down with Clara Miller, president of the NFF, to talk about its role in relief and recovery efforts after September 11.

CLARA MILLER
PRESIDENT
NONPROFIT FINANCE FUND



If you watched the coverage of the events on television it was as if the entire world had collapsed. . . . But if you were even a few miles away, you could go on thinking that there was perfect order to the world.

On the eleventh, Clara was in Washington, D.C., for a meeting of the National Community Capital Association, an association of community development financial institutions that works toward revitalizing economically disadvantaged communities across the United States. She and her colleagues had planned a day on the Hill to meet with members of Congress. Clara was in her hotel room, just two blocks from the White House, when the first plane struck the World Trade Center. For the first few minutes of our talk Clara described the “visceral horror” that she felt as she watched the events unfold and her feelings of anxiety and frustration as she waited to be able to return to New York the following day. For her, the eerie set of contrasts or “mismatches” are what stand out when thinking about that day and the immediate days and now months following September 11.

Foundation Center (FC): Clara, you were in Washington, D.C., on September 11, can you describe for us your initial reactions?

Clara Miller (CM): It was a perfectly calm and sparkling September morning, and yet it was also a day that would serve as the stage for so much chaos, destruction, and horror. If you watched the coverage of the events on television it was as if the entire world had collapsed, even if the events were so localized to downtown Manhattan and the Pentagon. But if you were even a few miles away from either site, you could go on thinking that there was perfect order to the world. So, in the immediate days following the attacks, there was this contrast between chaos at Ground Zero and business as usual elsewhere. I think this contrast — and the inability for most of us to understand the scale of the destruction — translated directly into the philanthropic response.

Many of us in the nonprofit sector — and in the for-profit sector as well — had the same visceral response: we desperately needed to help in some way. Most of us wanted to dig through the rubble with our bare hands to help people but we knew that wasn’t possible. So we mobilized resources: we gave money, sent goods, volunteered, gave blood. But it soon became clear that as a nation and as a sector we had responded disproportionately. There were so many reflections of disproportionate response to the attacks: from the dozens of ambulances waiting for victims that never arrived, to the oversupply of blood, to the amount of money donated for immediate victims and their families that in the end — and quite luckily so — turned out to be much fewer in number. However, it took a long time — perhaps several weeks or months — for this reality to set in.

FC: When was it that you realized that the Nonprofit Finance Fund would need to respond to the attacks and begin to provide assistance to New York-area nonprofits?

CM: Right away, we knew that we needed to do something, but we felt an overwhelming sense of the immensity of the task at hand. In some respects we didn’t want to get in the way of the more immediate services and activities that were going on during the early days of relief and recovery. But early on, it became clear that we *should* respond in some way and it would mean assuming our usual role of assisting and building the capacity of the nonprofit sector. We recognized that area nonprofits, like directly and indirectly affected

individuals and victims, would have recovery needs and we set about determining how we could best serve them. So we created the Nonprofit Recovery Fund to assist nonprofits affected by the World Trade Center collapse and the resulting closure of downtown Manhattan.

We expected to cater to nonprofits recovering from the business losses associated with closure and/or interruption of services and transportation. We did not see ourselves providing loans as this would be a service that the Small Business Administration and other groups would provide, and given our experience in the sector, we thought loans were unlikely to fit the needs of recovering organizations.

FC: How long did it take to get the Fund up and running — did you consult with others in the sector and in the New York community?

CM: In the first few days following the attacks, I wrote a memo in which I described what I imagined would be the expected needs of affected nonprofits and sketched out a potential response. I shared the memo with members of the philanthropic and nonprofit communities who'd gathered at the Ford Foundation to discuss the sector's response. I then circulated it to a number of other funders who were also formulating their responses to September 11. This was just after the September 11th Fund had been created. We then set about planning for the expected needs. As it was still early and we weren't able to perform a formal needs assessment, we decided on the best way forward based on our discussions with nonprofits and funders who were proactively seeking reports on the impact. At first, I think everybody had imagined that there would be much more physical damage and destruction than there really was. Of course some buildings had been completely obliterated, but most were basically okay. Some offices needed cleaning and repair, but there wasn't a whole lot of rebuilding required. For the most part, we were looking at losses from interruption of services and programs along with lack of access to facilities that immediately affected the financial health of these organizations.

FC: How did you determine specific eligibility requirements for needy nonprofits and how did you reach them?

CM: We looked at straight-ahead business losses. We're in the business of helping nonprofits run better. We underwrite loans and provide other services but we're not in the grantmaking business and we don't serve just the "needy" organizations. In fact, we preferred nonprofits that weren't "needy," because the needy organizations were likely to be affected beyond repair while those that were healthier could be helped. The question then became, if this is going to knock them completely out of commission, is it worthwhile for us to work with this organization? What is a loan of \$5,000 worth when they need \$500,000 to operate? But by and large, we didn't have a means test to determine who was "needy" and who was not. It was also a bit difficult to determine whether or not our services were really needed in such an environment — for instance, if an organization was getting money from all sides we would be better off putting our money elsewhere.

We recognized that area nonprofits, like directly and indirectly affected individuals and victims, would have recovery needs and we set about determining how we could best serve them.

We worked through our existing network of organizations and funders that could point us to affected nonprofits, and vice versa. We then were able to use referrals from other funders and little by little reach more and more affected organizations.

So we looked at big and small organizations and tried to determine what we thought the total business loss was and then made an award. This award was seldom based on 100 percent of the losses. We simply did not have the resources for that. We also considered the impact: what we thought the award could do. The determination of the eligibility was the first step and then the determination of resources required or what resources we could bring to bear was the second.

FC: How did NFF reach out to affected nonprofits?

CM: We didn't advertise directly. We worked through our existing network of organizations and funders that could point us to affected nonprofits, and vice versa. We then were able to use referrals from other funders and little by little reach more and more affected organizations. After an initial period, we estimated what we thought the actual need would be below Canal Street. And then from there, started raising money under the assumption that as long as the money was coming in, we'd continue to reach out to organizations. The funding came pretty quickly. People and representatives from corporations and other large private funders would call and say: "Our board wants to do something. How much do you need?" It was quite unexpected and, like most of the post-September 11 response, unprecedented.

FC: Have you felt pressure over the past seven months to expand eligibility requirements as the wider economic impact has been felt?

CM: Because budget cuts were already in the works on the city, state, and federal level as a result of the economic slowdown, we decided early on that we had to draw the line at serving nonprofits directly affected by the events of September 11.

Nevertheless, we've felt the pressure to expand eligibility because there are legitimate needs and grey areas. We've held the line because we had to. Our particular expertise is in understanding the underlying business of a nonprofit, not in understanding the program. In the aftermath of September 11, and dealing with the evolving needs of affected organizations, we see that we can play a role in advising organizations on recovery from a business perspective and so we're starting to do that. In that sense, we would be advising organizations that need to change course. For instance, your market has changed, you need to establish yourself in a new one and take a complete change of course. In the wake of such dramatic and permanent change, you can't assume that it's going to be business as usual. You'll be able to get back on course, you'll keep sailing, but you're going to have to devise some real measures to do so and all the assumptions have changed for the future. So that's another big challenge that's being presented to these organizations.

Not that the two situations are comparable in many ways, but when I was looking for some precedent to guide us in structuring NFF's response, I looked back to the example of my father who was on MacArthur's staff after World War II. He was helping factory owners recover from bombings, including factory owners in Hiroshima. They were wiped out and to rebuild they needed to completely change their business assumptions. They had to reinvest in completely different areas and move forward with a great deal of uncertainty

about the future. And I think that helping some organizations orient themselves in this way is one of the goals in the aftermath of September 11.

FC: What were the most common needs?

CM: There were numerous scenarios. For some organizations it was a matter of being closed down or having all of their tours cancelled. Some had sent fundraising mailings on September 10 and so the letters sat unopened or events were cancelled. The Helen Keller Services for the Blind was completely wiped out physically, as was the Lower Manhattan Cultural Council. And there were larger organizations that experienced bigger losses and perhaps didn't have the capacity to recover those losses. For instance, the Borough of Manhattan Community College lost a huge amount of equipment and there was no way that the institution would be able to recover and become operational without some assistance. We felt that an organization like that, providing a needed service to the community, they get to go to the head of the line, even though they're not generally perceived as a "needy" organization.

Again, the types of damages to physical structures — if a building wasn't completely destroyed as in a few cases — were minor: smoke damage, broken windows. I'd say more organizations suffered from the lack of access to their facilities — even if they were able to access their facilities in many instances the general public was not able to reach them. So because the entire area below 14th Street was blocked off for weeks, many organizations — theaters, offices, schools — were left inaccessible.

So the vast majority of organizations suffered from interruptions in business. They had to shut down because they were in the frozen zone and nobody could come to their day-care center or plays. Organizations had to relocate, and sometimes provide transportation. But there were many organizations providing critical services like health programs. Let's say a clinic treats HIV-positive folks and provides them with medication every day. It might have been shut down for a couple of days because of the interruption of phone service. People couldn't call to confirm whether or not they could actually get to the clinic because their phones were dead and so people didn't show up for their appointments. And when people don't show up for their appointments the clinic might not get reimbursed by the government for those services. That would be one example of an organization facing an interruption in their business activities.

FC: How have the needs of affected organizations changed over time?

CM: Arts groups were among the organizations most strongly hit at first with business losses associated with the attack. And they were probably most directly affected because they are more like market-driven businesses than most nonprofits — they get a substantial proportion of their income from sales and attendance. So as soon as they saw the drop in sales and attendance, I think they mobilized, raised money and as a result will be much less affected by the planned budget cuts.

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Unfortunately, the community-based organizations, social-service organizations, and those organizations that don't have particularly strong infrastructures are going to be experiencing more hard times financially at a time when they'll be facing a rising demand for their services. There is relatively little funding that targets those organizations and for fixing their finances — as opposed to fixing the people they serve — since it is difficult to fundraise for operating costs. I think the challenge will be making sure that these organizations have planned well for the upcoming hard times and put some thought into their ability to move forward. But I also think that this is a very resourceful group, so I'm sure if anyone can meet the challenges of the next few years they can. Furthermore, I think one irony may be that 2001 turns out to be a great year for some of these groups and they may not face financial problems until late 2002 or 2003.

FC: As you know, in the initial months following the attacks, the sector was widely criticized for not coordinating the response and services to victims and the wider community. Could the sector's efforts have been better coordinated and has there been a great deal of duplication of services and efforts?

CM: Early on in our planning process, a group of bankers came over so we could talk about potential approaches and formulate a unified response from within the nonprofit development finance community. It was clear that they were looking to us — to the nonprofit sector — for some leadership. But for us to coordinate fully or to act in unison would be next to impossible and would render us ineffective. First, we didn't have the infrastructure to handle a load of this nature and magnitude. Bureaucracy has a bad connotation, but in the end coordination on this level means just that.

Coordinating on the end of direct assistance to individuals and victims was a case in point. Like the Red Cross and other relief agencies that wanted to prevent victims from having to go from pillar to post, we were trying to prevent that from happening to nonprofit organizations. Moreover, coordination is not an easy task when you have a sector that prides itself on a diversity of approaches. Command and control is not our forte. People were saying, well, there was a lack of leadership and so on. In my opinion, there was a lack of followership. You have a dozen people jumping up willing to take a leadership role but no one willing to march to the beat of a single drummer.

Furthermore, the sheer size of the sector precluded a unified response. As I mentioned earlier, there was an initial meeting at the Ford Foundation. The auditorium was packed with members of the philanthropic and nonprofit communities, but there was no one who could logically assume a leadership role at that point. No one can really dictate the operating guidelines for such a diverse set of players. And while that is one of the weaknesses of the nonprofit and philanthropic sector, it is also one of the strengths.

FC: Have there been any notable cooperative efforts between technical assistance agencies in the New York area? If so, how have these efforts worked or not worked?

CM: At the very beginning, everybody was mad to cooperate. Then as everyone got busier and busier, it became more and more difficult to put together those cooperative efforts and

work in step with one another. I think it became and generally becomes almost impractical at a certain point.

I think that a lot of the coordinated efforts took place on the frontlines in a very informal way. We've been in touch with several key organizations like the Fund for the City of New York since the beginning — collaborating on our approaches, identifying areas of needs and potential clients, sharing mailing lists. There was and continues to be a very fluid network of referrals. For instance, if there was a grantee in need of technology assistance, that's not our expertise so we would refer them to another organization like Npower, which specializes in that area, or to the Fund for the City of New York, in the case that a grantee is in need of cash flow loans. While serving the same market segment, we're all in very different lines of business or have carved out a niche, so informal cooperation came easily.

We developed a more formal arrangement with the Nonprofit Arts Recovery Fund and I think our work with them is a terrific example of successful cooperation. We're taking one aspect of the workload and they another. They're doing outreach to their constituents, they're making decisions on allocation of resources, while we're helping them screen and select eligible institutions.

In terms of the potential for duplication, it is important to make sure that we all know what everyone is doing and we did that early on. And I'm sure that there has been some overlap. Even so, I am not sure that overlap or duplication of services is necessarily a bad thing, because I think there's so much need and such a large market today for these services that it's okay to have several organizations doing the same thing. And, contrary to the commonly held belief that competition is bad in the nonprofit sector, I think competition can be a good thing.

FC: There was a great deal of media scrutiny and public pressure on service agencies to spend the money quickly and to limit their services to direct relief to victims and their families — as opposed to widening the net of assistance and recognizing longer-term needs. In many ways the purpose and character of the nonprofit sector came under question. Do you feel as though the criticism of the sector's response is warranted?

CM: Yes and no. There were some critical missteps on the part of some of the major nonprofit agencies. But most of the criticism resulted from the poor communication of our efforts, a problem that has always plagued the sector. I think it's fair to say that the press and the American public, in turn, were not very well informed, and the news stories reflected this in the focus on the mishaps versus the successes and great work that individuals and organizations were doing. I think that it was impossible to please everyone and right all the wrongs given the horrific nature of the events and the highly charged emotional atmosphere.

Nancy Anthony, the head of the Community Foundation of Oklahoma City, had some great insight on this issue. She pointed out the difficulties in serving victims of such a tragedy: many times, no matter what you do or how much you help people they're still

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The whole question of restitution became the central point of the debate. It has never been the sector's job to act as an insurance company and provide people with restitution — it has been our job to help people rebuild their lives.

angry and lash out at those who offer a helping hand because they're in mourning. So there is a tendency to take the anger and pain in a variety of ways, one of which is to take it out on the organizations trying to help them rebuild their lives. In some ways, the entire nation was and is in mourning, so the amount of anger targeted at the sector is no surprise.

The sector was being asked to go above and beyond its role and was being held to unattainable standards. Nancy Anthony said that in Oklahoma City they finally acknowledged that, "The victims are dead. We are dealing with the survivors, helping them rebuild their lives." Here we all know that lives cannot be replaced with money and, yet, the whole question of restitution became the central point of the debate. It has never been the sector's job to act as an insurance company and provide people with restitution — it has been our job to help people rebuild their lives. Restitution is a completely different charitable impulse. And, there was no system that was ready to provide restitution and deliver it to such a wide array of victims. There was also no system to calculate or decide who was eligible for assistance or define what equity means in a situation like this. Since victims came from all walks of life and income brackets, restitution could mean anything from providing \$3 million in financial assistance to helping someone find a minimum wage job. Soon enough, it was clear that we'd opened up a Pandora's Box in terms of drawing a line in the sand regarding restitution for these terrorist acts and horrific events of all kinds. Were victims of past terrorist acts or the family of the firefighter who lost his life in a fire in the South Bronx last year eligible for restitution from the charitable or public sector? In many ways, there is no end to this idea of restitution.

The atmosphere of giving was deeply influenced by the idea of restitution and we in the sector failed to communicate the distinction between restitution, recovery, and rebuilding. The situation resulted in complete mismatch of resources needed and resources donated. In such an environment it is virtually impossible to dare to discuss catering to long-term needs or other affected populations and that is where we stand today.

What was needed at the time was some leadership or spokesman-ship on behalf of the sector to at least provide a balanced perspective on the role of the charities, to educate the public on what we were doing, and to communicate this distinction between restitution and charity. But, I believe that in such a highly charged atmosphere, it would be almost impossible to stand up and say, "We don't need your money and cannot accept it." Or to say to donors, "We feel that your way may not be the best way to use the money." Or, "Please tell us what exactly do you mean by victims?" It was and remains a very, very touchy and emotional subject with which few of us have successfully grappled.

FC: You've brought up a central issue facing the sector in the wake of September 11 and that is the need to educate and inform the public on its role and purpose. In your view, what needs to be done for the charitable sector to be more successful in educating the public? And what are the challenges for doing so effectively?

CM: I think the bashing that the sector has received in the press since September 11 points to how important it is to have people who can act as spokespersons for the sector. We don't necessarily have the institutions in place or the leadership in place to have a

unified voice speak on behalf of so large and diverse a sector. Here was this outpouring of generosity from so many diverse camps and no one was really prepared to be the spokesperson for saying thank you or explaining the mismatches. Mayor Giuliani did some of this, but the philanthropic sector needed a leader too and no one rose to the occasion. But, again, in this instance, who would that person or those people be when you're talking about hundreds of corporations, foundations, and public charities? The difficulty in finding one or several people to speak on behalf of the sector contributes to the misconceptions about our work. But, this is not to say that we shouldn't be thinking about appointing such a person or people going forward.

Another challenge in better communicating what it is that we do is the issue of complexity. It is very hard to communicate complexity and we haven't found the right way to communicate a simple message about something that is in reality a very complicated job. But if you think about it, virtually everybody in America is involved with a nonprofit sector in some way. It touches everyone's life. The nonprofit sector is made up of the doctors and nurses who work in our hospitals, the teachers who teach our children, the scientists and researchers who work at our great universities. Yet there is a huge amount of naiveté about what it takes to actually do the jobs we want to do in the nonprofit sector, both from the point of view of what it takes money-wise and what it takes in terms of leadership and professionalism.

In addition, the public sector and nonprofit sector have ceded a large amount of credibility to the for-profit sector. I'm not quite sure why or how it happened. But the one thing that September 11 brought home quickly is how absolutely vital both a prepared and well-resourced public sector and charitable sector are to this country. And I think that no one has successfully pointed out this basic truth. These firemen and police officers were not working for free and were not employed by a Fortune 500 company but the city governments who depend on tax revenues. They did a fabulous job, and no one else could have.

FC: Do you feel as though the media and the public holds the nonprofit sector to a higher set of standards than they do the for-profit sector?

CM: Yes, I think so. And unfortunately, the debate surrounding effectiveness and performance is not shaped by the complexities of what we do. We are not generally in the business of building cars but in the business of rebuilding lives and fixing the problems that no one else wants to fix.

We also tend to sell ourselves short more often than not. I have a colleague who heads up the nonprofit side of an organization that has a for-profit and nonprofit arm and they do very similar things for different markets. And he said the difference between the two organizational arms is that his for-profit counterpart will consistently overstaff and he, on his side, will instinctively understaff. I think that we are very bad at putting a value on our services and making sure that everybody knows what it really costs to do this work, because these organizations and the people who work for them are willing to get the job done no matter the cost — personal or otherwise. We're also not accustomed to covering

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ourselves with glory in these situations, and tend to deny the actual sacrifices and triumphs involved. As a result, people underestimate the value of what it is that we do, we underestimate the value of what it is that we do. And I think that this is a central challenge to the sector — learning to accurately value what it is that we do.

FC: Clara, you've made so many thoughtful points throughout our talk and I'm sorry we have to end here. Thank you for taking the time to share your perspective on the challenges that face the philanthropic sector.

CM: It's been a pleasure. Thank you.

Elizabeth Cuccaro, the Foundation Center's September 11 Philanthropic Response Project Coordinator, interviewed Clara Miller at her office in New York City in April 2002.

Assessing the Economic Impact on Chinatown

Chinatown sits to the east of the World Trade Center site, nestled between the Brooklyn and Manhattan Bridges. What was once a bustling commercial and tourist center and residential neighborhood pre-September 11 became a subdued and quiet place in the immediate days and weeks following the attacks. Restaurants were empty, street vendors sat and waited for the few customers who arrived, and garment factories lay idle. In terms of the economic impacts of September 11, Chinatown was one of the hardest hit areas with an estimated loss of 7,700 jobs. The majority of layoffs involved low-wage jobs including garment workers, wait staff, cooks, janitors and cleaners, salespeople, and clerks.

Asian Americans for Equality (AAFE) — a community-based nonprofit organization supporting affordable housing, civil rights, social services and economic development in New York City — immediately recognized the economic impact of the

CHRISTOPHER KUI
EXECUTIVE DIRECTOR
ASIAN AMERICANS FOR EQUALITY



Our office became a relief center. People came off the street to use the phones to call their loved ones or simply rest. . . . We provided a refuge from what was happening outside.

attack on the community and set to work on putting programs in place to assist affected businesses and workers, and to advocate on behalf of the Chinatown community. As one of four partner organizations administering the Lower Manhattan Small Business and Workforce Retention Project, AAFE — through its subsidiary Renaissance Economic Development Corporation — provides financing, business support services, and wage subsidies to help affected businesses recover. More recently, the Lower Manhattan Development Corporation (LMDC) selected AAFE to assist in the implementation of the LMDC Housing Assistance Program, part of the Department of Housing and Urban Development’s \$300 million aid package to assist residents and businesses affected by attacks.

In late May, the Foundation Center interviewed AAFE executive director Chris Kui in a bakery below AAFE’s Grand Street offices. Mr. Kui described AAFE’s work with the Lower Manhattan Small Business Workforce Retention Project and the many challenges of advocating on behalf of Chinatown in the wake of September 11.

Kui joined AAFE in 1986 and has served as executive director since 1992. Under his leadership, AAFE has grown from a small community-based organization supporting a staff of three and serving 1,000 clients to a leading economic development and advocacy organization with a staff of 50 and a client base numbering approximately 20,000.

Foundation Center (FC): Maybe we can start with a basic question — where were you on the morning of September 11?

Christopher Kui (CK): Actually, I was in Chinatown, at our central office and service center. We had set up a voter assistance center because it was primary day. It was actually a very important day for the community because of the increased participation of the community residents, Chinatown residents, Asian-Americans in general, in the voting process. For many in the community, it was their first time voting and most of our staff members were out helping community members with the process.

Shortly after the first attack a staff member came into the office and told us that the World Trade Center was on fire. Like many people, we hadn’t seen the plane so we just thought it was a fire, an accident. But we went outside, where we had a direct view of the towers and saw the first tower burning. But once the second tower erupted in flames and we learned that two planes had hit the Center, we realized that it was not an accident.

At that point, we became concerned and worried because we actually had some staff and some volunteers at the polling site right next to the World Trade Center. We mobilized and began trying to track down all the staff members and volunteers.

Throughout the day there were thousands of people being directed out of lower Manhattan, and Chinatown was one of the pathways that people used. There were tons of people filing through the streets. Some of our staff were among the crowds of people trying to get away from the immediate area, like associates from the New York State Division of Housing and Community Renewal.

Our office and voting center became a relief center, a place for people to use, especially people who knew our organization. Many people came off the street to use the phones to call their loved ones or simply rest. We served lunch for people, let them rest, and provided a refuge from what was happening outside. So that's where I was.

FC: Right in the thick of it.

CK: Yes, because Chinatown was part of the overall impacted area.

FC: What was the most difficult thing presented to you on that day?

CK: I think probably the most difficult thing was trying to comprehend what was happening and being concerned about our staff members and volunteers at the various polling sites. We had mobilized not only our own staff, but a lot of volunteers and community residents.

Chinatown is part of District 1, which includes the World Trade Center and all of the affected area. There were three Asian-Americans running for City Council, so there was a lot of excitement in the community, a lot of enthusiasm for the election, and a lot of people out in places they normally might not be. So our main concern was to make sure that none of our staff people and volunteers were hurt or lost. Fortunately, none of them were.

FC: When did you realize that your organization would have to respond and provide assistance?

CK: Pretty much immediately. A lot of people in the community started calling us, wanting to know what was happening and asking how they could help. They were very concerned.

I remember at that time we all felt that we needed to act, that we needed to do something. And in a sense, the community didn't really know what to do. Over the first few days after the attacks, community members wanted to donate money, to donate emergency supplies, but they didn't know where to go, didn't know what to do, mainly because of the language and cultural barriers. They came to our office and called us and encouraged us to take a leadership position.

Also, some of the coverage in the press about Chinatown was really very negative. For example, there was an article in one of the daily papers claiming that Chinatown vendors were taking advantage of the situation, that they were selling pictures of the burning World Trade towers, or selling water to people who were in desperate need of water, for five dollars a bottle. We were portrayed as betraying the community, taking advantage of the tragedy, rather than being a victim of it and a participant in the relief effort.

These claims got a lot of the people in the community very, very upset, because the fact was people were actually trying to donate money and find ways to help. A board member of one of our subsidiary organizations owns a radio station in Chinatown, Sinocast. She mobilized people and eventually they raised over two million dollars. And these were ten-dollar, fifty-dollar donations, from people in the community. There was a tremendous outpouring of sympathy and support. We have about five thousand members and they

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were all coming and saying: “I want to do something, I want to give and I want to volunteer, what can I do?”

Within a few days, we knew that we had to exert some leadership, and that’s when we set up our offices and became the largest relief center for Chinatown. Members of the community started to donate emergency supplies, and so we provided access to the major relief agencies collecting donations like the Red Cross and to local churches in the Soho and Village areas from where they were coordinating the flow of supplies to Ground Zero.

We saw ourselves as filling a connecting, facilitating role. Also we saw the need to educate, not only our own community, but also the media on what was happening. Mind you, at the same time that we were fighting the negative portrayal of the community in the press, the community was suffering from the economic impact. As you may know, Canal Street became part of the restricted zone, cutting off much of Chinatown from the outside world. Trucks couldn’t come in and make deliveries. Patrons couldn’t reach restaurants and stores. As a result, large numbers of workers were laid off when factories were forced to shut down. Thousands of people lost jobs, and revenues quickly dropped as restaurants and stores lost their customer base.

If you take a look back, the Chinatown community really came out, residents sort of put aside their own suffering and helped others. So being portrayed in a negative fashion as their own lives were falling apart was really a double tragedy. For us it was really important to provide immediate relief and resources, but a big part of our job was, and remains, letting the press, funders, and the nation know about the impact on our community.

FC: Let’s talk a little bit more about the economic impact, how you formulated a response through the Lower Manhattan Small Business and Workforce Retention Project and how the project came about.

CK: After the first couple of weeks, we saw that the economic impact was much greater than initially thought. As an organization that’s been in the community for over twenty-eight years, we had various programs ranging from helping immigrants access social services and advocating for their legal rights, to helping the small businesses in the community.

We have a subsidiary organization called the Renaissance Economic Development Corporation that has been active for a long time in providing loans to small businesses. Immediately after September 11, we saw that area businesses needed a lot of help, because they were laying off workers and it was obvious that they were not doing the kind of business they normally do.

We decided that we needed an emergency loan fund program, and so we created the Renaissance 9-11 Emergency Loan Program, and set aside a hundred and fifty thousand dollars just to get started. A lot of small business people were coming to us and saying, “This is really impacting us, we don’t know how long we can survive like this.” That was the genesis of our own involvement. You see, there was a lot of confusion during the first month or so. We couldn’t just wait until outside help came in so we relied on ourselves to make it happen.

We knew a hundred and fifty thousand dollars for loans wasn't enough, but it was a start, and it also was a model, to let other people know that this is the kind of need we had in the community. We had no choice but to put our money at risk, underwriting businesses in the community.

FC: When was it that outside help did arrive?

CK: Well, Chinatown was not an immediate priority for FEMA and other federal government agencies. We're still trying to figure out who decided that Canal Street was a boundary for federal relief. We disagreed with the "official" boundary that to qualify for relief effort, you had to live or do business south of Canal Street.

Then the private relief agencies and foundations started to come into the community. The September 11 Fund, the Ford Foundation, the New York Times Neediest Fund, Seedco, and others began to put some money into Lower Manhattan [editor's note: what later became known as the Lower Manhattan Small Business and Workforce Retention Project]. Even though they recognized that Chinatown was part of the affected areas, the project extended only to Canal Street. We thought, let's try to work with it. And with some immediate grants, as well as loans and wage subsidies, the program helped qualified businesses retain some of their workers. We thought the project could give some additional hope to the community, and the confidence in our participation reinforced that. So we said, yes, we'll be part of it, and be the administrator for the Chinatown portion of the program, since we had the experience and the outreach. We know how the businesses work and we know how to underwrite them.

AAFE's community outreach initiative and the Renaissance 9-11 Emergency Loan Program really set the tone for including Chinatown in any relief effort. We also saw that the needs went beyond the Canal Street boundary. Two-thirds of Chinatown is really north of Canal Street, and so we saw the Lower Manhattan Small Business and Workforce Retention Project as a supplement to our emergency loan program. We targeted our own resources for north of Canal Street, the businesses a block away, two blocks away, or further north. And the Lower Manhattan Small Business and Workforce Retention Project program funds would be used for affected businesses below Canal, as dictated by the scope of the initiative and other relief efforts.

Again, part of our work has involved advocating on behalf of the community and educating foundations, corporate funders, and relief agencies on the impact. One of the biggest lessons from this experience is that you can't just arbitrarily draw a line in deciding eligibility. You have to look at the overall impact on the community. Thankfully, we have had some success in convincing the stakeholders that this is the case and this conversation continues, with our involvement.

In the first couple of months we did a hundred and fifty loans. That's a lot of loans. We were told that that's three times the amount of loans that a major bank made. They had many more resources and they only did about a third of the number of loans that we did.

Two-thirds of Chinatown is north of Canal Street. . . . You can't just arbitrarily draw a line in deciding eligibility. You have to look at the overall impact on the community.

We were able to show funders how to underwrite loans to small immigrant-owned businesses. We are able to say that these are viable businesses, these are credit-worthy people.

FC: You can see from the discussion of eligibility that it's very difficult to make people understand how far the ripple effects extend.

CK: Yes, because people look at a disaster and measure the impact in terms of physical destruction. They see a building destroyed and they say, yes, we definitely need to rebuild. But actually, the destruction for us here is really the destruction of the community, the dislocation of the local economy.

I think Chinatown is very much misunderstood in the sense that it is viewed as an insular community. It's true that because of language and cultural barriers sometimes the community is insulated, but Chinatown's not just an insular community — the health of New York in a commercial, social, and cultural sense, is inextricably linked to Chinatown. Some of the responsibility for perpetuating this notion of insularity does lie with the community. It is true that the people of Chinatown, like other immigrant communities, are afraid of government, and because of the language and cultural barriers they don't really know how to ask for assistance. And at the same time, there's a cultural aversion to debt or receiving outside help, and people feel that even if they're really desperate they're going to rely on their own family or some other social network they have in the community. This mindset feeds the notion of an entirely self-sufficient and prosperous community and is one of the main challenges of getting others to realize that in fact the community is very much in need.

But if you look at the whole destruction, not just the physical destruction, Chinatown has been dislocated economically and socially. Chinatown has always served as a regional hub for the Chinese-American community and the Asian community throughout the tri-state area, and a hub of tourist activity. But the tourism industry was destroyed by the attack and again that's economic dislocation.

Look at the garment industry, for example. Most of the garment factories in Chinatown, which employ about twelve thousand people, are located north of Canal Street. Because of the restricted access that lasted for weeks, many of the trucks couldn't come in, and so a lot of these factories lost orders, crucial orders. At the same time, when they needed help in terms of underwriting loans, most of the traditional banks refused to lend to them, or didn't really know how to underwrite loans. That's where we came in and continue to fill the gap. We were able to show the banks and funders how to underwrite loans to small immigrant-owned business. So through working with these agencies and organizations, we are able to say that these are viable businesses, these are people who've been in the community for ten, fifteen, twenty years. These are credit-worthy people.

That's part of our contribution, being a community-based organization and understanding these things. This was a disaster, affecting an immigrant community, in a major metropolitan area, yet people were slow to recognize the effects. A government agency like the Federal Emergency Management Agency (FEMA) or the Small Business Administration (SBA), isn't familiar with the community. FEMA came and they didn't even have a Chinese staff member, someone who spoke the language. They didn't ask the community-based organizations and community leadership: "What's happening, how can we help

you?” The SBA requirements are that when you apply for a loan, you have to attach your house as collateral. Imagine people already worried about the future of their business. They don’t want to endanger their house. So I think that’s why during the first couple of months people weren’t going to these relief centers.

The government agencies wanted to reach out to affected communities and accurately assess the impact, but their initial conclusions or operating assumptions were wrong. They said: “Oh, well, nobody’s coming from the Asian-American community. Chinatown residents aren’t coming to these offices to apply for assistance. Therefore, Chinatown’s not affected.” They didn’t realize what had happened or how their failure to reach out to the community was preventing them from knowing the true impact.

For example, they set up a toll-free number for residents to apply for assistance, but it’s all in English. Who’s going to call from the community? At a certain point, after we’d spent time convincing them of the true impact on the community, they realized that they needed to reach out to the community-based organizations to be truly effective and serve all of the affected populations. So we agreed to work with them. We held a community meeting with FEMA, a town hall meeting in a local school. We worked with the local press, worked with residents, and five hundred people showed up. The media came and covered it. Through that type of activity we were able to explain to the community their eligibility for various programs. We had about a hundred staff people directly working with the residents. We were even doing their toll-free calling. After that, they had people lined up outside the building, the relief center was overwhelmed.

What we learned, and I hope what the government agencies learned also, is that we really need to work together and community-based organizations (CBOs) need to be involved. When I testified at the City Council hearings about the impact of September 11, the analogy I used was that we need to view the community-based organization as another firehouse in the community, a social firehouse where people go when there’s an emergency. We’re here to respond. That might be a good analogy for people at various levels of government, corporations, and foundations to understand that they should fund CBOs to build their capacity so they’re not always struggling. They have important missions and play a critical role in the communities they serve.

When I look back, I’m very proud of our organization. We were able to respond because we had been able to build up an organization with a lot of depth and a team of committed staff members. When the emergency hit, we were ready to respond. I think we were fortunate. I think many organizations have been devastated by budget cuts, and they don’t have the needed capacity.

At the same time, while we did our best, we were not fully prepared either. I don’t think anybody could have been prepared for something like September 11. So I think one lesson we could learn is to think more about building capacity for organizations to exist and thrive, to sustain community services, to sustain that social firehouse for all communities — through good and bad times. Because without organizations like ours, the community

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Whether it's foundations or government agencies, we need to educate them, reach out to them, in order for them to become engaged . . . but they need to reach in, to partner with the community.

would be even worse off — in terms of hope, in terms of real resources to rebuild. And capacity does not only mean administration. It means sustaining the organization. People really need to fund organizational development, build the leadership of organizations. Every organization needs a core of talented leaders. And it's not one individual, it really is a team of top management and middle management, and a matter of having people capable of reaching outside the community to advocate and educate the public.

With all the resources that exist, whether it's foundations or government agencies, we need to educate them, reach out to them, in order for them to become engaged. And, it's a dual process of engagement. We reach out, but they need to understand that they need to reach in, to partner with the community. We don't see ourselves as replacing those entities. Emergency relief is the role of government and various other agencies. When you reach out, and they work with you, the message gets out and everyone is more effective. When we launched this outreach effort with FEMA, we knew how to present the message, and we also educated them about the needs of the community, and how it works. The FEMA experience was the best example of a successful collaboration.

FC: A recent study released by an Asian-American Federation estimated one out of every four workers in Chinatown was laid off after September 11. The report also stated that assistance to date had been limited, or had limited impact. The report seemed to point to the lack of resources and the strict eligibility requirements, the short-term nature of some of the assistance out there for dislocated workers and small businesses. Do you think that is a fair assessment? If so, how much more assistance is needed, and what, if any, are the roadblocks to getting that assistance?

CK: We were major participants in the study. We provided a lot of the data and the profiles of the small businesses and housing conditions. So, yes, I do believe it's an accurate assessment of the state of things.

To give you a better idea of the state of things, recently we brought some funders around Chinatown, on May 22, and we met with some of the businesses. For example, we met with the owner of a garment factory. Her business is still down about thirty percent. She told us that she has eight people still laid off from the factory, and that things are very, very tight. These garment factories work on a very low margin to begin with, and we're talking about a thirty percent loss of orders. That could put that factory out of business. They have rent to pay, and other overhead costs. So they're struggling to maintain their heads above water. She told us that because of the September 11 attacks she had lost a lot of the clients. People in midtown, the jobbers and manufacturers, still have doubts about their ability to deliver on time because of what happened in the immediate weeks after the attacks due to the frozen zone. A poultry business owner we saw yesterday said that right after September 11, he lost about forty percent of business, and now he's still operating at a thirty percent loss. So he gained back about ten percent. These are the people we directly helped with loans and grants and also with wage subsidies. They're still very discouraged. They're almost like patients still at the critical stage. They're still very fragile.

There are over four thousand businesses in Chinatown, so the need is tremendous. We are still trying to raise money to help these businesses, but unfortunately we have not received any new funding. So even we've stopped conducting outreach, because we can't meet the demand for services. We don't want to raise expectations when we know we can't help. That could cause even more hopelessness and disappointment. We need at least another ten, fifteen million dollars. And we've only received about two million. As time goes by and the financing and assistance needs are not met, many of these businesses won't survive.

Chinatown was fragile to begin with, before September 11. And now, the whole cultural and social integrity of the community is in danger. Chinatown is a very unique community, with a rich history, and cultural offerings that are a reflection of the immigrant communities that make it their home. But Chinatown is also a diverse mix of residential, manufacturing, and commercial property use. So, in many respects, damage in one area can really dislocate the rest, and when the damage is large it holds the potential to destroy the whole community. And that's why we feel that it is really important for Chinatown to be included in the recovery planning process.

Right now, we are beginning to see a growing awareness from organizations like the Lower Manhattan Development Corporation, which is the main agency overseeing the rebuilding effort. While their initial blueprint made little mention of Chinatown, they have begun reaching out to the community and have started working with many CBOs like AAFE. That's why we are very active in terms of advocating on behalf of Chinatown so that it can be part of the dialogue and planning process.

From a fiscal standpoint, most of these monies are coming from the federal government and are being distributed through the Community Development Block Grant program, which targets needy communities, that is, low- and moderate-income communities. Chinatown is the only low- and moderate-income community in the affected area. We believe that Chinatown must be treated fairly and equitably in the rebuilding effort.

If you look at the recent proposal by the Housing Assistance Program of the Lower Manhattan Development Corporation, it's basically geared toward retaining residents. Everyone agrees that it's important to retain residents in lower Manhattan — but in terms of the Chinatown area, the amount of assistance granted is about one thousand dollars, compared with six thousand dollars for the City Hall area and then twelve thousand dollars for Battery Park City. It's equally important to retain residents in Chinatown and keep housing affordable and to help these people who stand on the lower rungs of the economic ladder. Many of the Chinatown residents are low-wage workers and actually lost jobs, low-income jobs. Unlike many of the residents of the other targeted areas, they don't have savings or the means to weather the downtimes. It's critical that these aid packages and programs help Chinatown residents and that they do so on an equitable basis.

To this day, one of our biggest challenges is to get people to recognize the needs of Chinatown and to involve us in the process of rebuilding and recovery. So it is important for us to educate people on the impact to our community and to engage the planners so we

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aren't left isolated. If Chinatown isn't included in the final planning process, then I'm afraid we could end up with a situation where the rebuilding effort of Lower Manhattan might be done in a Robert Moses way — people from the outside coming into a community and dictating what's best for that community. We don't want structures to be built or barriers to be put up or any separate lines to be drawn. Chinatown, both politically and economically, has always been an integral part of Lower Manhattan and New York.

We're launching a major community-wide effort to develop a Chinatown plan for the recovery and rebuilding. We call it the Rebuild Chinatown Initiative. And part of that effort will be formulated based on input from the community. First we'll have town hall meetings, focus groups, and household surveys to gather that input. We're putting together an advisory board consisting of leaders such as the former superintendent of banks for New York and also bringing in experts from places like the Enterprise Foundation and the Harvard Joint Center for Housing. Then we'll have meetings with the government representatives — from the governor, to the mayor, to the deputy mayor and different representatives of different agencies. So we're building up momentum so Chinatown has a plan and we will then take that plan and hopefully integrate that with the overall Lower Manhattan redevelopment. And that's part of our work for the coming year. At the same time, we will continue the more immediate tasks of providing relief to community businesses and residents. All of these initiatives are what's needed to stabilize the community. There's still a tremendous amount of need and tremendous amount of work to be done.

FC: Mr. Kui, thank you very much for sharing your perspective with us.

CK: Thank you. It's been a pleasure.

Elizabeth Cuccaro, the Foundation Center's September 11 Philanthropic Response Project Coordinator, interviewed Chris Kui at AAFE's office in New York City in May 2002.

Impact on the Arts

The impact of the September 11 terrorist attack on the World Trade Center had, as media outlets around the country reported in the weeks after the attack, a dramatic impact on the city's cultural institutions and tourism industry, including Broadway theaters. Less widely reported, however, was the impact of the attack on New York City's not-for-profit theaters and the potential longer-term consequences to the city's arts community. Almost nine months after the attack, many off-Broadway theaters continue to struggle with the effects of 9/11 as well as the fall-off in contributions caused by a slowing economy.

According to a survey from the Alliance of Resident Theatres/New York (ART/NY), a service and advocacy organization representing more than 400 not-for-profit theaters and theater-related organizations, the direct loss of income from box-office revenues, space rentals, and cancelled bookings and

VIRGINIA LOULOUES
EXECUTIVE DIRECTOR
ALLIANCE OF RESIDENT THEATRES/NEW YORK



fundraising events as of October 31, 2001, was nearly \$5 million, with the projected loss for fiscal year 2002 expected to top \$16.3 million. Indeed, the survival of several smaller downtown theaters, which were disproportionately affected by the disaster, is in doubt.

The Foundation Center's *Philanthropy News Digest* caught up with Virginia "Ginny" Loulouides, executive director of ART/NY, in early April 2002 to talk about September 11 and its impact on her members and their prospects.

Loulouides has served as the ART/NY's executive director since 1991, during which time the organization's budget has nearly tripled and its membership has grown from 150 to 400 theaters. She conceived and developed many of ART/NY's signature programs, including the Nancy Quinn Fund and the Theatre Leadership Institute, which provides theater groups with long-term, one-on-one technical and administrative assistance. In the spring of 2001, thanks to a \$1 million matching grant from the Andrew W. Mellon Foundation, ART/NY launched the Bridge Fund, which offers low-interest loans of up to \$25,000 to small and mid-sized theaters to assist with their immediate financial needs. The Fund became a lifeline for ART/NY members in the wake of the September 11 terrorist attack on the World Trade Center, and has since provided \$387,500 in loans and lines of credit to dozens of theater companies. In addition, ART/NY received \$263,000 from the September 11th Fund and Philip Morris Companies to re-grant to the dozen or so theater groups located near Ground Zero. And in November, the organization was awarded \$2.65 million by the Andrew W. Mellon Foundation to provide emergency relief grants to theaters impacted by the attack and subsequent fall-off in tourism in New York City.

Loulouides currently serves on the executive committee of the New York City Arts Coalition and is a member of the board of advisors to the Martin E. Segal Theatre Center. She also has served as a panelist for the National Endowment for the Arts and was an Arts International marketing consultant to performing arts organizations in Prague, the capital of the Czech Republic.

She has a B.A. in humanities from Johns Hopkins University and an M.A. in performing arts management from American University.

Foundation Center (FC): Hi, Ginny. Can you tell me a little about your organization? What kind of theaters do you represent?

Virginia Loulouides (VL): The Alliance of Resident Theatres in New York was founded thirty years ago out of a frustration that the off-off-Broadway industry lacked political influence and legitimacy with the media. Elected officials from New York City and the state were not paying much attention to off-off-Broadway. In 1972, the New York State Council on the Arts had a conference on off-Broadway. But there was nothing at the conference about off-off-Broadway, so a group of off-off-Broadway producers stormed out and had a caucus, and at the caucus the Off-Off-Broadway Alliance, or OOBA, was founded. OOBA's founding mission was to promote the visibility of off-off-Broadway theater in the media and to collect some data that we could share with our members and with elected officials.

About fifteen, maybe twenty years later, many off-off-Broadway theaters had become off-Broadway theaters — in other words, they grew from ninety-nine-seat theaters to one hundred- to four-hundred-seat theaters. So the organization changed its name to the Alliance of Resident Theatres in New York, or ART/NY. But we're probably going to change our name again, because ART/NY sounds like a visual arts organization and people don't necessarily equate us with theater — and because Alliance of Resident Theatres seems like a mouthful. But we'll figure something out that distinguishes who we are.

We now represent about four hundred not-for-profit theaters or theater-related organizations in New York City. If you visit our Web site, you can view our annual report, which outlines every one of our programs, lists the major funders for those programs, and even has quotes from members who love our programs.

FC: Where were you on the morning of September 11? What was the most difficult thing for you personally in the immediate aftermath of the attacks?

VL: On the morning of September 11, I was getting ready to go to work when I heard the news on television. At first I thought, "Oh, a small plane hit the WTC." Then someone called into Channel 4 TV and said that they saw the plane deliberately fly into the building. When the second plane hit, I knew it was a terrorist attack.

My first thought was to keep this away from my son, who was almost five at the time. Then I worried about my staff. I wanted to get hold of them and tell them not to come in. But all but one had left, either to go to a meeting or to vote. [editor's note: the mayoral primary in New York City had been scheduled for September 11, but was called off after the second plane hit the South Tower of the World Trade Center.] Three staff members were in the office, and they stayed until 3:00 p.m.

I think the most difficult thing for me, personally, was the uncertainty of things. I felt pulled in two directions: to be at the office for my staff and the theaters, and to be home with my husband and my son. I must confess, I didn't worry about cancelled performances. But I do remember thinking that the city budget would definitely be affected and that the funds promised for our capital project were probably at risk.

I feel lousy about that. People lost their lives, people lost loved ones. One theater manager — Laura Rockefeller of the Jewish Repertory Theatre — was at a meeting at the WTC and didn't survive. There are times when I'm asked to speak about the eleventh and its impact on theaters and I start by reminding people that we were among the lucky ones.

FC: What was the funding situation like for ART/NY member theaters before September 11?

VL: Prior to the eleventh, it was already shaping up to be a tough year for foundations and corporations because of the drop in the stock market and the dot-com bust and the fact that we were entering a recession. What September 11 did was to turn a longer-term issue into an urgent issue. Recession hit the city full force overnight. Jobs not only were lost, but, as one of my colleagues said, they evaporated. All those World Trade Center service-related jobs — the limousine drivers, the people who made food for the food stands, the deli

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workers, the custodians — all those jobs were lost, vanished. And we're still grappling with the economic impact of that in terms of the city budget and corporate funding.

FC: But prior to September 11, you weren't anticipating a rough funding period ahead?

VL: We were. I was one of the more naive people about the economy; I didn't even know we were in a boom economy. All I knew was that, all of a sudden, foundations were asking us to submit proposals! And then, as the boom was going bust, I suddenly realized what we had just been through and had to kick myself for not really reveling in it at the time. But to answer your question, we knew the economy was turning; we just didn't realize how fast.

FC: In what ways did September 11 exacerbate the situation? I know many off-Broadway theaters sent out their subscription renewal notices during the week of September 10, which no doubt had a serious detrimental effect on renewal rates. Did September 11 have the same effect on theaters citywide, or just those that were located downtown?

VL: I think the perception of what happened in the wake of September 11 is worse than the reality. The perception is that something horrible happened to those smaller groups below 14th Street, and for people whose focus is getting the show up, the inability to get the show up because the theater has to shut down by order of the mayor, or because you can't get to your building because the streets are closed, or your audience can't get there because the public transportation system's been disrupted or they're simply staying home because they're afraid — not knowing how to resolve all that created a sense that things were horrible. When you're powerless to fix something, that's the worst. I would say that the larger producers and people who are a little more worldly in their view realize that the immediate impact of September 11 is behind us, but that there are going to be systemic problems in the long term because of overarching economic issues.

FC: An issue that we're facing at the Foundation Center as we try to keep track and record the philanthropic response to the attacks is the question of what is September 11-related and what is related to the broader economic situation. Have you had the same experience while sorting through requests for assistance?

VL: That was the big challenge. By our definition, "September 11th-related" means that you were forced to close for x number of days and had to refund rental and performance income; that you had to pay your actors even though they weren't performing or in rehearsal; that you had to cancel an event — that's all directly related to September 11th. If you had a benefit three weeks later and you canceled it, it's still directly related to the attacks. We saw that it took about six to ten weeks for the box office to bounce back. The Mellon Foundation allowed up to January 1, because they felt the entire last quarter was shot. The harder thing to quantify is when a foundation says to a theater group, "You probably weren't going to get any money because the market was bad before September 11, and now you're definitely not going to get any money because of September 11."

FC: Following the eleventh, the city made a major push to shore up attendance at museums and Broadway theaters. As a result of those efforts, the *New York Times* reported on March 12 that attendance had rebounded so strongly that several large theaters and

museums expected to reach or exceed their pre-September 11 attendance predictions. Off-Broadway theater, on the other hand, relies more on patrons who live in or around the city. Is off-Broadway enjoying the same kind of rebound as the large theaters?

VL: Those bigger theaters promoted themselves in a different way. They really came together and did what's called a "sale." They put together a booklet, they printed sixty-five thousand discount coupon booklets and dropped them into newspapers up and down the East Coast, they spent millions of dollars on promotion, and it was brilliantly done. You have to understand that they've been sort of spoiled. The tourists would come in from out of state and see their shows. But when the tourists stopped coming, they had to market themselves to the locals. And what may have happened — although we don't have the data and may never know for sure — is that people who were going to off-Broadway felt it was their patriotic duty to go to Broadway, and off-Broadway suffered as a result.

FC: And off-Broadway relies on a local audience of theater enthusiasts. People don't generally come to New York to see an off-Broadway show...

VL: Some do. And if we had the money that Broadway does, more people would, because I think we have a very healthy and vibrant off-Broadway scene. It's just not well known, and we're not able to market it. If we had those resources, we could do a great job and bring more people into town and extend their stays, so that they might see a Broadway show and two off-Broadway shows, or two Broadway shows and one off-Broadway show. But we just haven't been able to do the marketing.

FC: According to a recent report commissioned by your organization, New York City's nonprofit theaters represent a \$140 million industry and serve an annual audience of six million people — more than attend the home games of the Yankees, Knicks, and Rangers combined. Obviously, those are pre-recession numbers, but in what way does nonprofit theater benefit New York City?

VL: That wasn't audience, that was the economic impact. When Mayor Giuliani heard that, he couldn't believe it. I explained to him that we have two baseball teams and one hockey team, but we have four hundred theater groups. Just think of that! And we're performing eight times a week, and they're doing what, three times a week, tops. But at the time, it was just so late in the game and we didn't have the tourist numbers. Broadway did. The mayor backed Broadway because he saw what it did for the tourist industry. The issue was really about tourism — attracting people and money into hotels, restaurants, theaters, everywhere.

FC: Has the importance of the nonprofit theater industry to New York City's economy been adequately figured into the economic recovery plan?

VL: I reported to one of the economic recovery subcommittees for arts and culture and tourism that I sit on, and one of the recommendations I made is that they give money to provide two years of free membership for downtown arts groups in NYC and Company, the city's official tourism marketing agency, so that those groups can benefit from the agency's tourism packages. One of the things we say in the report is that we've got to

Those bigger theaters promoted themselves in a different way. They came together and did a "sale." They spent millions of dollars on promotion, and it was brilliantly done.

People are most concerned . . . with the widows and children, as well as the businesses that suffered. . . . That's a huge undertaking. But I think the arts will be factored in. I just don't know how. It's too soon to tell.

rebuild facilities, and when we do, downtown arts facilities should be part of that. Clearly, people are most concerned about what kind of memorial will be built and dealing with the widows and children, as well as the businesses that suffered. That's top of everybody's mind, and that's going to be a huge undertaking. But I think the arts will be factored in. I just don't know how. It's too soon to tell.

FC: You said earlier that Rudy Giuliani couldn't believe that nonprofit theaters were a \$140 million industry. Is Mayor Bloomberg's attitude different?

VL: It's tremendously different. First of all, he ran a private foundation for years and sits on the board of Lincoln Center. He's also given to theater companies because he likes the arts, he likes theater. So you have somebody who is as passionate about the arts as the previous mayor was about baseball. And Bloomberg has people around him that he trusts, as opposed to people whom he sometimes challenges. So when Kate Levin [editor's note: Ms. Levin heads New York City's Department of Cultural Affairs] came to him and said, "These groups are hurting," he hired her and said at her swearing-in, "I hired her because she cares about the small and mid-size organizations, which don't get a lot of play." That was a powerful statement for the mayor to make, and everything that she's done since she's been in office has proved that statement to be true.

Another thing that's impressed me is what the mayor did with the \$1 million returned to the city by the League of American Theatres and Producers [editor's note: the \$1 million was money left over from a \$2.5 million grant to the city from Empire State Development, the state's economic development agency, to purchase unsold Broadway theater tickets]. I'm sure that Giuliani would have taken that million and said to Broadway, "Keep it." Or he would have given it to NYC and Company, or he would have given it to the Yankees. He would not have given it to not-for-profit arts groups, which is what Bloomberg did, and if he did, it wouldn't have been to small groups — it would have been to the Met, the Museum of Natural History, et cetera. But there were small organizations up on the stage with Mayor Bloomberg and represented in the audience. Laurie Tisch Sussman of the Center for Arts Education said she felt like Halle Berry at the Oscars. What she meant was, she felt like small arts groups had arrived, that the groups that were not in the paper every day, that did not have the blockbuster shows, that weren't on Broadway, were finally being recognized. And she was right. We could feel it. Bloomberg had broken through a sort of symbolic barrier. To give a community like ours, a community that in good times doesn't do very well and in bad times faces the possibility of closures, cancelled productions, et cetera — to give them hope at a time like this was a huge achievement.

FC: We all witnessed the unprecedented outpouring of contributions in the immediate aftermath of the attacks. On September 13, the Lilly Endowment pledged \$30 million for relief and recovery in New York and Washington, D.C. A day later, the Ford Foundation, the Starr Foundation, and the Carnegie Corporation announced pledges of \$10 million each. By September 18, pledges of \$1 million or more by U.S. corporations had surpassed \$170 million. . . .

VL: And then Mellon announced a \$50 million fund just for the arts. And a lot of the reporters who called me were asking, “Where’s all this money coming from? Why would this foundation give money to the arts?” We received \$2.65 million from Mellon — \$150,000 for the administration of the program and \$2.5 million to give out to small theaters.

FC: Did Mellon put any eligibility restrictions on the money? You said in your talk today [editor’s note: at a Women in Development luncheon] that you told theaters, “Show us how you suffered and we’ll help you.”

VL: They trusted us. They pretty much said to us, “We want you to give it to people who suffered because of September 11; we don’t want this big production. It should be about restoring people and helping make them whole again.” We actually worked with them on guidelines. They knew us and our process, and they felt really comfortable with us. And I think they’re very pleased. How we helped some people get more than what they asked for, and how we helped people understand why they were getting less than they asked for — all of that was a learning process for both Mellon and us and our members.

FC: In February, the Carnegie Corporation of New York announced \$10 million in grants to small and medium-sized arts and cultural organizations that have been struggling since September 11. According to Carnegie officials, the Corporation studied how the Mellon foundation planned to disburse its \$50 million to similar institutions before releasing its own funds. Nonetheless, there seems to have been some overlap and confusion when the grants were actually awarded. Did the grants from Carnegie affect how ART/NY re-granted the funds from Mellon?

VL: Well, we shared with them the names of the hundred and thirty-one organizations that applied to us for funding, as well as how much they requested. They saw what we had in terms of what we defined as allowable; it was all there. But in many cases their grants did not jibe with what we received in terms of a theater’s expressed needs. Some theaters got less than what they needed, some got much more than what they claimed they needed, some that weren’t even on our list got money, and some that were below Canal Street didn’t get anything.

FC: And as a result you had to go back and reconsider the grants you planned to award?

VL: We had to factor the grants from Carnegie into our gift allotment, so that if we were giving a grant to, say, the Vineyard Theatre and the Vineyard had \$300,000 in allowable losses and, let’s say, for the sake of discussion, they got \$75,000 from Carnegie, we assumed that that \$75,000 went toward the allowable losses, which left them with \$225,000 in allowable losses. Actually, we took 60 percent of the Carnegie grants across the board. So whatever sixty percent of \$75,000 is is what we subtracted from the allowable loss.

FC: What was the most difficult thing about the whole process?

VL: The proposals. I don’t think people gave enough time to the proposal, certainly not as much as they would have liked. They rushed to meet the deadline, even though we tried to

The Mellon Foundation announced a \$50 million fund just for the arts. A lot of the reporters called me asking, “Why would this foundation give money to the arts?”

give them enough time. But we had to rush the application process so that we could get money into their hands before it was too late to do any good. And it was tough, it was exhausting to read a hundred and thirty-one applications in two weeks.

FC: You sound like a very busy person! Thank you so much for sitting down with us today.

VL: Thank you for being so flexible.

Kevin Kinsella, the managing editor of *Philanthropy News Digest*, interviewed Ginny Louloudes at a luncheon sponsored by New York's Women in Development on April 1, 2002.

The Challenges for Human Services

The September 11 terrorist attack on the World Trade Center was a devastating blow to a New York City already hurting from economic recession. In addition to the 2,650 lives lost in the collapse of the towers, the cost to the city's economy has been variously estimated at between \$63 billion and \$125 billion. According to a recent study by the United Way of New York City (UWNYC), low-wage workers, in particular, are likely to bear a significant portion of that cost over the next few years in the form of lost jobs, reduced earnings, and fewer employment opportunities.

As the largest private funder of health and human services in New York, UWNYC was well aware of the problems of the city's low-wage workers and immigrant communities long before September 11 cost many of them their livelihoods and exacerbated the impact of the economic slowdown.

RALPH DICKERSON, PRESIDENT AND CHIEF PROFESSIONAL OFFICER
LARRY MANDELL, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER
UNITED WAY OF NEW YORK CITY



In May, the Foundation Center's *Philanthropy News Digest* spoke with UWNYP's two top executives, Ralph Dickerson and Larry Mandell, about the events of September 11, the organization's response to those events, and their assessment of the city's human service needs post-9/11.

Ralph Dickerson, Jr., is president and chief professional officer of the United Way of New York City, a position he assumed in 1988. Under his leadership, the organization has grown to become not only the largest private funder of human services in New York City, but also one of the largest United Ways in the nation.

Dickerson has held executive positions for more than twenty-five years in various local United Ways, including St. Louis, Missouri (1970–76); Madison, Wisconsin (1977–81); Cleveland, Ohio (1981–84); and Pittsburgh, Pennsylvania (1984–88). In 1991, he received the New York Urban Coalition's Gorgeous Mosaic Award for his contributions to racial and ethnic harmony in New York City. In 1996, he was honored by both the Human Services Council and the Lawyers Alliance for New York for his outstanding leadership. In 1997, the Pius XII Foundation awarded him its prestigious Medal of Life. And in 2002, the New York Urban League named him a recipient of the Frederick Douglass Award — the highest honor the League bestows — for outstanding contributions to the cause of equal opportunity.

A native of Alton, Illinois, Dickerson graduated from Southern Illinois University in 1969 with a BS in business administration, and he received an MBA from the University of Wisconsin. Mr. Dickerson serves as chairman of the board of the Faith Center for Community Development, and is a member of the board of visitors of the New York City Police Department and the visitors' committee of the School of Management and Urban Affairs of the New School for Social Research.

Larry Mandell, executive vice president and chief operating officer of the United Way of New York City, has spent more than thirty years in the nonprofit community, serving in executive management positions and as a social worker and mental health counselor. Prior to joining UWNYP as senior vice president and director of agency services in 1987, Mandell served in various positions at Grand Street Settlement; Abbott House, a childcare agency and residential treatment center; the Rockland County Mental Health Clinic; and St. Agatha Home for Children.

Mandell received a B.A. from Hunter College in New York and an M.S.W. in casework from Fordham University's Graduate School of Social Service.

Foundation Center (FC): Tell us a little about the United Way of New York City — when was it founded, what is its mission, what are some of its current initiatives?

Ralph Dickerson (RD): The United Way of New York City was created in 1988 by the merger of the old United Way of New York City and the Greater New York Fund, which brought together under one umbrella a fundraising mechanism and an efficient distribution

mechanism that could get money to a growing number of both small and large community-based nonprofits and federations in the city. We're in a unique position in that we have two customers: our donors and our agencies who deliver services to clients. Our overriding interest is to ensure that we distribute funds effectively to make an impact on the community so that every time someone receives a service, they take a step toward becoming more self-reliant and self-sufficient.

FC: It's been eight months since the terrorist attacks on the World Trade Center and the Pentagon, but I'm sure both of you still have vivid memories of that day. Can you tell us where were you on the morning of September 11?

RD: Well, it just so happens I was heading northbound on the FDR Drive from the World Financial Center, having just come out of a United Way meeting in that area. As I was heading uptown, I began to notice people in the southbound lanes of the FDR stopping, which was very unusual — in New York, nobody stops for anything. And then to see people get out of their cars, right there on the FDR, was just an unbelievable sight. Of course, it was all because people had seen the first plane, which most people thought was a small commercial plane, “accidentally” collide with the North Tower of the World Trade Center. It just stopped all of us in our tracks.

Then, as events began to unfold, it became clear that it was a terrorist attack. The second unbelievable sight was to see thousands of people pouring out of office buildings and the subways and onto the street, where they just stood watching, totally stunned, for what seemed like forever.

As the day wore on, people realized that they needed to get home to their families. But the subways and the bridges and tunnels had been closed. So people just started walking. People who lived in New Jersey walked across the George Washington Bridge, people who lived in Queens walked across the Queensboro Bridge, people who lived in Brooklyn walked over the Brooklyn Bridge — people just walked, stunned and in shock, trying to get home to their loved ones.

FC: Remind us where your offices are.

Larry Mandell (LM): We're at Two Park Avenue, between 32nd and 33rd Streets, in lower Midtown. I remember looking out the window of my office and, as Ralph was saying, all I could see were small groups of people heading north from Lower Manhattan. I have a niece who attends Stuyvesant High School, which is just north and west of Ground Zero, and she and her friends saw the whole thing. After the first tower collapsed, she walked to my office, and when she came in, she had this vacant look in her eyes. It was a hard day for all of us.

FC: When did you and your staff realize that the United Way would have to respond in some way to the events that were unfolding?

RD: Well, as events were unfolding, two things were taking place in our organization. One was the need to deal with the trauma of people on our staff, people who were wondering

The subways and the bridges and tunnels had been closed. So people just started walking — people just walked, stunned and in shock, trying to get home to their loved ones.

From the beginning, we recognized that the term “victims” needed to be broadly understood, that there were going to be lots of people that were killed, but also that there were going to be survivors and other people who had needs.

what they should do about their families and also wondering what they could do for the many thousands of people they suspected were injured or hurt. And then the management team here began to ask, “So what do we do now? How do we help?”

And at that point, Lorie Slutsky, our partner at the New York Community Trust, called and asked, “Are you getting calls from people? Is your staff wondering what to do?” And we said, “Yes, we are getting calls. Why don’t you bring your people down, and let’s talk about it.”

LM: The New York Community Trust happens to be in the same building as we are. It was just good fortune that it was so convenient for us to get together.

RD: Lorie is also on our board of directors, and we’ve been involved in numerous collaborations with the Trust. So it was natural for her to make the call, and natural for us to get together and talk this thing through.

FC: By the afternoon of the eleventh, your organization, in partnership with the New York Community Trust, had created the September 11th Fund. In addition to moving quickly, you also came up with a broad, flexible mandate for the Fund. What is that mandate, and how was it arrived at?

LM: First of all, it wasn’t immediately apparent to us what we should do, although we knew we would play some role in helping those who had been affected. The overall feeling was that at a time like this, what people want to do is to contribute to something. We knew that there were going to be needs, and so we decided to create a fund.

Each of the founding organizations agreed to put \$10,000 into a pot to create the Fund. We tried to define the mission of the Fund, and when it came time to inform the public, we issued a press release, and in that press release we tried to define the needs as broadly as possible. That was significant. Almost from the beginning, we recognized that the term “victims” needed to be broadly understood, that there were going to be lots of people that were killed, but also that there were going to be survivors and other people who had needs. Over the first few days it became clear that many people had been dislocated or had lost their jobs, and that we needed to understand the term “victims” in a very broad sense.

RD: And because the New York Community Trust and the United Way are in the business of establishing funds and trying to get money to organizations and needy communities on an ongoing basis, the one principle we put above all others is that we would distribute to nonprofit agencies one hundred percent of whatever money we collected so they could provide cash assistance and services to the families of the victims and affected communities.

LM: You know, neither of our organizations is a direct-service organization. If you think about some of the other organizations that responded — the Red Cross, for example — that’s what they do, they provide direct services to victims of disasters. But it was always clear to us that we would not be in the business of directly providing those services. The thing we had to offer was our first-hand knowledge of which organizations were in the best position to provide those services.

So within a week — actually within days — we met with more than three hundred and fifty agencies, fully realizing that we couldn't possibly know from our vantage point what the emerging needs were, even as donations began to arrive. We couldn't possibly know that. So we met with our agencies, we met with government agencies, we met with other philanthropic groups, all within days. And from those meetings emerged the early strategies about how to use the contributions that were pouring in.

At the same time, there was also a flood of in-kind offers. I remember IBM calling us on day two and saying, "What do you need? You know, we have \$5 million. Do you need technology? Do you need technical assistance? Do you need cash?" McKinsey, with whom we have a long-standing relationship, had a team of five full-time people here, helping us, within two days. The list is far too long to mention everyone by name, but the outpouring of pro bono support we received made it possible for us to handle what, in retrospect, was an unprecedented charitable response. Let me put into perspective: normally, in any given year, we receive about two hundred thousand individual donations. But in the weeks after September 11, we were faced with almost two million individual donations.

FC: I want to get back to the needs question in a second. But first I'd like to ask whether either of you were surprised by the outpouring of support, both financial and in-kind, for the victims of the attacks?

RD: Well, yes. At first, we estimated the Fund would receive pledges of maybe \$25 million, \$30 million. But as the magnitude of the destruction became clearer, and even as we were talking with our United Way colleagues in places like Oklahoma City and on the West Coast and in Florida about how they had responded to disasters in their communities, we began to hear from foundations and corporations that were ready to step up with large sums of money. The Williams Company [a Tulsa-based energy company] was the first one we're aware of that put \$1 million into the Fund. And at that point, frankly, we thought it would be the first in a series of million-dollar gifts. But then the Eli Lilly Foundation said, "We can give \$30 million: \$10 million to the Red Cross, \$10 million to the Salvation Army, and \$10 million to the September 11th Fund." And then it really began to grow.

LM: I don't think anybody could have anticipated the eventual outpouring of support. In a matter of weeks, we had received pledges of more than \$300 million.

RD: Right, and the thing about it is, we didn't give anybody the impression, even though this is our business, that we had a crystal ball and could say, "This particular fund is going to grow to over \$450 million." It was just a situation in which people's raw emotions poured out in the form of giving. It was an unbelievable, soul-stirring experience. And, at the same time, having to respond to all these factors at once was an intense organizational experience.

FC: Was there ever a point during the first few weeks when you felt that all that money might become a problem for the agencies you were working with, that it might become a problem for the Red Cross or the September 11th Fund?

RD: I think I'll let Larry respond to that. But before I do I'm going to tell you something. What happens with this kind of enormous tragedy is that people put on their can-do hats.

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Even agencies that were already pressed to meet the demands of their current clientele found a way to say, “Look, we want to be there, we want to help.” So I don’t think there was ever a question in people’s minds as to whether the services would be available, or even how the services were going to be delivered, because they were willing to get it done, whatever it took. Wouldn’t you say so, Larry?

LM: Absolutely. And one of the most important aspects of our response in the first few weeks was the fact that we were familiar with the agencies and could make the right choices based on that knowledge. For example, when it became clear to us that cash assistance was going to be a priority — and frankly, we didn’t realize that until day two or three — but as it began to emerge that victims’ families had mortgage payments and tuition payments and utility payments to make, and that it would be a while before insurance or other benefits kicked in, all of which made cash assistance a priority, we realized that we needed to find an organization that could vet individuals and make sure we were providing support to the right people in the right amount. Selecting Safe Horizon to handle that program was a very important decision, and one that both the Trust and the United Way made jointly. Does that answer your question?

FC: Well, partially. I’m also interested in whether there was ever a point at which you or the agencies you were working with became concerned that too much money was coming in. Did you ever worry, given the expectations of donors and the American public, that you might not be able to spend all that money effectively or in a reasonable period of time?

RD: Early on, we conducted a survey to better understand the expectations of donors and found that donors and the public took a very broad view of “victim,” defining the term to include those who lost jobs and homes. The cost of meeting the needs of a much larger victim group are, of course, higher than meeting those of a more narrowly defined segment. Consequently, we kept the Fund open for four months, at which point we — along with our partner, the New York Community Trust — agreed that the Fund’s resources, combined with those of other charities and government, were appropriate to accomplish our goals.

FC: The media, both print and broadcast, was a significant part of the 9/11 story. Would you care to comment on the role the media played in the relief and recovery effort? Was it a constructive role in your view?

RD: The first thing I would say is that the networks came together on the telethon, the Tribute to Heroes telethon [which was simulcast by all four major broadcast networks on September 21]. It was a rare coming together of different media empires, and it resulted in well over \$100 million being raised for the September 11th Fund, which was remarkable. So the media, the networks, were extremely valuable to the effort.

LM: The telethon, if you think about it, was the media’s way of showing their pain. It was one of the few instances when the media put aside their stance of editorial objectivity and really got their souls into it. They did a tremendous job of helping the world understand the impact of September 11.

RD: Later, I think we would have to say that the coverage of the charitable response to September 11 was largely responsible and told the story accurately. Sure, there were segments of the media that tried to sensationalize certain aspects of the story, but by and large the media treated the story, and philanthropy, as hard news rather than soft news. And when was the last time that happened?

FC: Did you coordinate your activities with the Red Cross and the Salvation Army in those first few weeks? Did you meet with FEMA [the Federal Emergency Management Agency] or the city's Office of Emergency Management to coordinate your emergency relief efforts?

LM: Right from the beginning we met, on a regular basis, with all the players. That said, I do think that one of the legitimate observations the media made, within a month or two of the attacks, was that the services delivered to people in a disaster are not well-coordinated. I mean, we all know what the Salvation Army does, what the Red Cross does. But it's true, as a rule, that they don't share information with each other. It's not the way they do business. As a result of September 11, however, there will be a whole lot more coordination between agencies in the future than there has been in the past. And I think we're much better prepared, in the event of future attacks or disasters, to roll out an integrated service-delivery approach.

FC: Staying with the subject of coordination, in late September, New York State Attorney General Eliot Spitzer announced that his office planned to create a centralized 9/11 database of recipient information, with an eye to coordinating the service-delivery efforts already underway. What was the United Way's position vis-à-vis the AG's announcement?

RD: Well, the most important thing to remember is that everybody was trying to figure out how they could be helpful and what role they could play. I think that's what Eliot Spitzer was trying to do. But in these kinds of traumatic situations, part of the issue is that families just don't want to come forward. They need their personal time to grieve the loss of loved ones. As a result, we had great difficulty trying to get the names and addresses of family members. It was just a very difficult situation, made more difficult by the fact that the families were trying to figure out what their next step was in terms of identification of remains and securing death certificates. So, I think Eliot Spitzer coming forward and saying that there needed to be better coordination — we were all in agreement with him.

Where we were not in agreement, though, was with the suggestion that the office of the attorney general could all of a sudden transform itself into a central repository for all this data and then connect that data to families' needs. That's why, from the very beginning, we wanted to work closely with the attorney general, because we understood that just having the names wasn't good enough. Once you've got the names, you've got to deliver some services, and you need service-delivery agencies to do that, you need specialized caregivers to do that.

LM: I agree with Ralph. Spitzer's observation did prompt the leadership of the nonprofit community in New York to eventually form the 9/11 United Services Group [a consortium

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of thirteen New York City human services organizations formed to facilitate, expedite, and enhance coordination of services to the families and victims of the World Trade Center], and the September 11th Fund has been very supportive of its efforts. We think it's a really big step in terms of creating a comprehensive and integrated approach to service delivery, both in this particular instance and for the future.

FC: Did the federal government's announcement in November that it was going to create a victims' compensation fund concern you?

RD: I think we knew that, at some point in time, the government was going to have to become a part of this. The concern was that they would try to develop and impose a super-structure on the recovery effort. You see, at first people thought there needed to be some kind of centralized agency that would coordinate the activities of all the different funds. But in our minds that would have just added another level of bureaucracy. We figured that if we couldn't find a way to gather the names of the victims' family members and work with those families, then neither would the federal government. But what the government ultimately did was to recognize that they had a role to play in helping the surviving families financially, and at that point it became a partnership.

It also helped us to better understand what our role should be vis-à-vis government, as it relates to survivors of disasters. You couldn't know this in the beginning, but as it became clear that the government was going to take a large role in compensating the victims' families, it helped us to see that our role was to provide the bridge cash, so to speak. It helped us understand that there were airline and hotel and restaurant workers and people dislocated from their homes that were not going to be compensated by the government, and that it was up to philanthropy to help them through their tough times. And what philanthropy ended up doing is what philanthropy always does best, which is to fill in the gaps rather than displace or duplicate what government does.

LM: And also to be strategic in looking at and addressing the needs of clients with services that may be complemented at some point in time by state or federal agencies. That's true of mental-health services, for example, which are very important right now, as are services for dislocated workers and economic development and so on. These issues are issues that the private dollar can and should move on, now, in the short run, even though government may step up with larger sums of money down the road. But at least we're beginning to chart the course as to how that should take place.

RD: Remember, the whole modus operandi of the September 11th Fund has been to understand who else is funding these needs, so that we can then define the appropriate role for ourselves and not duplicate what others are doing. We're very cognizant of what the Red Cross has been and is doing, and we don't want to duplicate those efforts. We want to be able to do what they aren't able to do. The same holds true for the federal government and insurance companies and so on.

FC: Did the events of the eleventh change the way your organization approaches its work?

RD: That's a great question. But before I answer it, I want to say that the founding organizations of the September 11th Fund, the New York Community Trust and the United Way, fundamentally believe that September 11 was a disaster of such enormous magnitude that, while our respective organizations have the expertise, we could not have devoted, by ourselves, the resources required to respond to it. From the beginning, it was clear that we needed an experienced group of professionals to focus, twenty-four-seven, on the response to 9/11. That's why we have a September 11th Fund board chaired by Frank Thomas [a former president of the Ford Foundation], and twenty-three directors who serve on that board, and Josh Gotbaum [president and CEO of the September 11th Fund] and a small, dedicated staff working with our respective staffs to make this happen. There's no way in the world, even as strong as our two organizations are, that we could just forget about other issues and needs and totally focus on the issues and needs created by 9/11.

LM: And were exacerbated by September 11. A good example of what Ralph is talking about is the fact that the September 11th Fund is very concerned about unemployment south of Canal Street. We just published a study, however, that found that upwards of a hundred and fifty thousand people — many of them, I guarantee you, north of Canal Street — have lost their jobs since September 11. Now, if you ask what the most pressing needs are and what we're doing to address those needs, I would answer by saying that the September 11th Fund is focusing like a laser on the direct victims of the attacks, while the United Way continues to focus on the people that were vulnerable on September 10 and are more vulnerable now.

FC: Well, let's talk about now. What, in your view, are the most pressing needs created by 9/11 that have yet to be addressed?

LM: As a result of the economic impact of September 11, we've seen a seventy percent spike in the use of food kitchens in the city. We're also seeing an increase in the use of mental-health hotlines. We're seeing an increase in youth violence and domestic violence.

RD: And we're seeing a resurgence of the welfare-to-work issue, which looked like it was on the back burner but is still very much on the front burner, or should be, along with the critical issue of childcare, which has been exacerbated by the consequences of September 11. Then there's the enormous problem we're having with seniors, who in this city, as well as in cities across the country, are requiring more and more support services.

Those are the populations that were vulnerable before September 11 and are even more vulnerable as a result of September 11. And it's our responsibility to address those needs in the context of the post-September 11 world. In other words, how do we take the momentum that was generated by the unprecedented philanthropic response to September 11 and channel it into solving some of these other problems? In the '90s, most people were just so consumed with thoughts of shareholder value that nobody really focused on the return on people. Now, all of a sudden, we have people focused in a more balanced way on return on people. And, while it's still a hot-button issue, we have the obligation to step up and make sure that people understand that we have kids that we've got to

How do we take the momentum that was generated by the unprecedented philanthropic response to September 11 and channel it into solving some of these other problems?

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keep in school, that we've got seniors to care for, that we've got people who've been on public assistance their whole life that need to be mainstreamed into society. So the question becomes, "How do you keep that momentum going?" And I think the answer to that question lies in getting people engaged in the issues that affect their neighborhoods and communities and in coming up with solutions that help them regain their self-sufficiency. The answer also lies in continuing to communicate to our donors how their dollars are put to work and making an impact on the community.

FC: How long will the effects of September 11 be with us?

LM: One of the things we know from Oklahoma City is that there were twice as many people in year two who sought mental-health counseling as there were in year one. That's a sobering statistic. And what it says is that there are going to be an awful lot of people over the next couple of years who are going to need help.

FC: You've both touched on this at different points, but I want to give you one more go at it. From your vantage point, what, if anything, did the philanthropic community in New York learn from September 11? And what, if anything, would you do differently if you found yourself faced with the same set of circumstances today?

RD: Well, let me take a swing at it, and then Larry can hit it out of the park. I think the first lesson learned is that you can't tackle something of this magnitude, something this enormous, without having a lot of really good partners. That doesn't mean that when you invite somebody to your table, they have to wear your T-shirt or your hat. It's important to remember that other people, other organizations, bring their own set of skills, their own competencies, to the table. The trick is to take those skills and competencies, blend them with your own, and then get everyone to focus on the task at hand. But you can't do that if you haven't created a structure that encourages and facilitates partnerships and alliances — that's an absolute must, across the board. You've got to come to the table prepared to hear people's thinking, to receive their thoughts, and to work with them as equal partners.

The second lesson we learned from September 11 is that an organization like ours has got to take action. Now often, taking action means that you might be the first one to take a bullet. But it's got to be done, because people need help and they need help today. They don't need a lot of bureaucracy, and they don't need a lot of talk; they need help and they need support.

The third lesson is that people are willing to help in times of need even when it appears that they have nothing to give. I mean, we had a dozen people say, "Look, I just got laid off, but I want to give five dollars to the families of the victims." Corporations whose bottom lines are absolutely terrible found a way to make serious contributions and get their employees involved. And what it showed is that, in times of crisis, people will rise to a challenge. It's one of the greatest attributes we as a country possess.

Finally, I think we have to tip our hats to the caregivers themselves, because they were just absolutely unbelievable. Many of them cried themselves to sleep at night and had to be comforted by their families and friends on a regular basis. But they got up every morning

and helped the people who really needed it.

LM: The only thing I would add to Ralph's list is the fact that we reaffirmed, at an organizational level, the importance of being transparent, of having an open communications program that accounted for every cent of what was coming in and made that information public. We issued regular press releases; we kept the Web site up to date; we had a very aggressive communications program. And we think that at a time of heightened visibility and sensitivity, it was essential for us, and for the philanthropic community in general, to do so.

RD: Let me add one more thing. The fundamental question that has always been asked of the United Way, particularly after what has happened to us over the last ten years, is, "How do you show value? How do you show donors results?" But these days, it's about more than just showing results and having measurable outcomes. It's about how the United Way helps people understand that we can have an impact on neighborhoods and communities, and getting people in communities to realize that they can do something about the issues that affect them. Our job is to bring resources to those folks, to identify the things that adversely impact a community, and to help people understand that they can do something to change the status quo.

Let me give you an example. We were talking this morning about the whole issue of hunger in the United States. It's critical. I mean, if this country can't figure out a strategy whereby major corporations and churches and community-based agencies, working with the residents of communities where hunger is a problem, can't solve the issue for young children, for seniors, for unskilled and unemployed workers, then how can we hope to win the war on terrorism? But we can do it; we can do it. And that's where the United Way wants to focus its efforts, setting an agenda and helping people understand that, with the help of government and private support and their own involvement, we can make that kind of impact in communities, we can help people to change their lives.

FC: I'm afraid we'll have to leave it on that note. Thank you both very much for taking time out of your busy schedules to speak with us this morning. And best of luck as you continue to work to help all those who were affected by 9/11.

RD: Thank you.

LM: Our pleasure.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Ralph Dickerson and Larry Mandell by phone in May 2002.

Other people, other organizations, bring their own set of skills, their own competencies, to the table. The trick is to take those skills and competencies, blend them with your own, and then get everyone to focus on the task at hand.

Maximizing America's Generosity

Within a few short, terrible hours on the morning of September 11, nearly three thousand people perished in the terrorist attack on the World Trade Center and Lower Manhattan was transformed into a too-real version of a science fiction movie set.

Even as tens of thousands of dazed office workers, small business owners, and teachers and schoolchildren streamed out of the devastated area, the city's philanthropic leaders began to consider their response. By midafternoon, executives of the United Way of New York City were in touch with Lorie A. Slutsky, president of the New York Community Trust, the country's largest community foundation, to discuss a joint response. The result of those discussions, the September 11th Fund, was announced later that afternoon and began to make emergency cash-assistance grants on September 17.

LORIE SLUTSKY
PRESIDENT
NEW YORK COMMUNITY TRUST



In July, the Foundation Center's *Philanthropy News Digest* sat down with Slutsky to discuss, among other things, the events of the eleventh, the thinking behind the creation of the September 11th Fund, and the effectiveness of the philanthropic response to what some have called the worst day in the history of New York City.

Lorie A. Slutsky has been president of the New York Community Trust, the country's largest and one of its oldest community foundations, since 1990. In that role, she is responsible for managing the Trust's 1,600 charitable funds, with assets of nearly \$2 billion, and oversees an operation that distributed \$128 million in grants in 2001.

Ms. Slutsky began her career at the Trust in 1977, starting as a grantmaker with responsibility for education, housing, government and urban affairs, and neighborhood revitalization. She was appointed vice president for special projects in 1983 and, in that position, was responsible for new business development, financial operations, government relations, and supervising the Trust's four off-site divisions. Slutsky was named executive vice president of the Trust in 1987, when she assumed responsibility for strategic planning, personnel and budget management, and oversight of all departments.

Slutsky received her B.A. from Colgate University, where she served for nine years as a trustee and chair of the budget committee, and her M.A. from New School University, where she now serves as a trustee. She is a former board chair of the Council on Foundations and vice chair of the Foundation Center, and currently serves on the boards of the United Way of New York City and Hispanics in Philanthropy, the Nonprofit Finance Fund, the Nonprofit Coordinating Committee of New York, the DeWitt Wallace Fund for Memorial Sloan Kettering Cancer Center, and the Lila Acheson Wallace Fund for the Metropolitan Museum of Art.

Foundation Center (FC): Tell us about the New York Community Trust — when was it created, in what areas does it have formal grantmaking programs, what are the size of those programs?

Lorie Slutsky (LS): The New York Community Trust was created in 1923 as one of the earlier community foundations founded in a traditional trust form. Today it has a formal grantmaking program, in effect, in all areas that affect the quality of life in New York City, including the arts, education, housing, community development, the environment, health, people with special needs, and so on. We give about \$125 million annually, and approximately \$40 million of that is discretionary. The balance is spread among funds with living donor advisers, designated funds, and some scholarship funds.

FC: Ten months have passed since the events of September 11. Most people, especially here in New York, have vivid memories of that day. Where were you on the morning of the eleventh?

LS: Sitting at my desk. It was a little before nine — I usually get in early — and I had been working at my desk for some time. Then the phone rang, and it was my brother, who lives and works in New Jersey, calling from his car phone. He was in New Jersey, driving to

work, and he said, "Wow. Something's happening at the World Trade Center." And I said, "What's going on?" And he said, "There's smoke coming out of the World Trade Center, that's all I can tell you." So I said, "Well, let me see what I can find out," and hung up.

My office windows face north, away from the World Trade Center, so I walked to the conference room on the other side of the floor, and sure enough I could see a huge plume of smoke over Lower Manhattan. We don't have a direct view of the towers, but I could see black smoke boiling up from that area. By then, other staff members had gathered in the conference room, and we turned on the TV and just sort of listened in silence as reporters speculated about it being a plane crash, a commuter plane or something. And then, as we were all standing there, we could see the second plane come into view; we could see it. We never saw it hit the south tower, because our view was obstructed as the plane made its final turn. But then we saw this second huge plume of smoke billow up. And it was just devastating. Physically, you couldn't . . . I'm sure it wasn't like being down there and watching the buildings burn, but it just created this eerie feeling, like we were watching a Bruce Willis movie and waiting for the commercial break.

FC: And you knew the moment the second plane hit that it was terrorism?

LS: Yeah. I'm trying to piece together the sequence of events. Before the second plane hit, if my chronology is right, the media had identified the first plane as a commercial jetliner. So we were standing there trying to figure out how a pilot could make such a dreadful mistake. And then as the second plane came into view, there was this terrible feeling in the pit of your stomach, because you just knew. You knew it wasn't going to be an accident the second time, and that it had to be some sort of terrible terrorist act. You just knew. And then, of course, we watched as the networks kept running the video of the planes hitting the towers, first one and then the other.

We have a number of staff members here who have loved ones that work downtown, so we probably went through what every other workplace in the country, and certainly every workplace in New York, went through, which was to do a complete accounting of staff and their friends and loved ones. As I said, we have three staff members who had family downtown that morning — one whose brother worked in the World Trade Center, one whose husband worked across the street from the World Trade Center, and one whose significant other was over at one of the stock exchanges — and so we sat there anxiously, waiting for some word. Then I suspect we did what every other person in America did: We decided we needed to do something. Half my staff ran out to donate blood, while the rest were on the phone calling people to make sure everybody was okay. And by about twelve-thirty or so we had accounted for all the family members of staff who had been downtown. Fortunately for us, they were all okay.

After that, the problem became what to do next. For a while I didn't know what to do. Do you let staff go home? Do you keep them here? I was listening to the TV off and on, and it was clear that it was pretty chaotic outside. I mean, I went out at one point and I could see this stream of dust-covered people moving up Park Avenue, so I didn't want people running around the streets. Eventually, I found a deli that was still open and had

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By about two-thirty or so, it had occurred to me that Americans typically give in circumstances like these, and that they would want to give in this circumstance. And that was something we knew how to do, it was a way we could help.

them deliver sandwiches, and I put the staff in the conference room and kept them there. And then as we got confirmation that various transit systems had reopened, we let people go home.

FC: I've heard from other people that, while you were dealing with the needs and safety of your staff, you had also begun to mobilize the resources of the Trust to respond to the disaster.

LS: No, not true. I can tell you honestly, I did not think about the New York Community Trust's response for several hours. My focus initially was on accounting for everybody, accounting for everyone's family members, and getting my staff home safely or helping them to make alternate arrangements if they couldn't get home.

Eventually, after it was clear that people would be able to get home, I did come back to my office and began to ask myself, "What can we possibly do? What can I do as an individual?" All the staff members who had gone to donate blood came back frustrated because they had been turned away. On top of that, the phones weren't working particularly well, so it wasn't easy to communicate with people outside the building. But I would say that by about two-thirty or so, the thought had occurred to me that Americans typically give in circumstances like these, and that they would want to give in this circumstance. And that was something we knew how to do, it was a way we could help. So I went to talk to my general counsel, who said, "You know, by tomorrow morning we'll have dozens of phone calls from people asking where they can give. In other disasters, community foundations have stepped in, and in some disasters, United Ways have stepped in."

Now, I'm on the board of the United Way of New York City, and they happen to be in this building, so I said, "Gee, I ought to find out what they're thinking about." So I called Ralph [Dickerson, president and chief professional officer, United Way of New York City], and he said, "It's interesting you called. We're talking about what we should do. I'm about to sit down with my senior staff; why don't you come down?" So I went down to the lobby — you have to change elevators to get to their offices — and then went back up to the second floor. And I would say that, by the end of the meeting, we had decided that, one, it would be better to work together, and two, that we were the two largest charities funding services in New York City, with different areas of expertise and different donor bases — they're really corporate and individual workplace givers, and we're really sort of organized philanthropy, foundations, and wealthy individuals; they have a better platform for small transactional gifts, which is not something we do well, and we have a bigger, richer, deeper grant staff — and that all suggested that there might be real synergies in a partnership.

So we agreed to establish a joint fund named the September 11th Fund, and then we headed back to our respective offices to write a press release, which I think we put out later that afternoon or first thing the next morning. Then I spoke to Dot Ridings [president of the Council on Foundations], I spoke to Susan Berresford [president of the Ford Foundation], I spoke to a couple of other key people whom I could reach — it wasn't easy to reach people that afternoon.

Then the next day we began to hammer out the details of the September 11th Fund, looking first at the differential costs of the New York Community Trust versus the United Way. Because people are sensitive to administrative costs in these kinds of situations, and because the costs are different with respect to our two organizations, you end up having to explain the differences. So we finally agreed to simply waive all administrative fees for both the Trust and the United Way. Then we hammered out a broader statement of purpose and agreed that the Fund should have an independent board responsible for making the distribution decisions and a modest-sized staff, which would allow it to really focus on the task at hand. All along, our goal was to harness the expertise of the two parent organizations and to avoid creating a cumbersome new structure that would be slow to get up and running.

FC: From the beginning, the mandate of the September 11th Fund was left deliberately broad and flexible. Why?

LS: Two reasons. You have to understand that I had talked to a number of colleagues over the years, in Columbine, in Florida, in Oklahoma City, and every one of them had told me that no one could possibly imagine all the needs created by a disaster or tragedy the day after the disaster. What seems critical on day one may not be critical on day twenty-five. That's the first reason.

The second just comes out of my experience. I've been in the community foundation business for over twenty years. We have more than sixteen hundred funds at the New York Community Trust, and I have never had trouble administering a broad one. A broad mandate gives you the flexibility to narrow your focus to the degree necessary to accomplish your goals. But a narrow mandate cannot be broadened.

FC: Was it the right decision in hindsight?

LS: Absolutely. I believe it was the decision that created the most consternation for the media, but we were very clear with our donors, both institutional and individual, and we were very clear about our role. And that was to find a way to maximize Americans' generosity to help rebuild the lives and the city that were devastated by the attacks.

FC: Were you or your staff directly involved in assessing the needs of the victims in the weeks after the attacks?

LS: Yes, we had both our staff and the staff of the United Way working almost around the clock, seven days a week, doing emergency assessments. Over the course of, I would say, the first week, we met with close to three hundred agencies. And we reached out; we built on the networks that we use every day to do our work, we built on our relationships with other funders, we built on our relationships with government agencies, and we built on our relationships with grantees to figure out who had the capacity to do what and which things needed to be addressed first. Then we developed a needs assessment document that was quite long and detailed, and during that process it became apparent that one of the first things we'd have to do is find a way to distribute emergency cash assistance.

We and the United Way were the two largest charities funding services in New York City, with different areas of expertise and different donor bases . . . and that suggested that there might be real synergies in a partnership.

A broad mandate gives you the flexibility to narrow your focus to the degree necessary to accomplish your goals. But a narrow mandate cannot be broadened.

So we began a search for an agency, or several agencies, that had the capacity and procedures in place to qualify people very quickly, and we made our first grants on September 17. The needs document was finalized on September 21, and in it we tried to codify all the various needs, as well as the agencies that might be able to help us meet those needs. And the end result of that effort was a set of emergency grant guidelines that we posted to the September 11th Fund Web site, which itself was up within days of the attacks, and then distributed broadly so that everybody knew what we planned to do in the early stages of the relief and recovery effort.

Our goals in creating the needs document were to quickly mobilize the existing expertise of the two parent organizations and to get money moving as quickly as possible to meet critical emergency needs. And then to build a structure that would begin to look at the intermediate and longer-term needs, which is where we are today.

FC: Were there any surprises in the evolution of the needs landscape over time? Are you doing today what, back in September, you thought you'd be doing today?

LS: Yes. We were righter than I could have imagined. I knew that what we do here at the Trust, three hundred and sixty-five days a year, is assess needs and figure out how to craft grants to help meet those needs. That's what we do, and we do it in lots of different areas. So meeting new and emerging needs is a competency we actually possess. Having said that, I don't think we've ever had to operate at quite the pace, or with the kind of second-guessing and scrutiny, that we experienced in the months after September 11. That was certainly different. I had imagined there would be some of that; I did not imagine that there would be as much as there was.

I knew, too, that, yes, people would need cash to put food on the table, and keep a roof over their heads, and make sure their health insurance was paid up. But over time, I also knew we'd really have to look at the mental health and long-term life-rebuilding needs of the people affected by the attacks. We were on the phone with Nancy Anthony [executive director of the Oklahoma City Community Foundation] almost immediately, and she said two things to me: Remember to reserve money for longer-term needs, because there will be many more long-term needs than anybody can imagine; and make sure you set up the fund in a way that people don't think it's a cash-entitlement program, unless that's what you intend to do.

FC: You mentioned that, from the beginning, you expected people to respond to the events of September 11 by giving generously of their time and money. Was there ever a point at which you were surprised by the scale of that giving?

LS: Having been in the charity business for a long time, I am almost never surprised at the depth of Americans' generosity. It's an extraordinary thing, and I see it repeated daily in my work. But you especially see it in response to disasters, and this disaster affected the nation in a way that few others have. So I knew there would be an incredibly generous response from Americans.

That said, the swiftness with which the money was collected did surprise me. And ultimately, I guess I was surprised by the sheer number of people who gave. I mean, the

September 11th Fund attracted contributions from more than two million individuals and hundreds of institutional donors, hundreds of corporate donors, as well as foreign corporations and charities. But if you had asked, “How much money do you think you’re going to raise?” — I would not have said \$500 million.

FC: As the total passed \$300 million, and then \$400 million, did you become concerned that the Fund and the agencies with which it was working might not be able to handle all that money, especially given the expectations of donors and the media?

LS: It’s an interesting question, although I think you’re sort of asking two different questions, at least in my mind.

The answer to the first is, no, I was not concerned. We handle lots of gifts here at the Trust, and they handle lots of gifts at the United Way, and although 9/11 was on a scale above and beyond what we had ever done, we had the right procedures in place from the beginning. Once we got the Web site up and the online donation mechanism set up, we were able to accommodate, with the help and generosity of banks like Citibank and J.P. Morgan Chase, lots of transactions.

Now, did I worry that we would be able to do that in accordance with the expectations of the media or whomever —

FC: — the general public.

LS: Well, I’ll debate the general-public issue with you. But certainly, as far as the media goes. . . . When we created a fund with the purpose of meeting immediate and longer-term needs of victims, their families, and communities that were affected, we clearly created an expectation that there would be a sequencing and pacing of the distribution of those funds. At the same time, we had people walking away from the Family Assistance Center at Pier 94 [on Manhattan’s West Side] with checks from Safe Horizon within five days of September 11. We were the only organization that had people leaving the Family Assistance Center with checks. In fact, Safe Horizon was writing checks on our okay that we’d get them the money, and I’d say they wrote close to forty thousand checks over the several weeks after September 11. We also made a series of grants to agencies to help mobilize mental-health counseling and health care for people who needed it, to provide meals and equipment for recovery workers, and so on.

But if your other goal is to begin to look at the implications of 9/11 — I mean, most people forget that there wasn’t a reasonably final list of the people who had died in this tragedy until December. It was a moving target, and our goal was to both address the immediate needs that presented themselves in as efficient and humane a way as we knew how, and then begin to codify what were going to become intermediate and longer-term needs and design programs that could meet those needs. It was never my expectation that we would spend \$500 million in three days. And I wasn’t disappointed when we didn’t.

I must say I was surprised, however, at the apparent confusion between a concept that I’ll call victim compensation and the goals of charity. They’re different things. Victim compensation

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is about monetizing the value of a lost breadwinner and making sure that a family is provided for, while charity seeks to find ways to provide emergency relief and services that help people begin to move beyond a very painful or traumatic event in their lives to a point where they can start to rebuild their lives. And that takes time. Remember, there are people who need help who haven't even come forward yet.

FC: I'd like to stay on the topic of the media for a minute. We both agree that the media played a couple of different but important roles in the wake of the attacks. For example, they turned what was, initially, an intensely local event into a global event.

LS: They did.

FC: And, as you suggested, they also created a set of expectations as to the nature and pacing of the recovery efforts. Can you think of other ways in which the media influenced the philanthropic response to 9/11?

LS: Well, I think the media played an unbelievable role in mobilizing the world to contribute. If you think back to those early days, every network and cable news outlet ran crawls telling Americans how they could help, where they could donate blood and supplies, where they could give money — it was an extraordinary, extraordinary service, and it really focused the world's attention on the unprecedented nature of this tragedy and helped people find a way to feel it, to understand it, and to be a part of it.

Now, from a media perspective, there are always factors, tangible and intangible, involved in choosing stories to report. And if you look at 9/11 from the intensely individual human-interest angle that the media tends to focus on, then there's this issue of whether the money got to the people it was intended for. But, you know, philanthropy is not something the media spends a lot of time covering. For example, we had reporters working on front-page stories with incredible deadlines who really didn't understand the industry they were covering. So we would get questions like, "You gave your money to Safe Horizon — why aren't you helping victims?" Well, that's what Safe Horizon was doing on our behalf — they were writing the checks. It just sort of made it hard to explain the story to people who didn't have a lot of time to learn it.

Now I do think we all feel a certain amount of impatience when we see our fellow Americans in pain, or when our basic security is threatened in a way that most people of my generation, at least, have not experienced. And our immediate reaction is to want to help. In that context, immediate cash assistance for victims is critical, because you're talking about people whose lives have been totally disrupted. But in the charity business, you understand that rebuilding lives and rebuilding communities requires more than cash. Sometimes it requires building consensus and forging a common view of where you're going and what the issues are. Those things take time. Some of the best solutions and remedies simply aren't apparent in week one, or week two, or week three. And I just think the media, as well as many of the government regulatory agencies, in their desire to do their job, pushed a bit too hard to make sure the money was spent quickly rather than appropriately.

FC: That said, did any good come out of the criticism from certain segments of the media? In other words, did media criticism improve the distribution process?

LS: I can't speak to what it did for other organizations. It didn't change our effort, and I don't think the criticism was accurate, so I don't think it was particularly helpful.

FC: Let's talk about coordination. In October, New York State Attorney General Eliot Spitzer called for the creation of a centralized database to help coordinate the relief efforts of various agencies. What was your reaction to Spitzer's proposal?

LS: I thought it was helpful. When it comes to 9/11, the word "unprecedented" has real meaning, and in my mind it meant, among other things, that we could not have been prepared for what we could never have imagined. But I also think there was much more coordination among the charities providing services in the days after September 11 than most people realize. I say that because many of those agencies met here daily, and then weekly, to review who was going into whose system and how they were going to try and coordinate. Lots of goodwill and hard work went into making the process as good as we could make it in the short time frame in which we had to operate.

Having said that, let me add that the problem with coordinating and sanitizing data is that it's antithetical to speed. And speed, for many, was the critical issue. But I think the attorney general had a legitimate concern during that period, in that it was going to be harder for those who qualified for and needed assistance to get assistance unless we created a more centralized database. And the attorney general pushed constructively to get that done, and it's being done, and it will help those who continue to need help to get help.

FC: And that coordination is now being handled by something called the 9-11 United Services Group?

LS: Yes, correct.

FC: Is the New York Community Trust or the September 11th Fund working directly with the United Services Group?

LS: I think we're their largest funder. We work very closely with them through the September 11th Fund staff itself.

FC: And are those efforts limited to the sharing of data?

LS: Josh Gotbaum [president and CEO of the September 11th Fund] could certainly give you the details, but I'm under the impression that they've designed a central intake form that allows the various agencies to share data and avoid duplication and abuse. It also provides a measure of portability and seamlessness to clients who, for whatever reason, require services from multiple agencies.

FC: A number of people have suggested that, in creating the United Services Group, the philanthropic community in New York has, in effect, created a unified service-delivery infrastructure that can be used in the event of future disasters here. Do you see it filling that role?

When it comes to 9/11, the word "unprecedented" has real meaning. . . . We could not have been prepared for what we could never have imagined. But there was much more coordination among the charities providing services than most people realize.

With a disaster of that magnitude there are going to be people who don't hear or don't understand your message. There's much we can learn about how you have to keep educating and reaching out to people — not just for reasons of accountability, but so that those who need help can get it.

LS: I don't know whether the United Services Group will continue forever, but I do think that the system probably needs to be preserved, along with the lessons we've learned about how to mobilize quickly in the face of a disaster. Now, in this disaster, the size of the victim population, which includes not only the direct victims — those who were seriously injured or who had family members who died — but displaced workers and residents, numbers forty or fifty thousand. And no matter how well you communicate, no matter how clearly you think you've communicated, with a disaster of that magnitude there are going to be people who don't hear or don't understand your message. So I think there's much we can learn about how you have to keep educating and reaching out to people — not just for reasons of accountability, but so that those who need help can get it.

FC: As the head of the largest private funder focused exclusively on New York City, to what degree, in your view, are the city's current economic difficulties attributable to 9/11?

LS: This isn't my area of expertise, but my own personal view is that the New York City economy had significant challenges confronting it before 9/11. Certainly, 9/11 didn't help, but I've looked at data that suggests that there are cities more heavily dependent on tourism that are suffering higher unemployment rates than New York post-9/11. My guess is that the data eventually will show us which economic problems predated 9/11 and which ones were exacerbated by the attacks, but I'm not sufficiently well-versed in the data to give you an educated opinion about that.

FC: Did 9/11 create needs that have yet to be addressed?

LS: Oh, yeah. And I think that's what we're doing. We believe, for example, that there's an enormous demand for job training and re-training. We now know, based on surveys of our database and USG database, that a significantly large proportion of people who were rendered unemployed on September 11 remain unemployed or underemployed. We know there are many people who have gone back to work, particularly in Chinatown garment factories, who today are earning less than seventy percent of what they were earning before September 11, mainly because of reduced hours. We know there's an enormous demand for mental-health services of the kind that have been provided by Project Liberty and a few others on an emergency basis. We also know that post-traumatic stress frequently emerges well after the fact, and that people will continue to need mental-health services for years to come. We know that schoolchildren need to get back to being kids. We know they need to have some sort of order restored to their lives, to be reassured that school is school, that it's a place to learn and have fun, not a place to be terrorized. We see enormous needs there. And we know that we have to spend more time and energy and money on helping people get help. It's not enough to simply say, "I'm going to pay for this, here it is." You've got to get to the hard-to-reach populations, and you've got to make people understand that if they need help, it's available and here's how to get it.

FC: What, if anything, does 9/11 portend for the future of New York City? Does it signal, as some have suggested, the beginning of a long slide for New York as the dominant world financial and cultural capital?

LS: I believe that this city is more resilient than almost any other I have ever studied. And the kind of response that New Yorkers mustered in the face of this tragedy, their ability to plow ahead in the face of adversity, is what gives me great hope for the future. Will there be bumps in the road? Certainly. Would there have been bumps in the road anyway? I believe there would have. This is a magnificent city, but it's not without problems, some of them serious and, at times, seemingly intractable. But many of us have devoted our lives to addressing them, and I don't think anyone's ready to throw in the towel because of 9/11.

FC: A final question: What are the three most important lessons philanthropy learned as a result of 9/11?

LS: Well, as someone who works in philanthropy, I'll tell you the lessons I learned. The first is the importance of having a charitable sector that knows the neighborhoods, knows the various populations and how to reach them, and knows how to work with foundations and government agencies to address the needs of those neighborhoods and populations. That kind of knowledge, that layer of expertise, is critical to any effective philanthropic response. And I am more convinced than ever that we have to work harder to maintain and strengthen those relationships for the future.

The second lesson has to do with understanding the value you think you're contributing to an endeavor, whatever it might be, and then make sure you stick to your guns, even in the face of criticism and frustration on the part of others. Given the loss and devastation of so many lives in this tragedy, anger and pain were an inevitable part of the process. But we remain convinced that the value we had to contribute was to help Americans find a sensible place for their generosity, and then to translate that generosity into a thoughtful program that provided immediate assistance to the victims and then thoughtfully worked its way through how to coordinate with other agencies to ensure that as many people who needed help were helped.

And the third lesson, for me, involves the confounding question of how we help people understand the difference between victim compensation and charity. Again, I believe they are fundamentally different, and some of the criticism and perhaps some of the frustration, though clearly felt, was misplaced because of a tendency to confuse the two. That's not to suggest that the people who lost loved ones in this tragedy did not deserve to be compensated under the rubric of victim compensation. It's not what charity does, however. Charity tries to help those who most need help but can't get it other places and, through a combination of emergency cash assistance, financial counseling, and other services, helps those people move from being victims to rebuilding their lives.

FC: And on that note, we'll have to leave it. Thank you, Lorie, for taking time out of your busy schedule to speak with us this morning.

LS: Sure. Thank you.

The value we had to contribute was to help Americans find a sensible place for their generosity, and then to translate that generosity into a thoughtful program. . . .

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Lorie Slutsky in early July 2002.

Assessing Immediate and Longer-Term Needs

In a farsighted and collaborative act, the September 11th Fund was established by the New York Community Trust and the United Way of New York City on the afternoon of September 11 to meet both the immediate and long-term needs of the victims, families, and communities affected by the terrorist attacks on the World Trade Center and the Pentagon.

In the months that followed, the Fund raised some \$500 million for victims of the attacks — and became a lightning rod for media criticism of the relief and recovery efforts. In January, having received contributions from two million people in all fifty states, three U.S. protectorates, and one hundred and fifty countries, the Fund announced that it was no longer accepting donations, and in June, having already distributed some \$300 million in cash assistance and reimbursement, grants and loans, and other services, the Fund announced a \$200 million Ongoing Recovery Program to meet current and future needs arising from the attacks.

JOSHUA GOTBAUM
EXECUTIVE DIRECTOR AND CHIEF EXECUTIVE OFFICER
SEPTEMBER 11TH FUND



In May, the Foundation Center's *Philanthropy News Digest* sat down with September 11th Fund executive director and CEO Joshua Gotbaum to talk about the genesis of the Fund, its activities in the wake of the attacks as well as going forward, and his reaction to criticism of the Fund's mandate and policies.

Josh Gotbaum has been executive director and chief executive officer of the September 11th Fund since October 15, 2001. In that role, he is responsible for creating and managing the organization and staff of the Fund, as well as developing the grant programs by which it will distribute more than \$400 million in contributions.

Gotbaum has more than twenty years of financial and management experience in both business and government. He served as executive associate director and controller of the U.S. Office of Management and Budget from June 1997 to January 2001, and, prior to joining OMB, was assistant secretary of treasury for economic policy, serving then-Secretary of the Treasury Robert Rubin and then-Deputy Secretary Laurence Summers, from 1996–1997. Gotbaum also served in the newly created position of assistant secretary of defense for economic security from 1994–1995.

Prior to that, Gotbaum was a partner and managing director of the New York investment bank of Lazard Freres & Co. He was with the firm, both in New York and London, from 1981–1994, providing advice in mergers and acquisitions, corporate finance, bankruptcies, and restructuring.

Mr. Gotbaum holds degrees from the John F. Kennedy School of Government at Harvard University, Harvard Law School, and Stanford University.

Foundation Center (FC): Josh, where were you on the morning of September 11?

Joshua Gotbaum (JG): Actually, I was gathering my children at my home in Washington, D.C., to drive up to New York to campaign for my stepmother, Betsy Gotbaum, who was running for the office of Public Advocate.

FC: The eleventh was primary day in the city. . . .

JG: The eleventh was primary day. So, instead of driving up, we watched the events unfold on television.

FC: Did you make it to the city that day?

JG: No. As you may recall, all the bridges and tunnels leading into and out of the city were closed within hours of the attacks.

FC: The September 11th Fund was created on the afternoon of the eleventh by senior staff at the New York Community Trust and the United Way of New York City. The speed with which those organizations moved to respond to events was impressive, given the state that most people were in that day. But the executives of those two organizations also came

up with a broad, flexible mandate for the Fund that, in hindsight, is fairly remarkable. Can you tell us what that mandate is and how it was arrived at?

JG: The architecture of the September 11th Fund is one of the more extraordinary creations to come out of the tragedy, and I give credit entirely to Lorie Slutsky of the New York Community Trust and Ralph Dickerson of the United Way. They recognized, on the afternoon of the eleventh, that no one could predict how many victims there would be, where they would be, or what their needs would be. All they knew was that the range of needs would be broad, and that in order to respond to those needs, they would need flexibility. And so they purposely designed an organization — initially comprised of their own staffs — with a very flexible mandate.

Another inspiration was the notion that this would be a grantmaking organization, and that it would work through other agencies to deliver services. That meant, first, that they could fund organizations that already had the competence and the infrastructure to help the victims, organizations like Safe Horizon, Legal Aid, and others. Second, it meant that they did not have to wait to build up the Fund's staff or management in order to provide help. In fact, they made their first grants within days of the eleventh.

The last piece of the original design that I also think was inspired is the fact that this was a true collaboration. On September 11, the New York Community Trust and the United Way of New York City created a joint venture, the ultimate act of coordination, and decided to give it a separate management and board. It was extraordinarily farsighted.

FC: When were you asked to come on board? And what were you doing prior to that?

JG: I had left Wall Street to work in the Clinton administration, where I held a variety of positions in the Defense Department, the Treasury Department, and in the White House Budget Office, which involved a combination of management and finance. I was taking a sabbatical and trying to decide where I would go next when, in early October, I was approached about this job. I decided it was something so important that I deferred other opportunities I had been considering.

FC: How did the Fund go about assessing the needs of the victims' families, the injured, displaced workers, residents, and the small business and nonprofit community in the weeks following September 11? Was there a formal process in place?

JG: Even before there was a September 11th Fund board and management, the staffs of the New York Community Trust and the United Way of New York City held meetings with some three hundred and fifty organizations — service providers and funders, government agencies, and nonprofits. The reason they did so was to develop the best view possible of where help was needed. They responded, within days thereafter, by making a range of grants to meet the emergency needs they saw.

From the first, the staffs of those two organizations, working through the Fund, provided grants to underwrite cash assistance, to cover rent checks and tuition payments, to cover

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From the first, the staffs of the New York Community Trust and the United Way of New York City, working through the Fund, provided grants to underwrite cash assistance, to cover rent checks and tuition payments, to cover health care expenses, and so forth.

health care expenses, and so forth. The initial staff of the Fund recognized that people would need counseling and made grants to provide these services. Funds were allocated for job training and job placement, as well as the critically important work of the rescue effort and the nonprofits that were participating in that effort. Funding was provided to assist small businesses recover from damage and loss so they could still serve their communities, and especially important, though less well recognized, grants were made to ensure that people knew that help was available and how to get it.

One of the earliest grants was to Safe Horizon, to establish what became the September 11th hotline, a twenty-four-hour-a-day, multilingual service, so that people could find out what help was available. Funding was also provided to Seedco and Safe Horizon to create a reference guide to the range of services that were available, and funding was provided to an outreach program to get the word out to those who were affected but didn't speak English. Even in hindsight, I think it was a marvel.

What we did later, after the board was created and management was installed, was to present to the board an overview of the people who had been affected by the events of the eleventh and the range of possible needs and then said to them, "You're going to have to decide what the priorities are." There were discussions, in great detail, at the board level about that. And what the board decided, after much discussion, is that they would take into account the fact that the Red Cross and other charities were being very generous to some of those affected by September 11 — families where someone had died or had been seriously injured, for example — but that there was not the same level of recognition for individuals who'd lost their jobs as a result of the attacks. As a result, one of the earliest decisions of the board was the decision to create a cash-assistance program that included a broad range of beneficiaries. It included the widows of firefighters, people who had lost their jobs as a result of the attacks, people who were displaced from their homes, as well as dependents of these individuals.

We then went back, in area after area, and asked the board, "How far can we go to provide support? Where and how do we take into account the generosity of our donors?" For example, in the small-business area there is a series of government programs that provide support for small businesses affected by the attacks. But some businessmen were reluctant to enter those programs because they would have been required, in effect, to provide a personal lien on their homes in order to get assistance. So we funded a set of programs that didn't require that. In the case of job training, the state government in New Jersey and the City of New York, under the Bloomberg administration, are offering quite generous job-training voucher programs. But we saw a need to augment their programs by funding job assessment; by funding public-education campaigns to let people know that these services are available; and by funding income supplements so that people could afford to use the training vouchers.

That's the process the September 11th Fund board has followed in area after area. In each case, the board has had to make judgments about what others are doing and the extent to which the Fund should focus on those areas versus focusing on areas that other organizations don't or can't address.

FC: You mentioned the importance of coordination. How did you and your colleagues keep abreast of what others were doing in those first few weeks, and how did the process of coordinating your activities with relief agencies and other funders evolve over time?

JG: This is one of the unsung stories of September 11. As I mentioned, the staffs of the New York Community Trust and the United Way met with some three hundred and fifty different organizations early on to discuss what help was needed and who was providing it. At the same time, service deliverers recognized that they needed to coordinate their activities. At the Family Assistance Center at Pier 94 [on the West Side of Manhattan], Safe Horizon, the Salvation Army, and the Red Cross met and worked out procedures so that a person who came in could go from one agency to the other without having to reinvent the wheel. It was a challenging task, because most of these organizations had a history of providing help on their own. But they worked hard to change.

There were other issues. For example, the Red Cross hotline developed a script that let people know what services were available from organizations other than the Red Cross. And the September 11th hotline, operated by Safe Horizon, did the same. That required a different kind of cooperation.

One of the earliest things we did at the September 11th Fund was to encourage Eliot Spitzer, the attorney general of New York State, in his efforts to get the charities to work together to create a single database of recipient information. And the reason for that was because there was no reliable way of reaching the people affected by September 11. So with our support and Eliot Spitzer's support, thirteen of the leading charities formed the 9/11 United Services Group. And one of the first tasks they took on was the creation of a common database. So now, information about people who have been helped by Safe Horizon, by the Salvation Army, by the Red Cross can be shared, and organizations involved in the recovery effort can build on that and inform their clients of the services that are available elsewhere. And that's important.

Remember, each of these organizations has a long, proud history of serving people in its own way. For example, Safe Horizon, when they interviewed people applying for assistance, took down a Social Security number. The Red Cross, as is its practice, did not. So when they got together, they realized they were not asking the same questions and that they had to change their interview protocols in order to provide common service. And they did that. It wasn't easy, but it was done.

On the funding side, we have had a continuing discussion, with the Red Cross and others, to make sure that we leverage our resources and meet as many needs as possible. We've had the same discussions with many of the government agencies, including the Department of Employment of the City of New York, with the Governor's Office in New Jersey, with FEMA [the Federal Emergency Management Agency], with the New York State Office of Mental Health. And that, in my view, is an integral part of providing help, because if we work together we can help many more people and address many more needs.

In area after area, the board has had to make judgments about what others are doing and the extent to which the Fund should focus on those areas versus focusing on areas that other organizations don't or can't address.

We've already made grants that anticipate needs three to five years out. We have consciously planned for the fact that needs will be substantial in the long term.

But in the final analysis, recovery from September 11 has been and will continue to be, a challenging task; no one expects otherwise.

FC: The outpouring of donations and contributions to the Red Cross, to the September 11th Fund, to the Salvation Army, and to other relief funds was one of the most significant aspects of the 9/11 story. How much has the Fund received in contributions to date?

JG: The Fund has received almost \$500 million dollars in contributions.

FC: What percentage of the total was contributed by foundations and corporations?

JG: Approximately two-thirds. But we have — thanks to the United Way and the telethon provided by the networks [America: A Tribute to Heroes, which was aired nationally by ABC, CBS, and NBC on September 21] — almost \$200 million in individual contributions.

FC: How much did the telethon raise?

JG: A little more than \$125 million.

FC: And how much of the \$500 million have you distributed?

JG: As of June 30, the Fund had distributed \$301 million for cash assistance and services to more than one hundred thousand people, including thirty-eight hundred families and other financial dependents who lost a loved one as well as those who were severely injured; thirty-five thousand dislocated workers and their families; and six thousand individuals and families displaced from their homes. Over the last ten months, the Fund has helped more than thirty thousand people get counseling, legal services, and/or job referrals. The Fund also contributed to the rescue efforts at the World Trade Center, Pentagon, and in Pennsylvania; paid for the first resource guide and a national hotline for those affected; and made possible loans, grants, and other forms of assistance to more than seven hundred small businesses and nonprofits in Lower Manhattan.

FC: Have you established a timeframe for distributing the balance of the money you've raised?

JG: The Fund was intended to meet both the immediate and long-term needs of the victims, their families, and the affected communities, and we've already made grants that anticipate needs three to five years out. We have consciously planned for the fact that needs will be substantial in the long term. One of the lessons we learned from Oklahoma City is that many people affected by the events of September 11 won't even recognize that they need help for months and, in some cases, years. Today, seven years after the Oklahoma City bombing, some twenty percent of the families that have received counseling are still receiving some form of assistance. So we know that there are going to be ongoing needs, and that the September 11th Fund has to be able to help meet those needs, working hand-in-hand with government and other charities, for as long as funds last.

FC: Specific language mentioning long-term needs was included in the mission of the September 11th Fund from day one, was it not?

JG: Yes.

FC: And yet many people in the media and the general public seemed to miss that fact. They also seemed to be confused about whether the administrative costs of the Fund were and are being paid for by contributions to the Fund. For the record, can you describe your policy in that regard?

JG: This is another one of the judgments made by the New York Community Trust and the United Way on the first day that, in hindsight, has proved to be very wise. From the first day, the United Way and the New York Community Trust said that contributions to the September 11th Fund would not pay the administrative costs of the Fund. Instead, they decided to raise those costs separately. And so the administrative costs of the Fund have been either donated by the New York Community Trust and the United Way, or contributed — directly and specifically — by other foundations, including the Ford Foundation, the Charles Stewart Mott Foundation, and the Denver Community Foundation. Probably because I did not come from the world of philanthropy, I didn't realize, when I first got here, just how smart a decision that was. But I understand it now.

FC: The September 11th Fund was criticized in October by Fox News personality Bill O'Reilly on this score, as well as for allegedly commingling contributions to the September 11th Telethon Fund with contributions to the Fund itself. Given that your policies in both regards were quite clearly stated on your Web site, why do you think O'Reilly had such a hard time getting his facts straight?

JG: Mr. O'Reilly's primary interest is entertainment, not the facts.

FC: You were able to mollify him on the topic of administrative costs when you appeared on his show in October. But a week or so later, he criticized the Fund again for allowing grantees to cover a portion of their administrative expenses with grants they'd received from the Fund. Did it ever occur to you or the board of the Fund that grants made to organizations involved in the relief and recovery effort should be used exclusively for relief and recovery?

JG: Contributions to the September 11th Fund *are* used exclusively for relief and recovery. The issue here is whether or not relief and recovery should be provided only by volunteers, using donated space and donated equipment, and only take the form of cash assistance. And we think the answer to that is a resounding no. The reason is quite simple. First of all, it's very clear from Oklahoma City and elsewhere that those people affected by the events of September 11 are going to need more than cash. They're going to need someone to talk to. They're going to need help finding new jobs. Their kids' teachers are going to need to learn how to talk to kids who lost a parent or relative. Cash is not the only answer.

The other fact is that delivering services cannot just be a volunteer activity. If we had waited until there were organizations staffed entirely by volunteers, staffed in facilities that were only donated, using only computers and software that were donated, the victims of

The administrative costs of the Fund have been either donated by the New York Community Trust and the United Way, or contributed. . . . Because I did not come from the world of philanthropy, I didn't realize just how smart a decision that was. But I understand it now.

It was much easier to find one person who was dissatisfied than to report on a very complex effort involving tens of thousand of people. The genuine anguish, frustration, and confusion of victims was taken as proof of incompetence on the part of the disaster-relief charities

September 11 would still be waiting for help. Instead, we've been able to help some one hundred thousand people begin to rebuild their lives.

FC: On balance, do you think the media, both print and broadcast, played a constructive role in the weeks after September 11?

JG: I think the media played an essential role after the attacks, informing the public and helping us come together. The incredible generosity that permitted the broadest charitable effort in history was surely the result of the fact that the entire world was watching.

However, the coverage of *how* charities responded and how people were helped was abysmal. Many of those covering the effort had no experience either with disaster-relief agencies or social-service agencies and, faced with the demands of a ninety-second spot and a few hours to prepare, did not take the time to learn. They were far more interested in accusations of scandal than reporting the facts. It was much easier to find one person who was dissatisfied than to report on a very complex effort involving tens of thousand of people. Often, the genuine anguish, frustration, and confusion of victims was taken as proof of incompetence on the part of the disaster-relief charities.

Many charities provided extraordinary support to tens of thousands in a difficult situation, yet the public almost never saw the checks being written at the Family Assistance Center, the lawyers helping people get custody orders and access to their bank accounts. They didn't see the job fairs, the group-counseling sessions, or the hotlines that night and day made it possible for tens of thousands to find help. Unfortunately, charities helping people rebuild their lives didn't make the evening news or the front page very often; in fact, it was rarely reported at all.

FC: You've already described some of the services that the Fund underwrote in the weeks and months following September 11. What kinds of things are you underwriting now?

JG: What we hope we can do now, in a coordinated effort with other funders and with government agencies, is put in place programs to continue meeting the needs we have identified as and when they arise. We're going to keep helping those who need it, but in a better way. We're going to meet needs that others don't, and give people choices where and how to get help, and make it as easy as possible for them to get it. We're making grants that provide additional benefits such as health insurance and skills training, allowing people to choose how and with whom they wish to interact and providing one-on-one assistance to help inform, guide, and connect people with available services. More than one hundred thousand families have already received checks. Tens of thousands will get free mental-health counseling. Legal help is being provided for thousands. Job help for more than seventeen thousand. An estimated four thousand small businesses and nonprofits will receive grants and loans, and approximately twenty-five thousand school children will receive counselors, after-school programs, and art therapy.

All this so that six months from now, when the widow in Morristown, New Jersey, realizes that she should reach out for help to cope with her grief, she'll be able to have someone

who can tell her where to get help, and the September 11th Fund and others can pay the cost of that help. Or, so that the immigrant in Chinatown who doesn't speak English and has lost his job because his neighborhood was essentially sealed off for weeks after September 11 will know that job-training assistance is available. Or, so that the woman I met whose firefighter son died on September 11 and who was totally dependent on him will have someone who can say to her, "What do you need? We'll help you get it."

FC: Is the September 11th Fund still accepting donations?

JG: No, we are no longer accepting donations. Another of the farsighted acts of the New York Community Trust and the United Way was to say, in January, "We have enough to meet the needs of the victims, the families, and the communities affected by September 11." There are many needs out there that were not caused by the eleventh, and so in January those two organizations asked people across the country to direct their generosity to help meet other needs.

FC: It's clear from your comments that you think the philanthropic sector responded effectively in the aftermath of September 11. Would that response have been as effective if the September 11th Fund had not been created on the afternoon of the eleventh?

JG: I would hope that because the September 11th Fund was created so quickly, was given a broad mandate and interpreted that mandate flexibly, and raised substantial resources, that we did make a difference. In addition, the expertise and experience of the grantmaking staffs at both founding organizations was invaluable to getting help out quickly. But I think it's extremely important to recognize that the performance of the hundreds of organizations that reached out to help people on September 11 and in the days that followed was itself extraordinary. In my view, one of the most overlooked stories to come out of September 11 is the fact that dozens of organizations that did not have a history of working together reached out and worked together to help tens of thousands of people who were affected by the events of that day. And while nothing in this world is perfect, what they managed to accomplish in that regard was, in my view, also heroic.

FC: Is that kind of sectorwide coordination sustainable?

JG: Absolutely. The creation of the 9/11 United Services Group was a statement by the charities that they needed not only to coordinate, but to coordinate in an organized fashion. But the 9/11 United Services Group is far from the only example of coordination. There are ongoing discussions across many organizations every day and every week to figure out how we can work together on an ongoing basis.

FC: Not just on 9/11-related issues...?

JG: We hope that's one of the outcomes.

FC: Given the same set of circumstances, what, if anything, would you have done differently in the aftermath of September 11?

One of the most overlooked stories to come out of September 11 is the fact that dozens of organizations that did not have a history of working together reached out and worked together to help tens of thousands of people who were affected by the events of that day.

Communications in a crisis are vital and difficult. Charities need to reach those who are affected and let their donors know what they've done. Neither the press nor the public understands what charities do and everyone needs to work a lot harder to explain it.

JG: The one thing I would have done earlier is to raise the issue of finding the proper balance between meeting the immediate needs as opposed to the longer-term needs of those who were affected. Obviously, the September 11th Fund has chosen to plan for what we know will be substantial needs in the future. And thanks to the generosity of the federal government and government generally, as well as others, there will be adequate resources to meet those needs. But if the federal government had not chosen to be so generous, then we might have made a different decision as to how we used our resources to meet immediate versus long-term needs.

FC: Are there other lessons you've learned, either personally or in terms of the institutional response to September 11, that you'd care to share with us?

JG: Several come to mind. First, there is an extraordinary benefit, in a large disaster, if government and charities can share information. I would hope that FEMA and the Red Cross, who represent the largest pool of resources and are traditionally first on the spot, could agree now on both automated forms and the privacy agreements that would be necessary to share them. Second, that the levels of service provided by social-service agencies vary tremendously and there are few mechanisms currently in place to improve that service. Last is the communications point: communications in a crisis are vital and difficult. Charities need to reach those who are affected and let their donors know what they've done. Neither the press nor the public understands what charities do, and everyone needs to work a lot harder to explain it.

FC: Finally, if people want to learn more about what the Fund is or will be doing over the coming months, what should they do?

JG: Our redesigned Web site is full of information about our grant programs and how those affected by September 11th can receive assistance. The site includes new information on the Fund and its grantees; access to services such as counseling and job training; complete lists of press releases and donors; and links to government agencies and other charities and agencies around the U.S. involved in the recovery effort. It also has letters from surviving families and photos of those involved in the recovery effort. New information is added continuously to provide those affected, our donors, grantees, and the public with the most current and accurate information available.

FC: Well, I'm afraid we have to leave it there. Thanks very much, Josh, for your time today, and best of luck as you continue to grapple with the longer-term needs created by the terrible events of September 11.

JG: Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Joshua Gotbaum in May 2002 and followed up with him by e-mail in early July.

Cash Assistance for Immediate Needs

As the nation's leading provider of victim assistance, advocacy, and violence prevention services, New York City-based Safe Horizon responded quickly and comprehensively to the September 11 terrorist attack on the World Trade Center. From twenty-four years of experience working with victims of violent crime, officials at Safe Horizon knew that three critical needs would emerge: emergency assistance, information regarding where individuals could receive help, and psychological support and counseling. Sensitive to the pressing financial needs of families who lost loved ones and people who lost their jobs, Safe Horizon became the first organization to issue emergency-relief checks on a same-day basis. As of July 23, the organization had issued over 44,000 emergency-relief checks totaling \$100 million.

In the days following the attack, Safe Horizon staff was deployed to five emergency family-assistance centers citywide.

GORDON J. CAMPBELL
CHIEF EXECUTIVE OFFICER
SAFE HORIZON



The first tower imploded. And so we walked west to Greenwich Street, and we saw the second tower implode. Mayor Giuliani and his entourage were about fifty feet from us, and he and his top team had nowhere to go.

Through the centers, nine community offices, and a twenty-four-hour telephone hotline, the organization offered crisis-support counseling, help in coping with trauma, and referrals to resources ranging from housing assistance to mental-health care. Safe Horizon also provided services to businesses, where many employees struggled to cope with loss, grief, and the prospect of re-entering downtown buildings, and in schools, helping children to understand and overcome their fears and training teachers how to work with traumatized kids over time.

In June, the Foundation Center's *Philanthropy News Digest* sat down with Safe Horizon CEO Gordon J. Campbell to talk about the services the organization has been providing to victims of the September 11 attack.

Prior to becoming Safe Horizon's CEO, Campbell served as the commissioner of the New York City Department of Homeless Services, which provides emergency housing on any given night to 7,200 single men and women and 4,500 families. He also served as the chief of staff for the city's former first deputy mayor, Peter J. Powers, where he developed and executed mayoral policy initiatives covering a wide range of areas, including housing, human services, transportation, and criminal justice.

In his more than ten years of service in New York City government, Campbell has been a deputy director in the mayor's Office of Operations and the director of the city's Division of AIDS Services, which he created, organized, and staffed. Prior to his work in New York, Campbell worked in the Seattle City Attorney's Office as a prosecutor, labor attorney, and chief administrator.

Campbell received his Juris Doctor from the University of Washington Law School and his Masters in Public Administration from the John F. Kennedy School of Government at Harvard University. He currently serves as an adjunct assistant professor of public administration at New York University's Robert F. Wagner Graduate School of Public Service.

Foundation Center (FC): Good morning, Gordon. Tell us about Safe Horizon and its mission.

Gordon Campbell (GC): Safe Horizon was founded in 1978 and is the nation's leading victim assistance and advocacy organization. Our mission statement is very concise, but it really captures what we do: to provide support, prevent violence, and promote justice for victims of crime and abuse, their families, and their communities. Safe Horizon is New York City-based, and prior to September 11 we were providing services to over two hundred and fifty thousand clients, at seventy-five programs in all five boroughs. We operate over a hundred different locations — we're in all the courts, we're in twenty-five police precincts, we're in forty schools, and we have nine community offices. So we're really a large organization, but we're also a grassroots organization — really tied to the different neighborhoods and communities throughout the city.

FC: What were you doing on the morning of September 11?

GC: I was having breakfast and meeting with our board chair, Susan Solomon, at a small coffee shop on the Upper East Side in Manhattan, when someone came in and told us that a plane had hit one of the World Trade Center towers. Susan and I just looked at each other and said, “We need to go.” We got on the subway, and as we started heading downtown, we could tell from the expressions of the people who were getting on the train that it was a very, very serious incident. Our subway stop is right at City Hall, and our headquarters are located about five or six blocks from Ground Zero. When we got there, most of the staff was outside. So I started talking to them, and they said there were a couple of senior management folks upstairs. I went upstairs, not only to figure out what we should do in terms of that particular location, but to figure out what we should do in all of our various locations.

About ten minutes later, there was an announcement over the loudspeaker telling everyone to evacuate the building immediately. We looked out the window: people were running down the streets. This is when the first tower imploded. And so we walked west to Greenwich Street, which was essentially the same distance from Ground Zero, and we saw the second tower implode. At that point, Mayor Giuliani and his entourage literally were about fifty feet from us, and he and his top team had nowhere to go.

We then walked up Eighth Avenue, which was just jammed with people — cars were parked in the middle of the street with their doors open; people were standing around listening to radios. If you went into restaurants, people would say, “Do you want water? Do you want to sit down? Do you want to use the rest room?” It can be such a large, impersonal city, but on that morning there was a real outpouring of support. I live just across the street from the American Red Cross, and the lines of people wanting to volunteer and donate blood were wrapping around the corner.

The next day, we regrouped at our conference center in downtown Brooklyn, and our first order of business was to make sure that everyone was okay. Then we said, “We need to get involved. This is who we are.” In many ways, the victims of the World Trade Center attack shared many similarities with the victims we had been serving over the past twenty-four years. So the next day, we started training our staff, as well as others, in trauma support and the like.

FC: Safe Horizon was one of the first organizations to receive a grant from the September 11th Fund. How did that particular grant come about?

GC: For many, many years, we had the responsibility of helping people receive compensation from the New York State Crime Victims Board. A couple of days after the attack, representatives from Governor Pataki’s office reached out to us and said, “We would like you, Safe Horizon, to be our agent, our representative in New York City.” So we literally were one of the first organizations, along with the mayor and other city offices, as well as the Red Cross and Salvation Army, at the Family Assistance Center at Pier 94. And because people were presenting themselves with so many immediate needs — paying bills or rent or whatever — we thought that rather than having people complete an application and telling them that we’d put the check in the mail, wouldn’t it be great if people could walk away with the check in hand.

We said, “We need to get involved. This is who we are.” In many ways, the victims of the attack shared similarities with the victims we had been serving over the past twenty-four years.

It wasn't about money per se. We've found in our work over the years that you've got to really address people's immediate needs . . . before they'll really talk to you about what they're experiencing and feeling.

With the funding from the Crime Victims Board, however, we could only help those individuals who had lost a loved one, who were physically injured, and were in a traditional relationship. But we were dealing with displaced workers and residents, same-sex couples, and so on, and we couldn't really help these folks from a financial perspective. So I reached out to key folks at the United Way of New York City and said this is a perfect opportunity to bring together public dollars with private philanthropic dollars. And within twenty-four hours, they got back to me and said that we could proceed. We were able to proceed, in effect, with a handshake over the phone.

So that allowed us to help all the victims that presented themselves. The important point here is that it wasn't about money per se. What we've found in our work over the years is that you've got to really address people's immediate needs — financial issues, housing, navigating the welfare system, whatever they might be — before they'll really talk to you about what they're experiencing and feeling. So once we could actually help someone and they could walk away with a check for a \$1,000 or \$1,200, that's when they typically opened up and we could begin to provide them with some real strategies for how to cope going forward.

FC: To date, your organization has received \$9.25 million from the September 11th Fund. Have you received funds from other agencies or foundations?

GC: We are the largest recipient of funds from the September 11th Fund, and we're also the largest recipient of funds from the Robin Hood Foundation. What's so important about Safe Horizon is that we already had relationships developed with both the United Way and Robin Hood, which has been a longtime supporter of our work. We sat down with them early on and said that this is going to be a long-term effort, and we need to make sure that we have the capacity to sustain a long-term effort. We need to make sure that we can be there, not only tomorrow and the next day, but in the years to come.

So with funding from Robin Hood and the September 11th Fund, we set up offices in each of the outer boroughs, and in each of those offices we're really trying to emulate what went on at the Family Assistance Center, where there was an array of services — not all of them provided by us — so people don't have to go from office to office or from phone number to phone number. We really try to bring all these services together, be it debt counseling, financial assistance, job training, job placement, or whatever. And then we take the lead in terms of trauma support, counseling, and case management. The Robin Hood dollars are really being disbursed based on need and to people doing job training for wage subsidies.

FC: Were you surprised by the outpouring of support, both financial as well as in-kind and from people who wanted to volunteer and give blood, in the weeks following the attacks?

GC: Not at all. September 11 wasn't about New York City. It was about our country, and it really struck at the heart of who we are and what we are. And I think people across the country rose to the occasion and said, "What can I do?" — whether it was two little girls in San Francisco setting up a lemonade stand or a congregation or synagogue collecting dollars before a service. We had over a thousand volunteers that worked with us on this

effort, and they kept coming back again and again, because the Family Assistance Center was running seven days a week, from eight in the morning until midnight.

FC: How are the services Safe Horizon is providing to victims and victims' families different from those the organization has traditionally provided?

GC: I don't know that they're different. I think they're richer, because there's more dollars there, and because we're working to develop a model for a community of services where one agency tries to address a broad range of needs, with the idea that, down the road, this would be applicable to all victims that come through our doors.

In terms of lessons learned, it has really provided us with an opportunity to step back and say, "This not only makes sense for victims of September 11, but this makes sense for all the victims we work with." So it's a long-term effort, but it starts with the World Trade Center victims and then expands from there.

FC: Did you coordinate your activities with the Red Cross, Salvation Army, and other relief agencies?

GC: Absolutely. There was no one agency that could take credit and say, "We did it alone." This was all about collaboration. This was all about people working closely together, both from a charity perspective — the Red Cross, the Salvation Army — and from a funding perspective — the United Way, the New York Community Trust, Robin Hood — as well as from a public-sector perspective. And it was particularly challenging because, as you well know, no one had ever planned for something of this magnitude. We learned a lot along the way, but we learned from each other, and people were communicating and working together, at all levels, from day one.

FC: Did you work closely with the Federal Emergency Management Agency?

GC: We worked very closely with FEMA, as well as with the city's Office of Emergency Management. Everyone had one goal, and that was to provide needed assistance to the victims. The challenge was that everyone had a different orientation in terms of guidelines and what documentation was required, so we really tried to make it easier for victims by trying to come up with one intake form and helping victims work through the different agencies.

FC: What was Safe Horizon's position on New York State Attorney General Eliot Spitzer's call for a centralized database of recipient information?

GC: I thought it made sense. We actually had our own database from day one, when we started providing financial assistance at the Family Assistance Center and at each of our offices in the outer boroughs. And we found that many victims' families did not feel comfortable coming into the city. For instance, undocumented individuals didn't feel comfortable coming to the Family Assistance Center because there were INS officials and police officers with guns there. But, as I said, one of our goals was to make sure that people didn't have to go from office to office to office. So from a purely parochial perspective, we created a database and then quickly saw that, for it to be effective, it couldn't be limited to

We had over a thousand volunteers that worked with us, and they kept coming back again and again, because the Family Assistance Center was running seven days a week, from eight in the morning until midnight.

I really think the nonprofit sector rose to the occasion... It's always easy to find an individual that didn't feel well-served. . . . But there were so many positive stories.

information from just one agency. All the agencies needed to work together. So we met with Attorney General Spitzer a number of times and really worked with him and his staff to coordinate with other charities.

FC: And this coordinated effort became the 9-11 United Services Group?

GC: Yes. Because, again, it was quickly apparent that, from a charities perspective, we needed to make sure that as more organizations got involved, they would be operating off the same page. So we made the decision to work together to make sure that we were identifying all the needs of the various victims and that we were operating in a coordinated fashion. Part of that effort involved the database. Another part of it was coming up with a case-management model and developing a minimum level of standards and then having the United Services Group serve as the primary vehicle for communicating to victims — not only here in New York, but across the country — what services were and are available, what the deadlines for applying for those services are, and really providing as much information as possible.

FC: In the weeks and months following the attack, there was a great deal of media scrutiny of the relief agencies and nonprofit service providers. Do you think the criticism of the sector and the way it responded was warranted?

GC: I really think the nonprofit sector rose to the occasion. For example, we've provided services to forty-six thousand victims. When I walk down the street with my Safe Horizon baseball cap or I'm on the subway, I cannot tell you the number of people that come up to me and say, "I really want to thank Safe Horizon." It's always easy to find an individual that didn't feel well-served, because after a disaster people are left with a lot of anxiety, a lot of angst, a lot of anger. And I think, given the unprecedented nature of the attacks, that it was easy for the media to find the negative story. But there were so many positive stories, and some of those stories did appear. But many more just went overlooked.

FC: As someone who has worked closely with a range of communities and community leaders in New York, could you comment on how the events of September 11 changed the city, both in the short run and in terms of its future?

GC: I really think that there's a much greater sense that we need to work together and also that we really need to plan for the future. Just after September 11, it was okay — although it wasn't okay — for people to say that we didn't have a plan. But now we need to make sure we have a plan in place for the next time something like this happens, because, if the president and vice-president and others in the administration are right, there's a very real possibility something like this will happen again.

FC: A final question: What, in your view, were the most important lessons the nonprofit sector learned from 9/11?

GC: I think there are a couple of things: One, whether you're deploying staff or you're ministering and providing support to victims, you need to make sure that you're also being mindful of your staff and providing support for them, because at the same time you're

asking your staff to be as responsive as possible to the victims of a disaster, they're going through their own sets of issues. That's something I think all of us need to be more mindful of and much more rigorous about.

The second thing is that while there are a lot of efforts underway to enhance our security — at airports, within the FBI and CIA, within local police departments, and so on — the same thing needs to happen in the social-services arena. If there is another attack, be it in Chicago, Miami, New York, or some other city or community, we better be prepared, too.

FC: Well, thank you, Gordon, for speaking to us this morning and for all your efforts on behalf of New York and New Yorkers.

GC: Sure, I really appreciate it.

Kevin Kinsella, the managing editor of *Philanthropy News Digest*, interviewed Gordon Campbell in June 2002.

You need to make sure that you're also being mindful of your staff and providing support for them, because at the same time you're asking your staff to be as responsive as possible to the victims, they're going through their own sets of issues.

Coordinating Support For Long-Term Educational Needs

Leaders of the New York Community Trust and the United Way of New York City met on the afternoon of September 11 and, on the spot, established the September 11th Fund. Within days, major corporations and private foundations followed suit with multi-million-dollar grants to organizations on the frontlines of the relief and recovery efforts. However, philanthropic leaders in New York and Washington, D.C., understood that their communities would continue to suffer the effects of that dreadful day for years to come.

One such leader was Citigroup Foundation president Charles V. “Chip” Raymond, who in the weeks following the September 11 attacks was instrumental in establishing the Citigroup Relief Fund to provide scholarships to the children of victims of the disaster and, at the same time, was a driving force in the creation of the September 11th Scholarship Alliance, a confederation of grantmaking organizations that had established their own scholarship funds.

CHARLES “CHIP” RAYMOND
PRESIDENT
CITIGROUP FOUNDATION



The Foundation Center's *Philanthropy News Digest* sat down with Mr. Raymond at his midtown Manhattan offices in December 2001 to talk about the short- and long-term goals of the Alliance, its role vis-à-vis various state and federal compensation efforts, and the special challenges it faces going forward.

Charles "Chip" Raymond is president of the Citigroup Foundation. Prior to assuming that position, he was president of the Travelers Foundation, the charitable arm of the Travelers Group, and also held positions as chief administrative officer for the Law Departments as well as vice president for training and operations at Travelers.

Mr. Raymond has held various positions in the public and private sectors during his long and distinguished career, including Commissioner of the New York City Department of Homeless Services, Deputy Commissioner of the New York City Department of Housing Preservation and Development, Deputy Commissioner of the New York City Department of Mental Health, Special Assistant to the Mayor of New York City, Managing Director of the New York City Ballet, and President and Chief Executive Officer of Todd Combustion, Inc.

He received a Bachelor of Arts degree from the Maxwell School at Syracuse University; attended graduate school at Syracuse University, the University of Pittsburgh, and New York University; and currently serves on the board of directors of the Bowery Residents' Committee, Dance On, Inc., the After-School Corporation, and the Stamford Center for the Arts, and sits on the advisory board of the Alliance for Downtown New York.

Foundation Center (FC): What is the September 11th Scholarship Alliance?

Chip Raymond (CR): The Alliance is a working group made up of a number of organizations, firms, and corporations that have established scholarship funds for the children and spouses of the victims of the September 11 attacks. Our main goal is to create a one-stop shop where a person can get all the information on the different scholarships available and then, when they are ready to go to college, submit a scholarship application that automatically is reviewed to make sure that the student is considered for all the different scholarships for which he or she may qualify. We're in the process of developing a single application and registration form, and that form will be shared with the different organizations that are administering scholarships on behalf of the Alliance. So far, we have identified two or three entities that are experienced and able to administer college scholarship programs, the largest of which is the Citizens' Scholarship Foundation of America.

FC: Is there specific criteria for membership?

CR: No. An organization can be either a member of the Alliance or an advisor to the Alliance. Others who are funding or involved in the administering or managing of scholarships may want to join the Alliance.

FC: How does the work of the Alliance relate to state government efforts in this area?

CR: Well, as you probably know, New York State has offered four-year scholarships at a level, in terms of financial commitment, that's equivalent to the tuition at a CUNY or SUNY school. That's about \$11,800 a year, and it's available to all children and I think spouses of the victims as well. The only criterion is that you have to go to a public or private institution in New York State. It's a huge commitment. Massachusetts is considering a similar commitment, paying fees and tuition at state schools in Massachusetts for residents of Massachusetts. I believe the tuition for the University of Massachusetts commitment is around \$3,000 for in-state residents. We're talking to Connecticut and New Jersey as well and have had some conversations with folks in Washington, D.C., and Virginia.

FC: With all these different entities involved, do you face special coordination problems?

CR: Yes. [Laughs.] Everybody involved in this has terrific motivations. The problem is that there are so many pieces and so many different approaches to this issue that it's very difficult to get the whole thing organized quickly.

Still, while scholarships are difficult, they pale in comparison to what the United Way or Safe Horizon or the Red Cross have dealt with. We have a plan that is reasonably straightforward. If you qualify, you do the following three things and you'll get a scholarship. I've gotten a lot of calls from people who are either representing families or members of families saying, "I have a six-year-old son." And I tell them, "Don't worry about it. We'll have scholarships that are going to span the time required to cover the educational needs of your child. When your child gets to be sixteen or seventeen years old, we'll have a process that you'll be able to hook into." Now, some of those scholarships will be needs-based and some will be geographically based, as in the case of New York or Massachusetts, but there will be scholarships available for all qualified parties.

FC: Are you concerned that the expectations of all these different groups and organizations will complicate your efforts?

CR: No, no, I'm convinced we can do this. It's absolutely doable.

FC: Let's talk more specifically about your plans going forward. In a previous conversation, you mentioned that the Alliance had \$70 million available for scholarships. Is that the final amount, or will there be more when all is said and done?

CR: When I say \$70 million, that does not include the money from New York State, which can't be counted as cash in hand. But we're shooting for around \$100 million. That's what we'd like to see.

FC: And your short-term goals?

CR: Short-term, we want to provide scholarships as needed to eligible individuals currently in college, whether they're freshmen, sophomores, juniors, or seniors. And we want to be able to address the needs of those children or spouses who are going to be entering college in the fall of '02. That's what we plan to focus on in the short term.

Everybody involved in this has terrific motivations. The problem is that there are so many pieces and so many different approaches that it's difficult to get it organized quickly.

We're going to ensure that we have the dollars needed to provide assistance to all the children or spouses who are eligible, and we're going to make the process as simple as possible.

We don't have a formal system set up at the moment, but the word has gotten out and we're meeting with other organizations, like the September 11th Fund, that deal directly with the families. We're also planning to put out bulletins and information to all the families, so they'll know where to go and whom to call for information about scholarships. So we feel an informal network for dealing with the kids who have immediate needs is going to work just fine in the short term — we're all talking to each other, and if I get a call I know exactly who to refer it to.

I should also mention the Jack Kent Cooke Foundation here. They're a member of the Alliance, and they announced that they were going to put up a million dollars for kids who are currently in school, whether it's a two-year college, a four-year college, or a technical school. The grants will be awarded on a first-come, first-served basis and there's no needs test attached, so if someone needs help and is in school today, they can go to the Cooke Foundation and get immediate assistance.

FC: What about the longer-term goals of the Alliance?

CR: Longer-term, we want to develop a structure that will keep the Alliance in front of the families, so that they don't end up saying, "Gee, wasn't it about ten years ago that we heard something about scholarships?" We're going to do a yearly notice to the families of victims, we're going to ensure that we have the dollars needed to provide assistance to all the children or spouses who are eligible, and we're going to make the process as simple as possible. A key to this will be our ability to work closely with college-aid offices. They're the folks who'll be able to say, "Okay, this kid needs \$25,000, and we're getting ten from Citigroup and five from the Children's Fund and ten from this and so forth." They're very much an integral part of this whole thing.

FC: Do you have a plan in place to establish the scholarship eligibility of families and individuals?

CR: The eligibility issue is one of the reasons that creating an entity that would then establish a one-stop shop for the applicants made so much sense. In the end, there are going to be many different entities awarding scholarships, and each member has established, or is in the process of establishing, their particular eligibility criteria. For example, the Citigroup Relief Fund's scholarships are going to be awarded on the basis of need. But there are also organizations offering scholarships that have no needs requirements. So, we want to make sure that applicants don't have to navigate the scholarships and figure out, one-by-one, what they qualify for. The applicants should be able to fill out a form, submit some basic documents, and the administrator will take it from there and get people to the right funds.

FC: Will scholarships awarded by Alliance members reflect the changing needs of families over time? In other words, will scholarship amounts be adjusted, up or down, according to a family's changing economic circumstances?

CR: We are grappling with that. We'd like to be able to say that if tuition today is \$10,000, and in twenty years it's \$30,000, we should be able to provide a proportionate amount of scholarship aid to offset the need. Need and school costs will be assessed and scholarships allocated at the time of enrollment in college or trade schools.

FC: And by proportionate amount, you mean 100 percent of a recipient's educational needs?

CR: No. Let's take the Citigroup Relief Fund as an example. Once we have all the data — that is, the exact number of children and at what age they become eligible for a scholarship — we'll do some actuarial runs. Then we can review the results and see how we need to allocate our money. So, if we have a little over \$20 million today, we want to make sure that we are distributing both the principal and the compound interest on the balance as we go along, so that twenty-two or twenty-three years out, whatever it might be, we're close to zero, we've spent all our money. In other words, we're not just going to use the interest on the fund to provide scholarships; we're going to try to use the fund up by the end of term, whatever that may be.

But there are other organizations with funds that have to sort of sit down and decide whether they're going to do a \$2,500 scholarship on top of, say, someone else's \$10,000 scholarship. And then there's the money from the state of New York, for those kids who decide to go to a New York school. The toughest thing, though, is the whole needs-based issue, the fact that some funds are needs-based and some funds are not. And how we go down that road isn't quite clear yet.

FC: Are you planning to share information with the other funds and agencies that have been at the forefront of the relief and recovery efforts — the September 11th Fund, the American Red Cross, the New York State Attorney General's Office, and so on?

CR: Yes. We're working with all those organizations and we plan to share information with them. We want to make sure that people are aware of these scholarship funds, are aware of the Alliance, and are able to easily access information about the funds — not just now, but in fifteen years.

FC: Under whose legal jurisdiction do your activities fall?

CR: Well, we're a loose confederation of organizations, and we've selected the Citizens' Scholarship Foundation of America and possibly one or two other organizations to manage the scholarship award process. So we don't feel it's necessary for the different funds themselves to create a formal, legally chartered organization. We're also working with the Educational Testing Service and the Institute of International Education.

FC: Are you concerned about the challenges inherent in holding together such a diverse coalition over a twenty- to twenty-five-year span?

CR: No, I'm not. The Citizens Scholarship Foundation, ETS, and the Institute of International Education have been around for a long time and manage huge numbers of

We want to make sure that we're distributing both the principal and the compound interest . . . so that twenty-two or twenty-three years out, we're close to zero, we've spent all our money.

We didn't have a model in mind. We just want to work together well and do everything we can so that the people for whom these scholarships exist can access them easily.

scholarship programs. It's their business. My biggest concern is to make sure the families understand that these scholarships are available. I'm convinced that we can develop a structure that will enable families to meet all or most of their educational needs. All we have to do, in terms of the Alliance, is make sure that those three major organizations work together, and that we continue to identify and coordinate with other organizations that have similar purposes.

FC: Is there a philanthropic precedent or model that you have in mind as you organize this?

CR: We didn't have a model in mind. We just want to work together well and do everything we can so that the people for whom these scholarships exist can access them easily.

FC: Will the Alliance provide financial support for precollegiate educational needs?

CR: Each individual organization has its own criteria. And while I can't tell you definitively, I think there are probably one or two that will provide funding for either prep or parochial school and so forth. But the big ones are strictly for two- and four-year colleges, which includes technical schools. Having said that, one of the things we are considering is certificate programs. There are a lot of kids who are not going to go on to college but may want to go to a technical school, or culinary school, or some other kind of school. Shouldn't we provide support for those kids? I say yes, but we haven't addressed it yet. Citigroup's fund originally was intended for two- and four-year colleges. If you change your criteria, you have an obligation to go back to your donors — our fund has close to seven thousand donors — and say, "You know, we're going to change the criteria. I assume no one has a problem with that." That's the difficulty. We have the time now to sort of think about the decisions we made in the heat of the moment and to decide whether they were the best decisions, even though we tried to be very broad in our thinking. And if we find as we move forward that we have more money, or that there's a huge new need, then we ought to think about how we can adapt. However, other scholarship funds will provide scholarships for any approved post-secondary program.

FC: Let's talk about the Citigroup Foundation. Have or will the activities of the Alliance affect the activities of the foundation?

CR: The only way it affects the activities of the Citigroup Foundation is that we have taken on, in our spare time, the responsibility of raising the money and processing the checks. We have a volunteer corps, a crew of about eight or ten friends that my wife put together, that comes in three times a week to input checks.

Another way it affects it is that we have taken on the responsibility of coordinating and organizing the Alliance. We have a staff of eleven, and six of them have been intimately involved in helping us put this together. This year, the foundation gave grants amounting to \$73 million. The \$15 million we've allocated to the scholarship program is on top of that. We've also provided about fifteen grants to organizations that work with

small businesses in Lower Manhattan to help with their expenses, because they're taking on a huge additional burden with respect to dealing with many of the small businesses that are in trouble down there.

FC: Do you think the events of September 11 will change the way the foundation approaches its grantmaking in the future?

CR: I don't think so. We feel very strongly that the dollars we put out — and about 70 percent of our grant dollars go to U.S. based not-for-profits, with the other 30 percent going to support organizations in seventy-four countries outside the U.S. — should continue to support the organizations that we've supported in the past. Shifting money from an organization in the South Bronx that builds low- to moderate-income housing to an organization downtown does not make sense, because the organization uptown is, indirectly, working with many of the people who were affected by the attacks on the World Trade Center. So we want to make sure that we continue to support organizations that we've supported in the past. In many cases, if an organization comes to us and says, "Listen, we need operating support because these three grants didn't come through," we'll consider helping.

The bottom line is, we have a large number of organizations in New York and around the country that are important to us, that we have long-standing relationships with, and we're not going to let those relationships go by the wayside.

FC: Do you have any specific goals or programs in 2002 that you're excited about?

CR: We have two signature programs that we're very excited about. The first, the National Academy Foundation, is an organization that our chairman and CEO, Sandy Weill, started about twenty years ago. Basically, it's a school within a high school where kids take additional courses in business or travel and tourism or information technology, and we provide mentoring and scholarships and internships and so forth. The program funds about 450 of these academies around the country. It's a big program — I think total enrollment is something like thirty thousand kids — and American Express, Merrill Lynch, McGraw-Hill, and a number of other businesses are major supporters. But because we feel it's important, we're going to expand it outside the United States, specifically in London, where we are sponsoring three academies of finance.

The second is our microcredit program. We're one of the largest corporate foundations with a microcredit program, and our support for the program is growing dramatically. At present, we fund forty-six programs in twenty-six countries. It's something we view as a major economic engine for people in developing countries, many of whom are living on a dollar a day or less.

And third, we are very much involved in the whole area of economic and financial literacy. We have a large number of programs both in the U.S. and outside the U.S. that are designed to teach people about personal finance — credit and mortgages and insurance and those kinds of things.

We have the time now to think about the decisions we made in the heat of the moment and decide whether they were the best decisions. If we find that we have more money, or that there's a huge new need, then we ought to think about how we can adapt.

FC: It sounds like you expect the Citigroup Foundation to be a larger corporate grant-maker in five years than it is today.

CR: Absolutely. We've grown every year, and I suspect that will continue.

FC: Well, thanks very much for your time this morning, Mr. Raymond. It's an important effort, for many reasons, and we wish you the best of luck with it.

CR: Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Chip Raymond in December 2001 and followed up with him via e-mail in early February.

Civil Liberties and September 11

The response to the September 11 attacks continues to define policy debates in this country to an extent not seen in a generation. As doctrine, the war on terrorism has reordered domestic spending priorities, altered American foreign policy objectives, and sparked a resurgence of patriotism across the country.

At the same time, the campaign to oust the Taliban and dismantle the Qaeda terrorist network before it can launch additional attacks on U.S. soil has created profound tensions between America and many of its allies and raised troubling questions at home about the proper balance between security and civil liberties.

In March 2001, the Foundation Center's *Philanthropy News Digest* sat down with Gara LaMarche, Vice President and Director of U.S. Programs at the New York City-based Open Society Institute, to talk about the events of September 11 in the

GARA LAMARCHE
VICE PRESIDENT AND DIRECTOR OF U.S. PROGRAMS
OPEN SOCIETY INSTITUTE



context of civil liberties, the war on terrorism, and the work of OSI on behalf of the marginalized in society.

Gara LaMarche is vice president and director of U.S. programs for the Open Society Institute, a foundation established by philanthropist George Soros to promote open societies around the world.

Before joining OSI in 1996, Mr. LaMarche served as associate director of Human Rights Watch and was director of its Free Expression Project (1990–1996) and the Freedom-To-Write Program of the PEN American Center (1988–1990). From 1976 to 1988, he served in a variety of positions with the American Civil Liberties Union, including associate director of its New York branch (1979–1984) and executive director of the Texas Civil Liberties Union (1984–1988). In 1988–1989, he was a Charles H. Revson Fellow on the Future of the City of New York.

Mr. LaMarche is the author of more than seventy-five articles on civil liberties and human rights topics and has been published in *The New York Times*, the *Washington Post*, the *Los Angeles Times*, *Newsday*, *The Nation*, and the *Texas Observer*. He is, in addition, the editor of *Speech and Equality: Do We Really Have to Choose?* (New York University Press, 1996), and serves on the boards of Article 19 and the International Gay and Lesbian Human Rights Commission, and on the U.S. advisory committee for *Index on Censorship*, the London-based human rights magazine, and the advisory committee for the Human Rights Watch Women's Rights Project.

Mr. LaMarche graduated from Columbia College in 1976.

Foundation Center (FC): Gara, you've had a fascinating career. Can you walk us through the highlights, leading up to your arrival at OSI?

Gara LaMarche (GL): I had what you might call an activist career before I came to OSI. In fact, I still consider myself an activist. The work I did before I came to OSI was focused on civil liberties and human rights, both in the United States and around the world. I spent the first twelve years of my career with the American Civil Liberties Union in a variety of positions, including directing the ACLU office in Texas for four years, where we worked on a variety of issues, from the death penalty, to protecting abortion rights, to dealing with some of the draconian responses to the AIDS epidemic when it first hit in the mid-1980s. Then I came back to New York as a Revson Fellow at Columbia University, which was a wonderful opportunity to take a break in mid-career and think about my next step. And that took me in a more global direction for a while. First, I went to work for the PEN American Center, directing its Freedom-To-Write program and expanding the work the Center did in the United States. In the two years I was there, we saw the *fatwah* against Salman Rushdie, which was an extraordinary threat to free expression around the world, and, in the United States, the beginning of the culture wars over the funding of the National Endowment for the Arts and the de-funding of the Robert Mapplethorpe exhibit, both of which turned into intense free-expression campaigns.

Then I went to Human Rights Watch, where I was the associate director for six years and helped, among other things, the organization develop a larger body of work on human rights issues within the United States. At the same time, I acquired some experience managing a large international organization.

Then, in early 1996, OSI president Aryeh Neier, whom I had known from my work at both the ACLU and Human Rights Watch, asked me whether I'd be interested in helping George Soros expand his philanthropy in the United States. I thought that sounded like an interesting challenge, so I left Human Rights Watch to join OSI. I must say, it's been a pretty extraordinary experience, not the least because it has given me the opportunity to sit on the other side of the table and strategize about how funding could be deployed to advance some of the issues and causes that I've been concerned about. At the same time, one of the most rewarding aspects of the job has been the opportunity to deal more directly with solutions to social problems such as substandard public education, moving people from welfare to work, expanding drug treatment programs — things that are important but don't necessarily fall under the rubric of human rights.

FC: The Soros foundations network now comprises over thirty national foundations located in Central and Eastern Europe, the newly independent states of the former Soviet Union, Africa, and Asia. The network was created by Soros to advance the cause of open societies around the world. What is an open society?

GL: First, Soros would say that the very nature of open societies makes them hard to define. In fact, unlike many philanthropists, one of the central principles that motivates Soros is an awareness of the fallibility of human beings and institutions. When I wrote the prospectus for our work in the United States six years ago and began to describe what we hoped to do, I took that notion of fallibility and said we would try to apply it to ourselves, realizing that foundations themselves were fallible and often made mistakes. And I think that was viewed by many people in the field as an unusual admission for a foundation to make.

But the hallmarks of the open society model that Soros has tried to promote are a respect for law and a system of justice that is fair and open to all people, an independent media and a free press, an independent educational system — in other words, a vibrant array of nongovernmental institutions that form a civil society in which the state has an appropriate role but does not control everything and where there is a lot of independent and voluntary activity, where there is protection for the rights of women and for minorities of all kinds: racial, ethnic, sexual, and so on. These things work together to form a constellation of values that need to be in place and protected in order for a society to be considered open. In trying to foster the spread of open societies, Soros decided that one of the first things he would do was create locally led institutions in countries that were making the transition from repression to democracy. It was often the case — particularly after the fall of the Berlin Wall — that the Soros foundations in a number of Central and Eastern European countries were themselves helping to encourage civil society by their mere existence as strong, independent institutions unconnected to the state.

One of the principles that motivates Soros is an awareness of the fallibility of human beings and institutions. . . . I said that we would try to apply that notion to ourselves.

The hallmarks of the open society are a respect for law and a system of justice that is fair and open to all people, an independent media and a free press, and an independent educational system — a vibrant array of nongovernmental institutions. . . .

FC: What's the relationship between the national foundations and OSI?

GL: It's an unusual structure insofar as I think we're one of the few philanthropies to have created a structure that devolves a substantial amount of grantmaking authority to the local level. While the money behind them is largely Soros's, the national foundations are quasi-independent institutions with their own board of directors and staff. In the United States, in contrast, we've followed a more traditional foundation pattern. We have a board in New York that oversees our U.S. programs and establishes our strategies and budgets. The exception is our office in Baltimore, where we employ an approach that's quite similar to the one Soros has adopted for his national foundations. We have a local board of directors and a local staff, and the board has substantial discretion when it comes to making grants.

The fundamental modus operandi is Soros's conviction that the national foundations should spend the money because they're closer to the problems and have a better sense about how to do it effectively than we do sitting here in New York or in Budapest, where the other main OSI office is located.

At the same time, he's created a number of global infrastructure programs to support the activities of the network. For example, we have public health, education, law, media, and women's programs, and they all work closely with the national foundations on grants and programming. As a result, you end up with both a regional and thematic focus that come together in the activities of many of the national foundations.

FC: OSI's work in the U.S. includes programs dealing with care of the dying, drug policy reform, crime and incarceration issues, the fair treatment of immigrants, education and economic development, democratic reform, reproductive health and choice, and the restoration of professional and public interest values in law, medicine, and journalism. What's the common thread that unites your programmatic work in the States?

GL: I would say there are three major themes that define our work in the U.S. But first, you have to understand the concerns that drove Soros's philanthropy, beginning in the eighties, in Central and Eastern Europe, which is the part of the world he emerged from and which had been dominated by repressive communist governments since the Second World War. In the late eighties and early nineties almost every single country in the region went from a communist form of government with state-controlled institutions to a more democratic, participatory form of government. Soros went into those countries at that precise moment to help foster institutions that could create and contribute to democracy and civil society.

When Soros decided to look at the United States, the country where he had resided for the last forty years and of which he had become a citizen, he began to be troubled by what he saw as the challenges to open society here. In the communist world, the problem was an all-powerful state that refused to tolerate independent institutions or voices — states, in other words, that controlled everything. In the U.S., by the mid-1990s, Soros was concerned by the fact that the market had become the dominant force in society and that the legitimate role of the state in providing for the public welfare was being eroded by

marketplace values. If you read his books, you'll see that this preoccupies him a great deal. The United States is, on the face of it, an open society. We have a free press and independent educational institutions and a general respect for civil liberties. But Soros saw three challenges to the health and continuation of the "openness" we so cherish, and I think all of our programs can be grouped according to these themes.

One is that, in the U.S., our problems are largely problems of equity and opportunity. We may have an essentially open society in terms of civil liberties and economic opportunity, but those liberties and opportunities aren't broadly shared. In this society, race, class, and gender impose barriers to democratic participation, to opportunity, to justice, to access to health care.

Second, while we have a free press and a largely open debate on public issues, some voices aren't sufficiently heard in that debate. The traditionally marginalized groups — again, by race or gender or class — are groups that need to be heard. So, for example, when OSI looked at what we could do with respect to welfare reform legislation in 1996, we decided to provide a substantial amount of money to enable low-income people and their advocates at the state level to participate in the debate.

The third theme has to do with support for the public sphere. It gets back to what I was saying before about the erosion of public values and the exalting of marketplace values. It's also highly relevant after September 11. We all need to understand that there is a broad public interest at stake that transcends particular interests and that needs to be fostered. There needs to be an understanding of and appreciation for an appropriate role for government in our society. There are public services that only government can or should provide, whether that's after-school programs, effective drug treatment programs, or public health programs. There are obligations in a free, democratic society that ought to be undertaken on behalf of all of us by government. And finally, there's a need for public service. People need to be concerned about something larger than themselves.

So I would say the third major theme has to do with the preservation of the public sphere, the public interest, and public service. One way or another, virtually everything we do in the United States relates to one of those themes.

FC: Let's talk about September 11. We all know what happened that day, but many of us are still struggling to figure out *why* it happened. Why do you think it happened?

GL: Well, there are several different levels to that question. On one level, the answer has to do with policing and the adequacy of intelligence and law enforcement. It's easy to look back and say that the laxity of the CIA or the FBI or the Immigration and Naturalization Service, or the failure to look closely at a young man from another country who wanted to learn to fly a jetliner but didn't care about learning how to take off or land the thing were security lapses that never should have happened.

But, of course, there's a different way of looking at the question, and that invariably leads us to another question: Why do they hate us? And that's an enormous open-society

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challenge, and suggests a host of other difficult questions. For example, what kind of person would be willing to sacrifice his life in an act of terrorism? As it turns out, the profile of the September 11 hijackers was somewhat different than the profile of the typical suicide bomber. They were men who were highly educated and were more Westernized in many ways than other terrorists.

So in answering the question, “Why did September 11 happen,” I think you first have to approach it with a certain amount of humility. I have just reviewed five books about September 11, and in all of them people rush to try to provide their expertise about why it happened. But I don't think anybody can sit here and tell you exactly why September 11 happened, or how to prevent it from happening again, or what the longer-term ramifications are. In many respects, it's simply too soon to tell.

However, there's no excuse for the kind of grotesque violence that took place on September 11. No set of grievances, however real, can excuse the obligation of every human being to respect other human beings, other human life. And so the people behind the events of September 11 need to be dealt with severely as the perpetrators of a crime of the highest order.

That being said, we live in a world in which the gulf between rich and poor is increasing, where a huge number of people live in poverty, where across significant swaths of the planet, including most of the Middle East, people don't have a say in how they are governed, and in which a relative few control most of the money and power. All of this contributes to frustration and, ultimately, anger, which, exacerbated by the state-controlled media in many Arab countries, fosters grievances that eventually find their way into a movement like al Qaeda.

My own personal view is that you need, broadly speaking, a two- or three-track strategy to deal with the phenomenon of terrorism — even as I would say that the word itself is of limited usefulness. A lot of repressive governments in this world are only too happy to label their opponents “terrorists.” But in many cases, one person's terrorist is another person's freedom fighter, and we need to be very careful about giving a hunting license to governments that want to eliminate their enemies under the guise of fighting terrorism.

FC: In a panel discussion at OSI in December, the writer Susan Sontag made the point that by declaring September 11 an “act of war” instead of a “crime against humanity,” the Bush administration limited public debate to one set of responses while precluding another set of responses. What do you think she was driving at?

GL: I think there are a number of people who feel that the metaphor for September 11 is crime and not war. We had the destruction of the federal building and the murder of several hundred people in Oklahoma City, an act that many people originally assumed was the work of Islamic terrorists. Of course, it turned out to be the work of homegrown white racists. But we didn't go to war against the Aryan Nation, with whom Timothy McVeigh was associated. Instead, we tried to figure out who did it, and we used our criminal justice system to prosecute those responsible and bring them to justice.

OSI is not institutionally opposed to an appropriate military response to September 11. But I think there's a wide variety of opinions about what that might be and how it should be conducted. The problem with the war metaphor is that it's open-ended, and I think we're beginning to see the consequences of that. Having essentially routed al Qaeda in Afghanistan, we are now widening our war aims in a way that is both broad and ongoing. And many people are troubled by that.

When, for example, the president declares there to be an "axis of evil" in the world and lumps Iran, where there is a significant and burgeoning internal democratic movement, with North Korea and Iraq, it's hard to understand the logic behind that. There's an indiscriminate quality to it — and the war against terrorism in general — that troubles a lot of people in the same way that the so-called war on drugs troubles people — that it's a war that may not have an end. I think Sontag was responding to that.

FC: Most people would agree that Americans' sense of security was profoundly shaken by the events of September 11. As you mentioned, the nineteen men who hijacked and crashed the three jets on the morning of the eleventh all fit a certain profile, albeit a slightly different one than we might have anticipated. In light of that fact, why shouldn't U.S. authorities use racial or ethnic profiling to prevent further terrorist attacks on U.S. soil?

GL: The racial profiling debate has been going on in this country for several years, and over that time we've become more aware of the extent to which racial profiling is used in law enforcement. I think we had reached a national consensus, which included the president and the attorney general, that racial profiling was offensive to our system of values and justice. Not only was it offensive, but if you talk to people in the law enforcement community, it's not even effective. It is, in fact, a blunderbuss law enforcement technique that doesn't really work.

We know, for example, that blacks and whites in this country use and sell drugs in roughly the same proportion as their percentage of the overall population. And as studies have shown, people tend to buy and sell drugs from and to people of their own race. So you can start with the basic fact that the problem of drug use and criminality is no greater for the black population in this country than it is for the white. But if you look at the statistics, the percentage of blacks arrested for drug possession and trafficking is much higher than it is for whites. The percentage of blacks who serve time for drug-related offenses is higher still. Even though we start from more or less the same kind of behavior base, when you get to the discretionary enforcement of our drug laws, you begin to see a sharp divergence, based on race, in the way those laws are applied.

Now along comes September 11, and with it the fear of additional acts of random terrorism. Against that backdrop, it's very hard to have a discussion about the balance between liberty and security. The Patriot Act that the attorney general rushed through Congress raised civil liberties issues that couldn't get an intelligent hearing because of the fear factor. But I think we're beginning to be able to have a more rational discussion about those issues. Many people would say that before you focus your law enforcement activity

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Many people would agree that if we had been more attentive to behavioral profiles rather than racial profiles, we would have had as good a chance, if not better, of preventing September 11.

on race or country of origin, you need to look first at behavior, at tightening up ordinary security, at doing everything you possibly can before you get to the question of racial or ethnic background. And I think many people would agree that if we had been more attentive to behavioral profiles rather than racial profiles, we would have had as good a chance, if not better, of preventing September 11.

What's more, I don't know that having thousands of Arab-American men and women sitting in jail on technical violations is going to prove to have been very effective in the long term. Instead, I think what we're going to find is what we discovered in every period of our history when the government has overreacted to a perceived national-security emergency. We're going to look back in shame at the detention of Arab-Americans in the same way that we look back in shame at the internment of Japanese-Americans in the Second World War or the deportation of immigrants suspected of leftist tendencies after the First World War.

FC: Although the attorney general asked for and was granted new powers under the Patriot Act, he has been fairly restrained in using them. Do you think that will continue to be the case?

GL: It's hard to say. The answer to that question will depend in part on whether or not there's an engaged citizenry in this country that believes that basic constitutional values need to be respected, no matter what the security threat. It's never a good idea to give too much power to any branch of government; it's never a good idea to give too much power to a single government official. And it may very well be that if we had a Gore administration, we would be seeing some of the same things. The Clinton administration, after all, was by no means completely admirable in the area of civil liberties, particularly when it came to criminal justice issues.

But John Ashcroft is somebody who has, in his long career, been hostile to the notion of civil rights and liberties. He has been on the wrong side of virtually every such issue. So it's particularly troublesome that he is the attorney general at this moment in our history, because he is not a man who is sensitive to constitutional values or civil rights and liberties.

In fact, OSI took out an ad a couple of months ago to protest the attorney general's remarkable and appalling assertion that, in effect, it was unpatriotic to raise questions about government policies. I think that all the things the government is doing in the wake of September 11 — the military tribunals, the detention of Arab-Americans, the questioning of thousands of others, the Patriot Act — all of those are policies about which reasonable people can differ. We have serious concerns about them. And we understand there are people who have a different view. Nobody has a monopoly on the truth. The problem with Ashcroft is that he doesn't seem to think that way. He seems to think the very fact of raising questions is itself unpatriotic and that people who challenge the administration's policies regarding the war on terrorism are the enemy. That's dangerous. Most of us would agree that our democracy is strongest when citizens are robust in raising questions about the policies of their government. With all of the criticism of Israeli policies in regard to the Palestinians, one of the things we have to admire about Israel — a country that has had to live with terrorism throughout its existence — is the robust

internal debate about those policies. And I don't see why the United States can't or shouldn't have the same kind of debate.

FC: What other things can the average American citizen whose sense of security has been shaken by the events of the last six months do to preserve civil liberties at home?

GL: Security and liberty are twin concerns, but I think the advocates of human rights and individual liberty — which is what I've been for most of my career — are often viewed as insufficiently attentive to the competing values at stake. OSI's biggest area of activity in the U.S. outside of after-school programs is the reform of the criminal justice system and the way in which we, as a society, over-rely on prisons as a response to crime. In the last ten or twenty years, the average American has been very scared of being a victim of crime — not of al Qaeda, but of getting mugged or raped or having his or her house broken into. And I think the mistake that a lot of advocates for civil rights and civil liberties have made over the years is that they have not really couched their arguments in language that addresses ordinary people on the level of their real concerns, namely that they want to be free but they also want to be safe.

The way to do that is by making arguments not only to principle but also to effectiveness. Take an issue like drug testing. There's a mania for drug testing, and it has spread to all kinds of areas, including employment and education. But drug testing often doesn't measure impairment. If you're concerned about whether the person operating a truck is impaired, there are performance-based tests that measure this without necessarily invading a person's privacy. We need to be smart about these policies, both in the ordinary criminal justice system as well as in terms of national security.

Now, what can the average person do? On the one hand, they can take sensible precautions when it comes to their own safety and security. They can cooperate with increased security at airports, which almost nobody objects to on civil liberties grounds as long as it's carried out in a way that is not discriminatory. And they can play a role with respect to preservation of civil liberties, whether that involves working against hate crimes in their communities, or doing more to encourage racial understanding and tolerance, or supporting organizations that speak up for the marginalized groups in our society.

But at the same time that we're working to help our neighbors and fellow citizens who are in pain and distress as a result of the violence of September 11, we also need to make sure that we don't compound those injuries with additional injuries to our Arab-American or Islamic neighbors.

FC: While the war on terrorism has been very popular at home, it has received a noticeably cooler reception abroad. Is that something we should be concerned about?

GL: It's important that the United States recognizes that, despite its dominant military, financial, and economic power, it is still a citizen of the world and needs to respect international law and institutions. One of the most troubling developments in the international arena in recent years has been the tendency of United States to think that, as the world's sole superpower, it can call all the shots.

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The fact is, the United States has done as much as any country to undermine international law. We have consistently refused to see ourselves as bound by international treaties, whether it's our treatment of al Qaeda prisoners in Guantanamo, or our refusal to cooperate with the international criminal tribunal, or our rejection of the Kyoto accords on global warming. There have been any number of incidents in recent years in which the United States has taken the view that international law and standards apply to everybody but us. And that's a dangerous position, because it's hard to insist on the rule of law for everyone else in the world if the United States refuses to apply the same laws to itself.

The popularity of our policies is not really the issue. Rather, I think the United States needs to be more genuinely multilateral in its approach to global problems. It needs to work through international institutions like the United Nations and through alliances with other democracies. Yes, the U.S. possesses substantial military power and can accomplish its military goals without much cooperation. But the long-term security of the United States — and the world — has to grow out of a vision in which the United States uses its strength and its most enduring values to lead the world, not to get ahead of the parade and wait for everybody else to fall into line.

If you look at Soros's own writings, you'll see that he's very concerned about the effectiveness of global institutions, about the United States acting as an enlightened world citizen, and about the growing gulf between rich and poor, not only in the United States but in Africa and Asia and Latin America, where the ramifications of that inequality are much more threatening, over the long term, to the security of the world than any particular act of terrorism.

FC: Can we win the war on terrorism?

GL: This gets back to my earlier point: If you adopt a war metaphor, where does it end? To the extent that you look at it as a military-police operation, can we control or suppress certain organizations and institutions that seem to be responsible for a lot of terrorist activity? Yes, it's possible to do that, and obviously some progress has been made in the campaign against al Qaeda. However, depending on how you define the word *win*, in a world in which you have the conditions I've been talking about — the repression of religious and civil rights, the vast economic inequalities that exist — a world in which far too many millions, if not billions, of people live under such conditions, you will always have fertile ground for the kind of violence that erupts in terrorism. In that sense, it's much harder to win a longer-term war against terrorism, because such a war can never be won militarily or through law enforcement. Instead, it has to be won by addressing the conditions that cause the grievances that erupt into terrorism.

So, again, you have to have a kind of two-track strategy. To have one without the other simply isn't going to work. You have to bring people who commit serious crimes to justice, whatever the grievances that give rise to those crimes, or otherwise there is no justice. At the same time, that's not enough, which is why I think you saw the president going to Monterrey for the UN's International Conference on Financing for Development, where he pledged the United States to do more about world poverty. I

think the President realizes that the time has come, that it's our obligation as the world's richest and most powerful country, to be more visionary and bold about global anti-poverty remedies than we have been.

FC: In the short term, say three to five years, what are the biggest challenges facing the United States?

GL: I think all the problems that OSI has chosen to address — drug policy reform, the death penalty, gun violence, over-incarceration, reproductive rights — have, with very few exceptions, been controversial issues in American life. They're also driven by fear and anecdote, and as a result are not popular among other funders. But none of the problems we deal with is going to go away tomorrow.

Because OSI has a limited life span — Soros plans to continue it in its present form no later than 2010 — we have to decide where and on what we can make progress over the next eight years. And in the short term, I think we can make substantial progress on any number of issues. For example, we have to be more concerned with the protection of human rights and civil liberties in the United States as a result of the current crisis. In particular, we have to be concerned with and respect the roles that immigrants play in this society and make sure we don't succumb to xenophobia. I also think that we could make significant inroads toward a different kind of drug policy in the United States. We see signs all over the country that voters are getting smarter about this, and politicians are beginning to realize that it's a waste to use the criminal justice system to solve a public health problem.

I also think there are encouraging signs on what would seem like the intractable issue of the death penalty, where again, partly as a result of how out-of-step the United States is with the rest of the world on the issue, a lot of people are beginning to see that the criminal justice system in this country doesn't always operate fairly, that mistakes are made, and that, where an individual's life is at stake, you have to be very certain to be fair. And that's having a good effect on the debate over the death penalty.

But it's the longer-term issues that remain the most entrenched — issues that have to do with the fundamental inequalities of our society, like the fact that in some cities half the kids don't graduate from high school and therefore have very dismal prospects. Other issues we haven't even talked about, like the health of our democracy, or the consequences of the increasing concentration of media and the lack of opportunity for alternate points of view to be aired, or the over-reliance of our political system on money and the increasing estrangement of people from that system — those are long-term issues that cry out for action. The best thing we can do on any of these issues is to recognize that all foundations, even those that were established in perpetuity, ultimately have as their most important job the strengthening of the capacity of citizens and organizations to address the problems that will endure beyond a single foundation's work.

So we need to strengthen organizations of people who are being empowered to take charge of their own lives. If there's a leitmotif that runs through a lot of our work at OSI, it has to

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do with supporting nontraditional organizations that, in turn, help people who are poor, or people of color, or ex-prisoners, or former drug users, or young people in urban high schools who are undertaking projects to better their lives and their communities and to change the policies that will have an effect on the quality of their lives. And that, I think, is our most important task and the way, ultimately, that we will be measured and judged.

FC: Well, Gara, thanks very much for your time — and for reminding us why OSI has become such an important and respected voice in the philanthropic community.

GL: My pleasure. Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Gara LaMarche at his office in New York City in March 2001.

September 11 as Symptom

For residents of New York City and Washington, D.C., the terrorist attacks of September 11 were a profoundly traumatic experience likely to reverberate on both a personal and communal level for years to come.

But, as becomes more apparent every day, the impact of the attacks extended far beyond Lower Manhattan or the Pentagon. From the war on terrorism to heightened tensions in the Middle East and Kashmir, from faltering stock indices to fading confidence on the part of U.S. consumers, from mounting calls for tighter immigration policies and increased scrutiny of legal aliens (especially those from Arab and Muslim countries), to the proposed creation of a federalized Homeland Security Department with cabinet status, 9/11 continues to ripple through almost every aspect of American life.

In May, the Foundation Center's *Philanthropy News Digest* spoke with Dr. Robert K. Ross, M.D., president and chief executive officer of the Woodland Hills-based California

ROBERT K. ROSS, M.D.
PRESIDENT AND CEO
CALIFORNIA ENDOWMENT



Endowment, a health foundation established in 1996 to address the health needs of Californians, about the activities of the Endowment in response to the attacks, the significance of 9/11 in the context of global health, and the lessons learned by organized philanthropy in the months since the attacks.

Prior to his appointment in September 2000, Dr. Ross served as director of the Health and Human Services Agency for the County of San Diego and was on the Endowment's board of directors for three years. In addition, he has served as the commissioner of the Philadelphia Department of Public Health; as medical director for the LINK School-Based Clinic Program in Camden, New Jersey; as an instructor of clinical medicine at Children's Hospital of Philadelphia; and as a faculty member at San Diego State University's School of Public Health. He is also actively involved in community and professional activities at both the local and national level, having served as chairman of the national Boost for Kids initiative and on the President's Summit for America's Future, as a member of the National Vaccine Advisory Committee, and on the boards of the National Marrow Donor Program, the San Diego United Way, and the Jackie Robinson YMCA.

Ross, who received his undergraduate, master's in Public Administration, and medical degrees from the University of Pennsylvania in Philadelphia, has received numerous awards and honors, including the Youth Advocacy Humanitarian of the Year award (1999), the Outstanding Community Service Award from the Volunteers of America (1999), and the Leadership Award from the Hospital Council of San Diego and Imperial Counties (1999). He was also a recipient of the Public Officials of the Year Award presented by *Governing* magazine in 1999 and is a recipient of a Robert Wood Johnson Clinical Scholar Fellowship and the National Association of Health Service Executives' Health Administrator of the Year Citation.

Foundation Center (FC): September 11 was one of those watershed moments in American history that we're likely to remember for a long time to come. Can you tell us where you were you on the morning of the eleventh?

Robert Ross (RR): On the morning of September 11, my wife and I were actually spending our first afternoon in Venice.

FC: Venice?

RR: Not Venice Beach. Venice, Italy. I had been invited to participate in the Rockefeller Foundation's annual board meeting in Bellagio, on Lake Como, where the foundation has a study and conference center. As soon as that meeting was over, my wife and I left for Venice. When we got to the hotel — I guess it was around three o'clock in the afternoon — I turned on CNN and immediately learned that a plane had hit one of the Twin Towers. At first, I thought I was watching one of those made-for-TV disaster movies or something, but of course it turned out to be all-too real. My wife and I are both native New Yorkers, so it affected us on a very personal level. But at the same time, we were out of the country and away from family and friends, and that complicated our pain.

FC: Were you able to get in touch with your staff at the Endowment on the eleventh?

RR: With some difficulty. I finally did get a phone call through to my chief operating officer, and she assured me that things were under control at the office back in Los Angeles. But it was really quite a numbing and disorienting experience for me personally.

FC: At what point did you start to think that the Endowment was going to have to do something in response to the attacks?

RR: Only after the initial shock had worn off — maybe seventy-two hours or so. At that point I began to think about the role philanthropy should and could play, although at the time I didn't have a clear idea about what that might be and knew that I would have to engage my board of directors in a discussion about what we could do.

FC: When did you start to have those conversations — not only with your board, but also with other foundation leaders?

RR: I would say within a week of my return to the States. I can't recall exactly when the concept of an emergency fund, what came to be known as the September 11th Fund, was first suggested. But my suspicion all along was that there was going to be a tremendous outpouring of support for the family members who were directly impacted by the events of that day, and that that support would translate into significant dollars and resources for the affected families. And although that might be an appropriate way to respond, I also had a sense that there ought to be other ways in which philanthropy could play a role.

So we began to have that discussion internally. You should know that, although we're a health foundation, we believe very strongly in diversity as a value. Being in California, we believe in an approach to health care that is multicultural and that taps the state's diversity as strength. My view was then, and continues to be, that September 11 may be a symptom of our failure to tolerate and accept differences, and that we ought to respond to the events of the eleventh in a way that gets at the root of the problem. And again, although we're a health foundation, in my view, in our view, healthy communities don't spawn hate crimes, they don't spawn hateful events. So I viewed the events of September 11 as a direct assault on the health of the global community, and in that context we began to think about what role we could play at a local level in California.

Shortly thereafter, we started getting data and information about the impact of 9/11 on tourism, which is a major economic driver for California. And as data began to pour in, it became clear that 9/11 was also having an impact on access to health services, particularly for tourism and hospitality industry workers.

FC: Which led the Endowment to team up in November with Kaiser Permanente and a number of local unions in Los Angeles County to extend health insurance coverage to tourism and hospitality industry workers in the state. . . .

RR: Yes. That was one part of our three-pronged strategy, to be responsive to and supportive of workers adversely impacted by the damage to the tourism industry, especially in regard to their health status and health needs. The second piece came later, as we

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began to field concerns from community-based nonprofits that provide health services to poor communities. In many cases, fundraising by those organizations had been negatively impacted by 9/11, both because, in terms of corporate and private support, so many resources had been diverted to the September 11th Fund and, secondly, because of the adverse economic impact of 9/11 on tourism, which resulted in increased demand for their services due to corporate downsizing and layoffs. So the second piece involved supporting and responding to the needs of those community-based organizations, and to that end we created a \$13 million fund to provide emergency grants to boost their funds, so that they could continue to serve communities without interruption.

The third piece was to raise the level of public awareness — at a time when the front pages were still filled with stories about 9/11 and terrorism and bioterrorism — about the very negative impact on safety-net institutions and community-based nonprofit providers, both in terms of the demands on their services and their difficulty in raising funds. So we actually commissioned a statewide media campaign that ultimately cost us something like \$2.3 million, with some in-kind contributions from the networks, to raise the level of awareness of the economic impact of 9/11 on the working poor and other Californians.

FC: Will any of the initiatives you’ve just described impact your future funding priorities?

RR: In one respect, yes. And that has to do with the issue of hate crimes. One of the things we did in response to 9/11 was to initiate a new \$3 million program to support community-based agencies and nonprofits that engage in hate-crime prevention and intervention work. Now, some may think that’s unusual for a health foundation, which more typically focuses on things like diabetes, asthma, and cancer prevention. But, as I mentioned, we view the events of September 11 as the ultimate hate crime against this nation. And very much in the spirit of thinking globally and acting locally, we wanted to support the work of those who respond to and try to eliminate hate crimes in their own communities. So September 11 did put the issue of hate crimes on our radar screen as a community health-promotion investment and shaped our thinking in that regard.

FC: If I’m not mistaken, you also recently announced a series of grants to promote racial tolerance.

RR: Yes, we did. Our staff, our board of directors, myself, we all received a quick education around the issue of intolerance and hate crimes as a public health issue in our communities.

FC: Generally speaking, do you think the philanthropic sector responded effectively and in proportion to both the immediate and longer-term needs of the people and communities affected by the events of September 11?

RR: Well, I’m not sure. I think if you define the families of the victims of the World Trade Center tragedy as the sole victims of 9/11, then I would say yes. Private and corporate philanthropy was exceedingly generous in responding to the needs of those three thousand families. But I think philanthropy may have been short-sighted in looking at the possible root causes of these types of events and in responding to those root causes, as well as about the needs of the so-called indirect victims of the events of 9/11. In my view, I think it was

important to first provide monetary help to the families and loved ones to help comfort them in a terrible time of grief and mourning. However, we should not limit our response.

FC: Some people — the folks at the September 11th Fund, for example — would argue that they’ve always had their eye on the needs of those who were indirectly affected by 9/11 — displaced residents of Lower Manhattan, people who lost their jobs or businesses, and so on. Are you suggesting that they could have or should have done more to help those people?

RR: No, I think their immediate response was very appropriate. However, we must also look at what happened in communities of color after September 11, particularly in Muslim communities, where there was a sharp increase in hate crimes involving many innocent individuals, mostly American-born Muslims and others who happened to look like the terrorists.

FC: Do you feel the efforts of agencies and foundations like yours to grapple with some of these longer-term issues and to address some of the problems of the indirect victims were and are being effectively communicated to the public?

RR: I don’t think so. The media has mainly focused on 9/11 as a seminal event in our nation’s history. Any other story or message would have a hard time competing with that approach. From the standpoint of everyone remembering where they were when it happened, there’s no question about it having a lasting impact. But as an event that transformed and touched the soul of the nation, well, quite frankly, I haven’t seen much evidence of that. For example, I haven’t seen an increase in philanthropic or charitable giving, or policymakers responding differently or more effectively to disenfranchised populations and communities. So I’d have to say that while I was looking and hoping for evidence that the soul of our nation had been touched and transformed in a fundamental way by 9/11, I’m still waiting for it to happen.

FC: Do you think the media criticism of various relief agencies in the first few months after the attacks was warranted?

RR: I think it was partially warranted, but for a different reason. Even though I’m a relative newcomer to philanthropy — I’ve been in it for about twenty months now — I can say with certainty that giving money away is much more difficult than it appears. And, of course, hindsight is always twenty-twenty. But my guess is that had the Red Cross and other charities gotten the money out much faster — and I’m sure the issues that prevented them from doing so had to do with process, accountability, and making certain that the right resources got to the right people in the right way — the media would have reported a different kind of story, perhaps one that was more about fraud, waste, and sloppiness in the allocation of resources. I think what the Red Cross and other charities failed to do was to adequately address the expectations having to do with timeliness — that is, if the Red Cross had come out and said, “Look, we want to make certain that we are one hundred percent accurate in getting resources to the families in need, and we want to make sure we can account for every dime of the hundreds of millions of dollars we have received, and it will

It was important to first provide monetary help to the families and loved ones to help comfort them in a terrible time of grief and mourning. However, we should not limit our response.

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take us X number of months to ensure one hundred percent accuracy and accountability," the public, policymakers, and the media would have been much more understanding of the other things the Red Cross was doing. But clearly, that wasn't done adequately, and it's a reminder for all of us in philanthropy that we need to be better communicators with the public about our actions.

FC: Was the Endowment criticized by the media in California for its response to 9/11?

RR: Actually, the work we did was fairly well received, in that what media coverage we did get was generally very positive. The hate-crimes money, the safety-net money, the media campaign all got put together, approved by the board, and mobilized between, I would say, mid-October and Christmas. And I think the media was appreciative of that. Certainly, the feedback I got from community leaders, United Ways, and community foundations in the state was quite positive in terms of the timeliness of our grants and the campaign's ability to energize donations.

FC: You've already touched on this, but I'll ask it in a different way: From your perspective as the head of a major West Coast philanthropy, are there areas or issues post 9/11 that have not received their fair share of funding or attention?

RR: Well, at the risk of sounding corny or even cosmic, I would say that America in general, and California in particular — and New York City is much like California in this regard — are living experiments of multiculturalism and diversity. As a California philanthropy, we can't directly address the situation in the Middle East, but we can certainly play a role and do our part to reduce and eliminate hatred and violence fueled by differences in East L.A. and Oakland and Fresno. So, it would be my hope that more foundations come to view investing in multiculturalism and diversity as an asset and a strength of our country, because, clearly, it's important and critical work.

FC: As the president of a major California health care philanthropy, what do you see as the greatest areas of need in your state going forward?

RR: Well, we have been focusing on the disparities in health care and health status and health access among at-risk communities and populations. The majority of those communities are primarily, though not exclusively, communities of color and immigrants. That was the focus of our work prior to 9/11, and since 9/11; and quite frankly, I think all of us — the board, the staff — have felt affirmed in the importance of that work. Having strategies in place to reach out to disenfranchised and marginalized communities, and to utilize diversity as a strength and asset in improving the health of all Californians, is very important work to us.

FC: A final question: What, in your view, are some of the lessons the sector has learned as a result of 9/11?

RR: Well, there's a clear lesson around the importance of clearly communicating to the public information about the philanthropic process. But it would be shortsighted to leave it at that. As I mentioned, I think the most important experiment on this planet today has to

do not only with whether individuals and nations of varying ethnicities and cultural backgrounds can learn to live with and tolerate each other, but whether they can resolve their problems in nonviolent, mutually respectful ways.

FC: Would you care to comment about what might happen if we can't learn to resolve our problems in nonviolent, mutually respectful ways?

RR: I'd rather not speculate, but I would say that we must all work to continue to find nonviolent and meaningful ways to address the issues of diversity and multiculturalism throughout our nation.

FC: Well, thank you, Dr. Ross, for sharing your time and thoughts with us this afternoon.

RR: Thank you for asking.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Robert Ross by phone in May, 2002.

The most important experiment on this planet today has to do not only with whether individuals and nations of varying ethnicities and cultural backgrounds can learn to live with and tolerate each other, but whether they can resolve their problems in nonviolent, mutually respectful ways. . . .

Terrorism, Civil Society, and International Security

The post-Cold War period lasted just under a decade — from the signing, on June 17, 1992, of a joint agreement between U.S. President George H.W. Bush and Russian President Boris Yeltsin calling for the reduction of each country’s nuclear arsenal by two-thirds, to the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001 — attacks that, in addition to claiming 3,000 lives, recast virtually every issue related to U.S. homeland security in a harsh new light and signaled the start of a dangerous geopolitical confrontation between the U.S. and radical Islamic fundamentalism.

The Chicago-based John D. and Catherine T. MacArthur Foundation has long been concerned with international security issues and the promotion of peace within and among countries. In pursuit of that goal, the foundation has supported projects and institutions that work to foster disarmament and international cooperation, with a focus on reducing nuclear weapons arsenals and biological and chemical weapons

JONATHAN F. FANTON
PRESIDENT
JOHN D. AND CATHERINE T. MACARTHUR FOUNDATION



stockpiles, destroying or safeguarding weapons materials, and promoting innovative frameworks for achieving international peace and security.

In July, the Foundation Center's *Philanthropy News Digest* spoke with MacArthur Foundation president Jonathan F. Fanton about the foundation's response to the events of September 11, the role of the media in educating Americans about shifting geopolitical realities, and issues that organized philanthropy should be paying more attention to in the wake of 9/11.

Jonathan F. Fanton became president of the MacArthur Foundation on September 1, 1999. Prior to his appointment, he had been president of the New School University in New York City for seventeen years. The foundation, one of the nation's ten largest, makes grants in the United States and abroad, with an emphasis on human and community development, education, the environment, population issues, international security, human rights, creativity, and media. Fanton received a Ph.D. degree in American history from Yale University in 1978, where he served as assistant to President Kingman Brewster and as associate provost. From 1978 to 1982, he was vice president for planning at the University of Chicago, where he also taught American history. In addition to his responsibilities at the MacArthur Foundation, Fanton chairs the board of Human Rights Watch, is an advisory trustee of the Rockefeller Brothers Fund, and is a former co-chair of the 14th Street/Union Square Local Development Corporation in New York City.

Foundation Center (FC): You became president of the MacArthur Foundation in September 1999. What did you do before you came to the foundation?

Jonathan F. Fanton (JFF): For the previous seventeen years, I had been the president of the New School for Social Research in New York City, and before that I was a vice president at the University of Chicago. I'm an American historian by training, educated at Yale University, where I began teaching and working in university administration.

FC: Where were you on the morning of September 11?

JFF: Well, as it happens, I was chairing a meeting of the Human Rights Watch board at its offices in the Empire State Building, looking south. I saw the second plane plow into the World Trade Center. It was a sight never to be forgotten.

FC: Did you assume, at that moment, that you had just witnessed an act of terrorism?

JFF: When the first plane hit, it looked to many of my colleagues like it might have been a small plane that had gone off course. As you recall, the first plane was heading south, away from the Empire State Building, when it hit the North Tower, so we saw just the gaping hole in the tower. But when the second plane, which was traveling north, hit, we could see the flames roll through the South Tower and come out the side we were facing. And, of course, two collisions within twenty minutes couldn't have been coincidence, so it was clear that this was a calculated act of terrorism. Because we were in the next-tallest building in the city, we got out of the building quickly.

FC: In late September, the MacArthur board approved the creation of a fund to support various organizations working to provide information about and analyses of the attacks and their aftermath. In announcing the fund a few weeks later, you said it would focus on important questions that had been brought into “sharp relief” by the events of the eleventh. What were some of those questions?

JFF: The impulse for the special grant initiative came from longtime grantees who were calling us for help. The MacArthur board quickly established a special fund to respond to people and organizations we knew well and with whose work we were very familiar. And as we proceeded, it turned out that our grants were clustered in three groups. One group of grantees was providing good information and analysis for the public, both about events as they unfolded in Afghanistan, but also about domestic events, such as the impact of increased homeland security spending on the budget and the implicit tradeoffs for domestic programs in the future. A second cluster came under the heading of the U.S. and the world’s response to terrorism: understanding its underlying causes, immediate threats, and what countermeasures should be taken. In that group are organizations like the Monterey Institute of International Studies, which tracks the location and security of nuclear material in the former Soviet Union, and the Century Foundation, which mounted a task force on homeland security. The third cluster involved the theme of civil liberties, constitutional guarantees, and adherence to international law. The International Rescue Committee’s work in Afghanistan, the ACLU’s work on domestic civil liberties issues, and Human Rights Watch’s monitoring of the U.S. military response are illustrations of grants in that category.

We could move quickly after September 11 because MacArthur’s existing programs and grantees aligned closely with the issues the attacks raised. With respect to the future, September 11 places a greater premium on establishing a system of international justice. The need for an international criminal court has come into sharper relief. MacArthur has provided significant support to civil-society groups attending the Rome Conference that conceived the Court treaty, the coalition that has worked for its ratification, and the groups now trying to see it implemented. The new Court makes it clear to states that sponsor terrorism that there is no hiding if they facilitate crimes against humanity.

Finally, there is the need to reduce the dangers associated with weapons of mass destruction, whether nuclear, chemical, or biological — work, incidentally, that we’ve been engaged in for a long time. Terrorism, as a political phenomenon, has existed in international politics for some time. But the threat and risk of catastrophic terrorism is one we are just beginning to grapple with. One illustration of this was the concern and confusion surrounding the anthrax incidents last fall. So we’ve identified an urgent need to apply technical and scientific expertise to emerging security problems, particularly those concerned with arms control and nonproliferation. We are in the process of launching an initiative that will train a new generation of scientists to work on the technical dimensions of security issues. We are also supporting efforts to rethink the traditional arms control paradigm and adapt it to a rapidly changing international security environment. We are consulting widely on a range of emerging threats related to trends in biotechnology, the chemical sciences, and the increasing use of space for both commercial and military applications. Another issue that

Terrorism, as a political phenomenon, has existed in international politics for some time. But the threat and risk of catastrophic terrorism is one we are just beginning to grapple with.

The process of attaching deeper meaning to the attacks relieves the attackers from moral responsibility. Their act of terrorism demonstrated a ruthless contempt for human life, and that fact should never be lost. . . .

we're looking at is the challenge that terrorism poses to scientific research and open dissemination. The biosciences are poised to make revolutionary contributions to human health and the challenge now is to design safeguards against more destructive applications.

PND: September 11 was, as you suggested, a horrible crime against humanity. But is that all it was? Could it be seen as a violent protest against American-led globalization? And is it still too early to talk about 9/11 in those terms?

JFF: I do not think it's too early to consider the motivations of the attackers and their supporters — indeed a lot of thoughtful work has already been done and is ongoing. But I do not think it is useful to see 9/11 as a symbol of protest against globalization or injustice in the international system. The fact is, we may never be sure what precisely motivated the attackers, even if the agenda of the organization that supported them becomes clear. The process of attaching deeper meaning to the attacks, it seems to me, relieves the attackers from moral responsibility. Their act of terrorism demonstrated a ruthless contempt for human life, and that fact should never be lost as we move forward and think about ways to combat it.

FC: The MacArthur Foundation has a long-standing interest in global security issues. For much of the 1990s, at least, Russia and the post-Soviet states have been the focus of that program. Will that continue to be the case?

JFF: Yes. As you pointed out, we have a long-standing and major interest in Russia. We have offices and programs in three countries that are undergoing a transition to democracy: Russia, Nigeria, and Mexico. Each, in its own way, is important, both in its own right and as a pacesetter for the transition to a market economy and democracy in a particular region of the world.

Our work in Russia has three parts to it. One involves strengthening scholarly infrastructure, and that means investing in both public and private universities, independent research institutes, and scholarly journals. We also make individual research grants in support of scholars from across the former Soviet Union working on a variety of issues, from justice reform, to human rights, the environment, and security and non-proliferation issues. A second area of our work is human rights, strengthening Moscow-based organizations like the Moscow-Helsinki Group that works throughout the country and, at the same time, strengthening regional human rights groups and connecting them to each other and to the Moscow groups. The third area, which is smaller than the other two, is environmental policy. In July, I visited Voronezh, Saratov, and Perm, three regional capitals where we support science centers at the state university and, in two of them, along with the Carnegie Foundation, social science centers as well. We are also working in those three regions with local human rights groups.

FC: Have you, as result of September 11, considered broadening the program's focus to include other countries?

JFF: Our existing work — international justice; human rights; peace and security; the new science, technology, and security initiative — is pretty well aligned with issues that were highlighted by September 11. The only programmatic change flowing from

September 11 is a decision to continue our work in biological and chemical weapons, which is an area we had thought about discontinuing. All of our international programs — and we work in eighty-five countries — support civil society groups: human rights, women’s reproductive health and rights, environment, the rule of law, and so forth. Building a vibrant civil society is essential to opening space for discourse and dissent even in countries which are not fully democratic. Such outlets diminish the isolation and despair that give rise to terrorism.

FC: You mentioned the threat of bioterrorism. In terms of homeland security, what other new calculations or factors were introduced by 9/11?

JFF: September 11 was a painful wake-up call for all of us, and I think it’s a good thing we’re taking our domestic security more seriously. However, I also think it’s important to balance the requirements of homeland security with a commitment to civil liberties. For example, the Century Foundation project we are supporting has both of those aspects to it — that is, trying to help design an effective homeland security function, and also thinking hard about the privacy and civil liberty questions that are raised when a society tries to tighten security.

FC: In your view, is military action, either within the framework of a multinational coalition or by the U.S. unilaterally, a necessary component of our response to future terrorist threats?

JFF: Speaking personally, I would not rule out a military component in the continuing war on terrorism. But there is much we can do — could have done — using non-military means at our disposal to combat terrorism. More effective use of intelligence information, monitoring flows of arms, and tracing illegal financial flows are some examples. If further military options are to be weighed, I do not think the U.S. should act alone without meaningful consultation and cooperation, ideally through the United Nations.

Last year, MacArthur supported an international commission on intervention and state sovereignty that produced a thoughtful report that suggests ground rules for such military action. Although written for situations like Bosnia and Rwanda, it has relevance to this question as well. It’s called *The Responsibility to Protect*.

FC: The media, both print and broadcast, played an enormous role in transforming 9/11 into a global event. As a strong supporter of public-interest media, how would you rate the performance of the media in the months following the attacks?

JFF: Well, I think the media did pretty well, in covering both the events themselves and the U.S. response in Afghanistan. Public radio and television did particularly well, and we provided special support to assist National Public Radio with the cost of its coverage. The media stimulated a pretty good discussion of the issues that flowed from 9/11. However, I think by now the coverage is repetitive, and fresh material at another level of depth would be useful.

FC: Such as?

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Americans need to learn a lot more about the Muslim world, about the range of opinions in the Muslim world, about Muslims who have different interpretations of the Koran. . . .

JFF: Take Afghanistan. Mainstream media have not done much outside of Kabul or reported much on the ongoing human rights abuses in the countryside. Americans need to learn a lot more about the Muslim world, about the range of opinions in the Muslim world, about Muslims who have different interpretations of the Koran and the teachings of the Prophet Muhammad. We, along with Carnegie and the Rockefeller Brothers Fund, are supporting a meeting of Muslim intellectuals and opinion leaders with Western counterparts to encourage a process of dialogue and improved understanding.

FC: Do you think U.S. media outlets in general do enough to inform the U.S. public about events beyond our borders?

JFF: No. I don't. And that very concern led us to support the creation of a new satellite channel, called WorldLink, with a mission to provide international news and information to the American public. I worry a lot about the cutbacks of foreign bureaus by major papers and electronic media outlets.

FC: You've taught history. Is the growing interest of the American public in international news and reporting likely to be a permanent thing, or will it wane as 9/11 fades from our collective memory?

JFF: I think the interest will persist, especially among young people who now understand that events in faraway places can impact their lives. I hope that universities will renew their attention to parts of the world neglected of late. I was interested to learn that a new international affairs Masters program for mid-career students at the New School University attracted over one hundred students in its first year — an example, I think, that interest in international affairs is growing.

Right after September 11 there was talk about the search for the underlying roots of terrorism, a search that leads to poverty, inequality, and other social ills that afflict so much of the world. I would not like to see that concern lost because of a narrow focus on the war on terrorism. And I think it should be broadened to include the social and political exclusion that comes from the denial of human rights. Many countries suffer from deep poverty but do not give rise to terrorism. Repressive counties do and that connection is worth a deeper examination.

FC: Did the mainstream media treat organized philanthropy fairly in the weeks and months following September 11?

JFF: Yes. I think the media treated organized philanthropy fairly.

FC: And do you think organized philanthropy responded effectively to the events of September 11?

JFF: I do. Responses were varied — some foundations put significant amounts of money into the relief funds in New York and Washington, D.C. Others, like the MacArthur Foundation, made money quickly available to grantees working on one or another aspect of the situation. The Mellon Foundation focused on helping the recovery of arts and cultural institutions in New York City. The Markle Foundation launched a blue-ribbon

commission to look both at how intelligence information can be better used and which protections against abuse of personal information and invasion of privacy need to be strengthened. I think the variety of responses reflects the pluralism that characterizes the philanthropic sector.

FC: What, if anything, should organized philanthropy have done differently in the wake of September 11?

JFF: I'm not sure. I mean, there were certainly the early difficulties with some of the relief funds and in coordination. One might have wished that process had gone more smoothly, but I am not prepared to be critical. It was, after all, a completely unprecedented situation. Overall, I think philanthropy did very well in responding and I am proud of what the nonprofit sector accomplished. History will record the generosity of people in this country and throughout the world. Overall, we can feel good about the ingenuity and flexibility of foundations in the immediate aftermath.

FC: Again, in the context of 9/11, is there any area, issue, or need you think organized philanthropy should be addressing, eleven months after the attacks, that it hasn't?

JFF: There are plenty of issues to which I think we should give more attention. Let me mention just three:

First, we ought to keep the focus on issues of poverty and inequality in the world. Secretary-General Kofi Annan is giving strong leadership to the implementation of the Millennium Development Goals, the centerpiece of which is, by 2015, reducing by half the proportion of people living on less than a dollar a day, achieving universal primary education, and improving maternal health while promoting gender equality. The programs of major foundations overlap with those goals, and we should try to do more in the way of concerted action.

Second, there is no question in my mind that increased respect for human rights in countries around the world is a good investment in combating the sources of terrorism. Most human rights organizations take no money from governments or corporations, leaving foundations and individuals as the main sources of support. International groups like Human Rights Watch are bringing more intense scrutiny to closed societies that historically have been an incubator of terrorism. Local human rights groups are forming in many countries and need support in order to join together in national and international networks.

Third, Americans need to know a lot more about the world than they do. That means more attention to area studies in universities, more cosmopolitan public school textbooks, and better international coverage by the media. Our collective sophistication about how to do business abroad exceeds our understanding of the politics, culture, and traditions of other countries. I believe there is an innate fairness, decency, and compassion in the American people that can, if educated on the issues, influence our government to pursue sensible policies.

FC: When you look at the current global situation, do you do so as an optimist or a pessimist? Will we succeed, in the coming decades, in ameliorating the problems that

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threaten humanity — global warming, the proliferation of weapons of mass destruction, growing income inequality, the continuing spread of HIV/AIDS, overpopulation and environmental degradation — or are we likely to stumble and lose ground on those issues?

JFF: This is an either/or question. As a historian, I think that history moves in uneven cycles — progress on some issues in some places, backsliding on others. How do I feel myself? I feel more optimistic than pessimistic. Maybe that's a reflection of just having returned from Russia, where I met with the leaders of many non-governmental groups — some of them only a year or two old — doing tremendously important work. I draw hope from talking to hundreds of young people in Russia, people in their twenties and early thirties, who are optimistic about the future of their country. Seeing the whole redefinition of the relationship of the individual to the state and the embrace of such concepts as human and individual rights begin to take root in Russia is a source of tremendous optimism for me.

Or take another country where we work. I certainly see progress being made in Nigeria. To be sure, it still has plenty of problems — ethnic strife, the growth of AIDS, persistent poverty and corruption. But Nigeria is no longer a dictatorship, civil society is growing, universities are getting better, environmental groups are working with the government and putting pressure on oil companies to take the environment seriously. Nigeria is a country full of talented people determined to make democracy work and avoid a return to military rule. I do not think the positive developments there get fair coverage in the Western media.

FC: Are there other regions or countries you could point to where you see a similar spirit at work?

JFF: My work with Helsinki Watch in the 1980s brought me to Poland, Hungary, Czechoslovakia, the Baltics — places where real progress has been made in the last decade in terms of human rights, market reforms, and democracy. But there are other places where there is little or no progress, for example Turkmenistan or Uzbekistan. It is hard to feel optimistic about Colombia, Belarus, or Liberia.

But let's not end on a note of pessimism. The creation of a workable institutional system of justice is within our grasp. The creation of an international criminal court sends a powerful signal to future Milosovics, Pinochets, Hissane Habres that there will be no place to hide for those who commit gross abuses of human rights. I would feel better, of course, if the United States joined the International Criminal Court and put itself on the right side of history during the critical formative stages of the Court.

FC: Well, thank you, Jonathan Fanton, for taking the time to speak with us today, and for reminding us why it's so important — today, perhaps more than ever — for Americans to think globally, even as they act locally.

JFF: Thank you. I enjoyed it.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Jonathan Fanton in early July 2002.

September 11 and Beyond

In the days immediately following the September 11 attacks, countless Americans donated blood, volunteered their time and labor, or sent contributions to relief agencies like the Red Cross and the Salvation Army.

The response by foundations and corporations was just as swift and generous. On September 13, the Indianapolis-based Lilly Endowment pledged \$30 million to relief and recovery in New York and Washington, D.C. A day later, the Ford Foundation announced a \$10 million pledge and the Annie E. Casey Foundation in Baltimore contributed \$3 million, followed in short order by \$10 million pledges from the New York City-based Starr Foundation and the Carnegie Corporation of New York. By September 18, pledges of \$1 million or more by U.S. corporations had surpassed \$170 million. More would follow.

In late March 2002, six months after the attacks, the Foundation Center's *Philanthropy News Digest* traveled

SUSAN V. BERRESFORD
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uptown to speak to Ford president Susan V. Berresford about the foundation's response to 9/11, the lessons the sector may have learned from that terrible day, and what the foundation is doing to make itself a "resource for innovative people and institutions worldwide."

Berresford was named president of the Ford Foundation in April 1996. At the time of her appointment, Ms. Berresford was executive vice president and chief operating officer of the foundation.

Berresford joined the foundation in 1970 as a project assistant in the Division of National Affairs and between 1972 and 1980 served as a program officer in that division. In 1980 she was named officer in charge of the foundation's women's programs, and in 1981 became vice president for the U.S. and International Affairs programs, subsequently serving as vice president of the division in charge of worldwide programming for the foundation from 1989.

Prior to joining Ford, Berresford served from 1965 to 1967 as a program officer for the Neighborhood Youth Corps. In 1967-68, she worked for the Manpower Career Development Agency, where she was responsible for the evaluation of training, education, and work programs.

Ms. Berresford attended Vassar College and then studied American history at Radcliffe College, from which she graduated cum laude in 1965. She is a board member of the Council on Foundations and a member of the Trilateral Commission and the American Academy of the Arts and Sciences. She has also served on the boards of the Robert and Hermine Popper Foundation and the Chase Manhattan Corporation, and as a member of the advisory committee of the Center for Global Partnership.

Foundation Center (FC): Susan, it's been six months since September 11 and things seem to be returning to normal, but the memory of that morning is still fresh in most people's minds. Where were you on the morning of the eleventh?

Susan Berresford (SB): I was right here in my office, having a meeting with a few of our senior staff. Then someone came in and said, "A plane has crashed into the World Trade Center."

We turned on the television, and at that point one or two of the other officers who weren't in the meeting came in, and soon after that the second plane hit. Right away we knew it was terrorism. After the first plane hit, we all were puzzled and thinking maybe it was an accident. But it was clear what had happened as soon as the second plane hit. In fact, someone said, "This is terrorism."

FC: Did you know at that moment that you and your colleagues would need to do something in response to the attacks?

SB: Absolutely. I knew the minute the word "terrorism" was spoken. The first thing we did was to check on our own people. More than three hundred people work in this building, and they were all terrified, as I was, as everybody was. And then, of course, after I realized

that the foundation would have to respond, three things occurred to me. They turned out to be the same three things that pretty much everybody was thinking about — namely, immediate relief, longer-term recovery, and broader rethinking. The need for all three was immediately evident.

FC: Did you speak to colleagues at other major foundations in the city that day?

SB: Eventually, yes, but I spent the better part of the morning on internal matters. I first gathered the supervisors from different staffs to talk about what we knew and about what some of the issues would be. As the morning moved along, the city closed the bridges and tunnels, which meant that people weren't going to be able to get home. So at that point I took an hour and a half to walk through the building and talk to people and see how they were doing. That was my first responsibility: to see that everyone was safe.

But by early afternoon, I called Lorie Slutsky at the New York Community Trust and said, "There must be something we're all going to have to do now." And she said, "Yes, we've already been thinking about it." That was the first call I made and later, I called a few other colleagues. As you know, we have offices around the world, some in countries where the environment for Americans and American institutions is welcoming and some in countries where the environment has been less than welcoming. So we were in touch with those overseas offices pretty quickly to find out what was happening and to make sure they were all safe and secure.

FC: What did the foundation want to accomplish in the first few weeks after 9/11?

SB: We stated from the start that we are a national and international funder. We don't know New York City half as well as many other donors and institutions here do. So our goal then became to come up with a list of near-term needs that we could help address, as well as a list of institutions that we knew we could rely on to do that kind of work. We approached that task with a sense of urgency and quickly made about \$12 million in grants, with several objectives in mind. One was to help nonprofit organizations whose offices, equipment, or finances had been damaged to do whatever they needed to do to get back on their feet. For that, we funded the Nonprofit Finance Fund and the Fund for the City of New York.

The second was to help people who had had micro-businesses and, we felt, probably wouldn't make it onto the radar screens of the larger relief agencies. So we turned to Seedco to help us with that. Another grant went to the Legal Aid Society to help low-income people affected by the attacks address their problems. We were also concerned with the damage done to the public radio infrastructure in the city and so we gave to WNYC. And, of course, we were concerned about the tremendous human suffering and need created by the attacks, as well as the longer-term recovery, and so were very interested from the outset in the September 11th Fund created by the New York Community Trust and the United Way and contributed to it. I'd have to look at the dates, but within a very short period of time, we committed the money, told people they were going to get funding, and got it out the door.

Three things occurred to me . . . namely, immediate relief, longer-term recovery, and broader rethinking. The need for all three was immediately evident.

This is an amazingly generous country. We don't have a culture where we wait for other people to do things for us. In times of crisis, we have a history of mobilizing and responding.

FC: Were you at all surprised by the outpouring of charitable contributions from individuals, corporations, and private foundations — not just here in New York but from across the country — in those first few weeks?

SB: Not really. This is an amazingly generous country. We don't have a culture where we wait for other people to do things for us. In times of crisis, we have a history of mobilizing and responding. So the outpouring of support itself was not a surprise to me. What was a surprise — although I didn't know about it at the time — was the geographic dispersion of the donors and the variety of ways in which they gave. I was surprised to learn from the data that your organization [i.e., the Foundation Center] gathered, for example, that giving by corporations and foundations in California represented something like eight percent of the total giving to the relief and recovery effort.

FC: Was there a point at which you started to worry that the agencies involved in the relief and recovery effort would be overwhelmed by the level of contributions?

SB: Again, not really, because from the very start I was concerned about relief, recovery, and rethinking. Recovery can be a very long process. If you look at any devastated area, whether it has experienced a man-made disaster or a natural disaster, it always takes a long time for it to recover completely. And you can't hope to do that without institutional and individual support.

My understanding always was that the charitable response to 9/11 was going to be available for a combination of things — although, obviously, the first priority would be to help the individuals and families that were directly affected by the attacks. So the very generous level of funding was, I thought, totally appropriate for what was going to be needed over the long term.

FC: There were calls from many quarters in those first few weeks for the creation of a centralized board or agency to oversee the distribution of relief and recovery funds, as had been done in Oklahoma City. The Ford Foundation, along with other major philanthropies in the city, was less than enthusiastic about that idea. Why?

SB: From the number of people killed, to the type of damage that was done and the range of businesses affected, to the suffering that occurred as a result of the attacks, September 11 was a crisis of huge and unprecedented proportions. And against that backdrop, it was hard for me to imagine a new centralized agency addressing all those issues as well as the alternatives that were already in place. New York is a city blessed with an enormous variety of skilled and diverse philanthropic institutions — institutions that work with immigrant populations, that work with businesses, that work with nonprofits. I wanted to see us capitalize on that rich array of organizations and not create another layer between those who needed help and those who were in a position to provide help. That just seemed like the wrong approach.

But I was very sympathetic to the idea that there ought to be a mechanism for coordinating and sharing information on who was being helped. I think what was unclear to many

people at the time, although it may have been clearer to those of us who've worked at the grassroots level, is that such a mechanism was a great deal more complicated to create than it appeared to be. For two reasons: one, because each institution has its own way of operating in an emergency; and two, because many institutions, including the Red Cross, have rules about what they can and cannot share with others.

FC: Let's talk about the Red Cross. By mid-October, the media had raked the agency over the coals for announcing its intention to use a portion of the 9/11 contributions it had collected for other purposes. Shortly thereafter, Red Cross president Bernadine Healy resigned and the agency reversed its course. What do you think happened there?

SB: I don't know the Red Cross all that well. I know what I read in the newspapers, and what I learned from a few people who knew something about it. I will say this. September 11 was an event that was so complicated and unprecedented that, looking back on it, I understand a lot better now than I did then some of the challenges the Red Cross faced.

For starters, the Red Cross is an organization that relies on volunteers. And for it to operate in the kind of chaotic, high-stress environment created by the events of September 11 with a lot of volunteers and sustain that activity over a long period of time had to have been extremely challenging.

Second, on the fundraising front, at the time of the attacks it was not at all clear that there wouldn't be attacks on other institutions or facilities. So it didn't seem strange to me for the Red Cross to be thinking that this was a situation that might repeat itself, or that they would want to put aside some money for that possibility. Granted, that wasn't entirely clear in their appeals. But it doesn't seem to be an unreasonable position for them to have taken.

You know, when we look back on the first few weeks after 9/11, it's very easy to be a Monday-morning quarterback and to forget the fear that people felt, the uncertainty and tremendous confusion that people and institutions had to deal with. No one does their best thinking under conditions like that. The human response is to try and raise money and do something with it, rather than say, "We got our message exactly right." Of course, now we all look at what happened and think we would do it differently. But we shouldn't forget the terrible emotional experience this was for people, or how that affected the decisions they made.

FC: What lessons did the philanthropic community in New York learn from September 11?

SB: I think it's just beginning to be time to learn a few lessons about the early stages of our response. There will be, I'm sure, a spate of reviews and articles and maybe even books about this, and I hope some of the people who are planning or writing them wait a little bit longer before they start, because I think there are still parts of the recovery that are just getting underway.

However, if I look back now as an individual who was part of this, one thing I learned is the value of coordination. For example, with donors: we all played rather different roles, and I think it's important to recognize that. Some people wanted to act quickly and were able to do that. Other people acted as conveners, and that was very important. There were things

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shared at some of the early meetings that made it clear who would be responsible for a certain type of activity, allowing others to simply funnel money or talent or whatever to the organizations that were ready to move. Other people, ourselves included, tried to act as a clearinghouse of information. For example, I decided, prompted by a suggestion from a colleague, to call a group of foundation presidents with whom I normally work. And we ended up agreeing that we would have a conference call once a week, which ultimately turned into an e-mail communiqué put out by my office. And we did that for quite a long period of time, sharing with each other what we were doing, things we were thinking about doing, as well as things we wanted to do but couldn't. So one lesson is to look to different people and organizations to play different kinds of roles.

The second lesson — and I've thought a lot about this — is the internal lesson. Every person in this organization experienced the same fear and confusion and uncertainty that the person in Tribeca, or on the Upper West Side, or in Cleveland did. And, in our case, I found that one of the most important things we could do was to comfort and reassure each other. Initially, it was difficult for people to talk about why 9/11 happened — not least, because people had different ideas about that, some of them quite at odds with each other. But within a few days there came a point at which people wanted to come together as a group, to make a statement institutionally. And the way we did that, ultimately, was to ask all our staff to gather in the foundation's garden for a brief ceremony and then to sign their names on sheets of paper to be bound together and forwarded to 9/11 grantees with the checks for our emergency grants. We also asked staff in our offices around the world to do the same thing. This symbolic gesture had emotional value for each of us, and I gather from people I've talked to who received grants that it really meant something to them, too.

FC: It was common in the weeks after 9/11 to hear people say that the attacks had changed everything. Did September 11 change everything?

SB: No. September 11 changed many things, but not everything. It did create a sense of vulnerability in this country that I don't think we had experienced for a long time. And that prompted, in turn, an outpouring of patriotic sentiment that we hadn't seen for a long time. However, I don't think it has yet prompted what needs to occur, which is a spirited debate about the role of the United States in the world. It's still hard to do that. I think fear and the understandable desire to strike back, the kind of war-footing mentality we've seen, makes it difficult to have a thoughtful discussion about our role in the world. But I think it will happen, and has to happen.

September 11 also changed some grantmaking agendas. It certainly changed some of the work we do here — intensifying it, as it were, if nothing else. Many of our staff said that they felt their work was more urgent than ever, that they wanted to get on with things, to get to the end point quicker while discarding some things that didn't seem to be as significant as they did before the eleventh.

But what's important to remember is that we still have an agenda in this country independent of 9/11. And that agenda has to do with poverty and diversity and school reform and the health and life of our cultural institutions and issues of race and gender and sexual

preference and so on. So while 9/11 should and will change some things, other things will remain as they were and deserve our full attention.

FC: You've spoken eloquently over the years on the subject of civil society and its importance to the democratic experience. Did September 11 alter Americans' view of the role that government should play in a democratic society?

SB: It's too early to tell. Certainly, the public's confidence in government, as measured by public opinion polls, has risen substantially, after what was a long period of cynicism and distrust of government. Whether that will hold over time remains to be seen. September 11 was such an unprecedented event that it's hard to predict what it will lead to.

In terms of the nonprofit world, I think it's interesting to see what has happened. We have such a broad, capable nonprofit sector in this country, and people rely on it for so much of what happens in their lives and communities. And yet they don't think of it as a sector. If you stop any person on the street and ask, "What's the nonprofit sector?" they'd probably have a hard time answering the question. In other words, I'm not sure the country thinks about the nonprofit sector in a way that would allow us to evaluate whether we're viewed more or less favorably in the wake of 9/11. But I do believe that the outpouring of contributions, most of which went to one relief fund or another, suggests that people had great confidence, in a moment of crisis, in the capability of these funds to do something positive with their money. And that suggests to me a sort of indirect vote of confidence in the sector.

FC: Civil society is an important focus of the Ford Foundation. What is the foundation doing to improve the health of civil society in the United States and around the globe?

SB: For a long time, we've believed that our grantmaking programs should support not only the activities of civil society organizations, but also the strengthening of those institutions. So we give a good number of general-support grants to the organizations with which we work, as a vote of confidence in the organizations themselves as well as in their work. It also helps to ensure that they have good bookkeeping, good legal advice, good personnel practices, and other back-office systems to fall back on.

Second, we support groups like Independent Sector and BoardSource that represent civil society organizations or work to strengthen civil society organizations. Internationally, we fund the counterparts of those kinds of infrastructure organizations in many of the countries that we work in.

I think a very interesting question that we're focused on overseas is the question of what role civil society organizations should play vis-à-vis the new multilateral structures that are emerging. If you think about the evolution of UN conferences, for example, you can see that they used to be held without an accompanying forum for nongovernmental organizations (NGOs). Today, typically, you'll have an NGO conference and the official UN conference side-by-side, with increasing interaction between the two. The Ford Foundation has supported a lot of the NGO conference activities at these UN gatherings, both because of their intrinsic value and as an expression of support for the role of NGOs in global civil society.

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FC: The Ford Foundation has long been one of the premier domestic philanthropic institutions working in the international arena. But in many respects, from the number of people living in poverty, to environmental degradation, to the spread of HIV/AIDS, to the situation in the Middle East and the rise of global terrorism, the situation in the world today is bleak and getting bleaker. Do you think we've reached a point where the magnitude of the problems in the developing world have overwhelmed private philanthropy's ability to deliver effective solutions to those problems?

SB: Before I answer the question, I would point out that there are some very encouraging realities in the world today. There are many countries that in recent years have renounced repressive regimes and forms of government and have begun to build more democratic governmental structures. Africa, for example, is arguably more democratic today than it has ever been. South Africa has changed dramatically. I just returned from China and saw a far different picture there than I would have twenty-five years ago in terms of public openness, the freer expression of ideas, and a growing role for things that look like nonprofit organizations.

Similarly, with public health around the world, there are many examples of problems being addressed successfully and diseases eradicated. We've also seen broad social changes. Look at the mobilization of women. There are women's movements and organizations struggling for women's rights in just about every country in the world today, some of them very robustly and successfully. So I don't think it's as bleak a picture as you paint.

Nevertheless, I think that if there is a turn in thinking, in recognizing that these continuing realities are part of the picture, the solutions to them will be found in three things in combination. One is finding ways to mobilize people at the very bottom of the socioeconomic ladder to work for their own good. We need to help poor people build grassroots organizations that can negotiate on their behalf for a greater economic share of whatever that economy is able to produce. We need to recognize that people have to be enabled to create their own structures, to set and fight for their own agendas, to work for change. And to recognize that there are ways to support that that are not patronizing or paternalistic.

Second, we need to recognize that a variety of democratic principles need to be supported. Free elections are not enough. We need to think about how legislatures and local governments function, how the police and courts function. Implicit in the attention the world has paid in recent years to the decentralization of governmental power is a recognition that we need to create structures that produce change at the local level, as well as in the capital city.

The third part of it, increasingly, has to do with the role of the media in society. In many situations that have turned ugly, tightly controlled media and a lack of free expression have been important contributing factors. As a result, there is a growing recognition that independent radio, independent television, the free flow of information in and out of countries via satellite and newspapers and magazines and books is an essential part of building a new set of possibilities for people. People who are inspired by things they see and read and hear can be helped to learn and develop new capacities — and they will, as long as the messages are delivered to them in a responsible way.

So I think those three things — the mobilization of people, the decentralization of governmental power, and attention to the components of truly democratic systems, in combination with a professional, decentralized media — will help us to address some of the bleaker realities we face.

FC: The Ford Foundation describes itself as a resource for innovative people and institutions worldwide. Can you tell us about some of the things the foundation is doing to put that vision into practice.

SB: I'd like to focus on the "people" part of it, because that's something we're very excited about. In recent years, the foundation experienced enormous growth in its assets, beyond anything we expected. This led us to ask ourselves what we could do on a large scale to share some of our good fortune with people in places that hadn't benefited from the economic boom of the '90s as much as the United States had.

Now understand, we give most of our money to organizations. But organizations are run by people. It's people who come up with ideas, it's people who create social movements, it's people who work hard and dream. So we decided it would be interesting to balance our sizable investment in institutions with a sizable investment in people. After much discussion, we decided that the best way to do that was to create a new fellowship program that would seek out people around the globe from marginalized groups who had had no real opportunity to get an advanced degree but who had done well in college and had demonstrated leadership in their communities.

The program we designed [the Ford Foundation International Fellowship Program], which we're funding to the tune of \$300 million — the largest single grant in the history of the foundation — is just wrapping up its first year. Over the next ten years, it will support about thirty-five hundred people around the world for up to three years of graduate study. And we hope they will not only take advantage of this opportunity — paid in full, anywhere in the world — but that they will return to their home countries and begin to function effectively as leaders. Eventually, we think that out of this group will emerge some extraordinary world leaders — at least we hope so.

We do need to be thinking consciously about where the next generation of world leaders is going to come from. If we don't, the pools from which those leaders are ultimately drawn will not include those who are the most marginalized in society. They will not draw upon people who may be terribly talented and wonderfully skilled and have a deep sense of moral urgency about the problems they see around them. We want to be sure that a good number of such people are included in the ranks of emerging world leaders. You can never predict how a future leader of an important institution or political group or country will be chosen, but you can do a lot to see that the candidate pools from which these leaders emerge are deepened and widened.

So we're very excited about the program. As I said, the first cohort is now finishing up its first year of graduate school. We plan to bring them together at different points during their two or three years of study so that they begin to think of themselves as a cohort, learn from each

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other, and get to know and support each other. And ultimately we hope and believe that our investment in people will have the same kind of payoff as our investments in institutions.

FC: A final question: Are we on the threshold of a golden age of philanthropy? Or will the dislocations caused by the transition from the industrial, fossil fuel-based economy of the present to the knowledge-based economy of the future overwhelm our most cherished institutions, including philanthropy as we know it?

SB: I'm not sure I know what the phrase "a golden age of philanthropy" means, exactly. I would say, however, that I think the philanthropic impulse in this country is strong, and that the huge amount of wealth created in recent decades means that we can look forward to new stimuli in the foundation field, with new monies coming in and new donors bringing new ideas to the table. And that's very important.

What also is terribly important, if we want this to be a great age of philanthropy, is that we not overly constrain it. This country is filled with many different kinds of people from many different kinds of backgrounds. It's that diversity of personality and background and opinions and ideas that makes us such a strong and vibrant society. It's also what makes philanthropy strong. It would be a mistake to say to a foundation, "You should look like this, or only exist for this period of time, or only do this kind of work." Obviously, there have to be some legal parameters within which we operate, and I think the government has done a good job of establishing those. But by the same token it's the creativity of the field that we really want to preserve. Think of it this way: the money foundations give out in the form of grants is risk money; it's money that's not driven by a bottom line or the need to provide short-term value to shareholders. A lot of things we work on take a long time to get traction and yield results. We need that kind of risk capital on the social benefit side of the equation, just as we need it on the entrepreneurial business side. So we have to be very protective of the freedom foundations have to take risks and to innovate. At the same time, we have to trust that people in the future will be as inventive as they have been in the past. We have to trust that certain qualities fundamental to philanthropy — human imagination and the moral commitment to changing conditions that cause human suffering — won't disappear or lose their appeal. And as long as we keep those things at the heart of the field, we should be fine.

FC: Well, thank you, Susan, for sharing your thoughts with us this morning and for ending on that optimistic note.

SB: Thank you.

Mitch Nauffts, the editorial director of *Philanthropy News Digest*, interviewed Susan Berresford at her office in New York City in March 2002.



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