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John Atlas and Peter Dreier

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ACORN Is Back in the News, but the News Still Gets it Wrong

This week, the FBI arrested 25-year old James O'Keefe and three other men, charging them with plotting to tamper with phones in the New Orleans office of Senator Mary Landrieu, Democrat of Louisiana. The four men appeared in federal court Tuesday afternoon before U.S. Magistrate Judge Louis Moore wearing red inmate jumpsuits from St. Bernard Parish Prison. They were charged with entering federal property under false pretenses with the intent of committing a felony, according to the United States Attorney's Office for the Eastern District of Louisiana. If convicted, the four would face sentences ranging from a fine to 10 years in prison.

The case has many similarities to the famous Watergate burglary, except that the players are not part of a scheme linked to the Republican White House against its liberal enemies, but instead a group of right-wing zealots seeking to embarrass the current occupant of the White House, a Democrat, and his liberal supporters.

This is the same James O'Keefe who last year achieved some modest notoriety last year when he secretly recorded a few low-level ACORN staff and volunteers giving him and another conservative activist advice on buying a home and paying their taxes. What made the videos newsworthy is that O'Keefe's colleague, 20-year Hannah Giles, pretended to be a prostitute and, in some cases, told ACORN staff that she intended to set up a brothel. O'Keefe's antics might have been dismissed as a clever college-age prank except that, with the help of veteran right-wing journalist Andrew Breitbart, who runs the biggovernment.org website and once worked for the Drudge Report, the videos became part of a right-wing campaign to destroy ACORN, a progressive grassroots anti-poverty community organization.

Fox News broadcast those videos on a virtual round-the-clock basis, causing a controversy far out of proportion to its news value. The conservative echo chamber, particularly Glenn Beck and his Fox News cohorts, treated O'Keefe like a celebrity hero. Their videos and other attacks on ACORN became a regular staple of the right-wing blogosphere. The conservatives sought to discredit ACORN and, by linking the group to President Obama, undermine Obama and his liberal agenda.

Now ACORN is back in the news, but as part of the "back story" linked to O'Keefe's arrest.

In reporting on O'Keefe's arrest, however, the mainstream press continues to botch the ACORN story. In her report for National Public Radio, for example, reporter Eileen Fleming said that in reaction to the controversy over ACORN, Congress had blocked federal funds going to the group, without mentioning that a federal district court ruling had overturned Congress' action on December 12, 2009. The Associated Press omitted the same important fact. Reporting in the *The Times-Picayune*, David Hammer, repeated the myth that O'Keefe was dressed as a pimp when taping ACORN employees. In fact, O'Keefe presented himself to ACORN staffers as a friend, or boyfriend, of his colleague, Ms. Giles, who was posing as a prostitute. O'Keefe wore a dress shirt and normal clothing when he was in the ACORN offices, but spliced in shots of himself wearing the pimp outfit in the final videos to make it appear that he had worn them in the meetings with ACORN. The *New York Times*' story on Tuesday, by Campbell Robertson and Liz Robbins, made the same mistake.

In a bizarre two paragraphs, the *Times* quoted O'Keefe's father saying that he had no idea what his son was doing in Landrieu's office, but nevertheless praising his son as "an outstanding young man doing investigative journalism" who "pushes the limits a bit." The *Times* reported that "Mr. O'Keefe's Acorn videos won credit from several quarters for drawing attention to long-held conservative suspicions about the group," without reporting that ACORN has been exonerated of any illegal actions by several reports, including a December report by the nonpartisan Congressional Research Service. The *Times* quoted two conservative activists -- Scott W. Johnson, a co-founder of the conservative Power Line blog, and Richard W. Rahn of the libertarian Cato Institute -- lauding O'Keefe for his journalistic initiatives, but quoted no liberals (except ACORN's chief executive, Bertha Lewis) questioning O'Keefe's techniques and veracity.

Arrested with O'Keefe this week were Joseph Basel, Robert Flanagan, and Stan Dai, federal officials said. Flanagan is the son of William Flanagan, the interim United States attorney for the Western District of Louisiana.

According to an affidavit signed by Steven Rayes, a special agent for the F.B.I., the O'Keefe operation began about 11 a.m. on Monday. Basel and Flanagan entered the building dressed in "blue denim pants, blue work shirts, light green fluorescent vests, tool belts, and construction-style hard hats."

They said they were there to perform repair work on the telephone system. O'Keefe who was waiting in Landrieu's office for his comrades was "holding a cellular phone so as to record" video of Basel and Flanagan's actions.

Basel picked up the handset of the main telephone at the reception desk. Both he and Flanagan told Landrieu's staff that the phones were down and asked to be led to the telephone closet, so they could fix the building's phone system. After the men were directed to the main General Services Administration office on the 10th floor, a GSA employee asked for the men's credentials. Flanagan and Basel claimed that they had left them in their vehicle.

Shortly afterward, United States marshals arrested all four men.

After he was let out on bail and released from jail pending his trial, O'Keefe hustled to a cab and as he slipped into the back seat, said, "The truth shall set me free."

O'Keefe, who has become a right-wing celebrity for his anti-ACORN antics, was in New Orleans to give a speech for the Pelican Institute for Public Policy, a libertarian research organization. The topic of the speech was "Exposing Truth: Undercover Video, New Media

and Creativity."

In fact, the truth and James O'Keefe rarely inhabit the same space.

Last year, the mainstream media treated O'Keefe's exploits against ACORN as an example of investigative "gotcha" journalism. TV stations broadcast the videos without providing viewers with context. Most newspapers, too, acted more like stenographers than reporters. Few of the stories in newspapers, magazines, and TV pointed out that O'Keefe and his friends had doctored the videos before they were released, or that they refused to release the original footage. Not surprisingly, the videos failed to reveal that some ACORN offices turned the pair away or refused to provide them any aid. In no ACORN office did employees file any paperwork on the duo's behalf. The group has sued O'Keefe and Giles, saying the secret recordings were illegal.

Almost every major TV station and newspaper reported the controversy, allowing Fox News, O'Keefe, and his cohorts to set the agenda. Their film damaged ACORN's reputation.

O'Keefe's efforts probably wouldn't have had any impact except that it built on the Republican Party's ongoing war against ACORN that began in 2004 and accelerated during the 2008 presidential campaign. Karl Rove (President Bush's top political adviser) and conservative Republicans orchestrated an attack on Acorn for alleged "voter fraud," as part of a campaign to suppress the voting of minorities and the poor. As part of this effort, a U.S. Attorney was asked to investigate ACORN. The investigation came up empty-handed, but the GOP operatives persisted. The allegations of "voter fraud" hit a peak in October 2008, aided by Arizona Sen. John McCain's charge in a presidential debate with Barack Obama that Acorn "is now on the verge of maybe perpetrating one of the greatest frauds in voter history in this country, maybe destroying the fabric of democracy." He demanded that Mr. Obama disclose his ties to Acorn. Senator McCain frequently repeated those accusations on the campaign trail.

Although the voter fraud never materialized, the stories planted during the election season yielded a bountiful crop of misinformation. Particularly troubling was the mainstream news media's unwitting complicity in the conservative campaign to frame ACORN. For example, 80.3 percent of the print and broadcast stories about ACORN's alleged voter fraud failed to mention that ACORN itself was reporting voter-registration irregularities to authorities, as required by law.

Thanks to the combination of Republican attacks and O'Keefe's videos, ACORN lost considerable credibility among foundations and one-time political allies. Congress voted to cut off ACORN's federal funds (a tiny part of its overall budget) and to end ACORN's ability to provide free tax preparation clinics for the poor and to help Census workers recruit people to fill out the forms. Republican politicians, like Cong. Darrel Issa of California, called ACORN "corrupt." Even some of ACORN's former Democratic allies kept their distance, and silence, when ACORN was under attack. No one from the Obama administration, including HUD Secretary Shawn Donovan, who had worked closely with ACORN in New York, uttered a word in ACORN's defense. Only seven senators -- six Democrats and one Independent -- came to ACORN's defense, notably Democratic Senator Richard Durbin of Illinois and Independent Senator Bernie Sanders of Vermont. The Democrats' timidity encouraged the Right -- including Glenn Beck, Rush Limbaugh, and other talk show lunatics as well as conservative Republican zealots like Darrell Issa -- to destroy ACORN's reputation.

They were successful. By October 2008, a national Rasmussen poll found that 60% of

likely voters had a slightly unfavorable or very unfavorable opinion of ACORN. The same poll reported that 45% believed that ACORN was consciously trying to register people to vote multiple times in violation of election laws. By November 2009, another survey found that 26% of Americans - and 52% of Republicans -- believed that ACORN had stolen the election for Obama. Overall 11% of Americans viewed ACORN favorably while 53% had a negative opinion of the group. ACORN has become well known, but what most Americans know about it is wrong, based on controversies manufactured by the group's long-time enemies.

The controversy surrounding the ACORN videos generated lots of news stories. But few of the stories about the videos recounted O'Keefe's history as a right-wing zealot, who had previously developed hidden camera stories for a conservative magazine he founded at Rutgers University. Besides Breitbart, O'Keefe's other accomplice was Ms. Giles, a 20-year-old journalism student and surfer buff, who previously interned with the conservative National Journalism Center in Washington, D.C. She is the eldest daughter of a conservative Christian minister in Miami. Giles's father, Doug Giles, served as minister of the ultra-conservative ClashChurch near Miami, where he proclaimed that liberals "spit on the Word of God." He had complained of what he called the evils of the Obama administration and its alliance with ACORN.

O'Keefe and Giles despised and feared ACORN. " [ACORN's] world is a revolutionary, socialistic, atheistic world, where all means are justifiable," said O'Keefe, on a conservative web site. "And they create chaos, again, for it's own sake." O'Keefe mistakenly believed that ACORN received "billions" in tax money.

O'Keefe and Giles targeted ACORN, though, not to expose any bad advice being doled out by the mortgage counselors, but for the same reason that the political right: to put an end to ACORN's massive voter-registration drives that brought out poor African Americans and Latinos to cast ballots against Republicans. "Politicians are getting elected single-handedly due to this organization," he told the press in a Los Angeles Times story on September 19, 2009. O'Keefe and Giles timed the release of the video to distract public attention away from Obama's September 9 speech on health care reform.

This week, ACORN's chief executive, Bertha Lewis, correctly said the arrest was further evidence of that O'Keefe's "disregards the law in pursuit of his extremist agenda."

ACORN spokesman Kevin Whelan said that the arrest calls O'Keefe's credibility into question, and correctly pointed out the "edited (ACORN videos) tried to make things look as bad as possible."

So perhaps this is a good time for the mainstream press to get the ACORN story right.

Last month, facts exonerating ACORN began to emerge. On December 7 an independent report by Scott Harshbarger, the former Massachusetts Attorney General and former president of Common Cause, cleared ACORN of any illegal conduct. The report stated, "While some of the advice and counsel given by ACORN employees and volunteers was clearly inappropriate and unprofessional, we did not find a pattern of intentional, illegal conduct by ACORN staff; in fact, there is no evidence that action, illegal or otherwise, was taken by any ACORN employee on behalf of the videographers." His report also noted that the videos were doctored and misleading.

"The videos that have been released appear to have been edited, in some cases substantially, including the insertion of a substitute voice-over for significant portions of Mr.

O'Keefe's and Ms. Giles's comments, which makes it difficult to determine the questions to which ACORN employees are responding. A comparison of the publicly available transcripts to the released videos confirms that large portions of the original video have been omitted from the released versions."

Further, the Harshbarger report reinforced criticism of the mainstream media's handling of the ACORN story, including the way CNN played the "prostitution scandal" videotapes over and over again. The mainstream press has continuously botched the ACORN story by repeating rather than fact-checking the allegations.

For example, the Associated Press story about Harshbarger's report, published in the Washington Post and other newspapers, didn't mention that the conservative videographers rebuffed attempts by Harshbarger to interview them and refused to permit him to review the unedited tapes so he could compare the raw footage with versions that were released. Most major news outlets, which went overboard reporting the ACORN video "scandal," did not even mention the report.

Five days after the report was released, on December 12, 2009, federal judge Nina Gershon blocked U.S. officials from enforcing the funding ban on ACORN. She ruled that Congress had violated the Constitution's ban on bills of attainder, legislation that punishes a specific person or group without a fair hearing. ACORN lawyers quoted several Republicans making unsubstantiated accusations about ACORN being a criminal organization that deserved to be punished.

"[ACORN has] been singled out by Congress for punishment that directly and immediately affects their ability to continue to obtain federal funding, in the absence of any judicial, or even administrative, process of adjudicating guilt," Gershon wrote in her decision. Soon after the decision, some of ACORN's projects began receiving federal funds, including between \$40,000 and \$60,000 for housing assistance.

This decision and the Harshbarger report, which came on the heels of a successful ACORN lawsuit in Ohio that brought the state into compliance with the National Voter Registration Act, brought some hope to ACORN's members that public opinion might shift in ACORN's favor.

Soon after Harshbarger refuted the charges of financial wrongdoing and voter fraud against ACORN, a nonpartisan Congressional Research Service (CRS) report released on December 22 found no evidence of voter fraud associated with ACORN and "no instances in which ACORN violated the terms of federal funding in the last five years." Moreover, the report found that the two conservative activists who secretly videotaped conversations with ACORN workers and distributed those recordings on the Web without their consent violated laws in Maryland and California. CRS also noted that as of October 2009, ACORN had been subjected to at least forty-six federal, state, and local investigations, with only eleven still outstanding. Only one state, Nevada, brought charges against ACORN, under an ambiguous law that prohibited paying staff to register voters.

Despite the fact that the CSR report was a comprehensive source for fact-checking the allegations aimed at ACORN, the New York Times buried the story in a short article on page 15, and USA Today noted it in a seven-sentence news brief. CNN took just a few seconds to mention the report, again playing a clip of the infamous undercover video.

Most of the major news outlets, including the Wall Street Journal, ignored the CRS report.

Time magazine and U.S. News & World Report used their end-of-the-year roundup to spin the ACORN story as a scandal. Time put ACORN at number 9 in its top 10 scandals of 2009, while U.S. News rated ACORN number 4 in its top 10 political scandals of 2009.

More generally, few stories have explained that since it was founded in 1970, ACORN has made powerful enemies, and that the attacks on the group have a long history. With chapters in more than 70 cities, it has successfully fought banks that engaged in predatory lending, employers that paid poverty wages, and developers that gentrified low-income neighborhoods. It has also registered more than a million Americans to vote.

Not surprisingly, many businesses have long opposed the group's efforts to raise wages for the working poor. Banks, mortgage companies and payday lenders have fought ACORN's campaigns to strengthen regulation of the financial industry. Business groups have funded anti-ACORN websites, such as rottenacorn.com, that aim to destroy the group's credibility. Republicans have long opposed ACORN's success at registering low-income, mostly minority voters, who are more likely to vote for Democrats. The mainstream media have consistently failed to explain this long conservative campaign to smear and vilify ACORN by using any means necessary, including lying and exaggeration.

Like all large organizations, ACORN is not without flaws. ACORN admits that in the past it devoted too few resources to management and staff training. ACORN was embarrassed by its errant employees and fired them immediately. But the misjudgment of a few employees is hardly grounds for withdrawing federal or foundation funds.

ACORN had been defamed. The recent trickle of positive media coverage came too late. Many of ACORN's foundation supporters withdrew their funding. They acted hastily, but the damage had been done. ACORN has been laying off staff and closing its offices.

For the working poor, the attack on ACORN is a tragedy. ACORN's modest operation -- run out of well-worn offices, using donated computers and torn furniture, paying low salaries for long hours -- helped empower the poor to stop home foreclosures, increase wages through living wage campaigns, put up stop signs at dangerous intersections, rebuild parks and save neighborhoods from decay. Unless mainstream press starts reporting the facts, not propaganda about ACORN, and unless Democratic leaders and progressives come to the defense of ACORN and other activist groups, the big losers will be the working poor and the fabric of our democracy.

John Atlas' history of ACORN, "Seeds of Change," will be published by Vanderbilt University Press in June. Peter Dreier, professor of politics at Occidental College, is coauthor of "The Next Los Angeles: The Struggle for a Livable City." Atlas and Dreier are both board members of the New Jersey based National Housing Institute.

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