

The logo for the Sioux Falls Estate Planning Council, featuring a blue arrow pointing right with the text "Sioux Falls Estate Planning Council" inside it.

Sioux Falls Estate Planning Council

How Best to Approach Philanthropy with Clients

Detailed Notes for Estate Planning
Council CE/CLE Presentation

A decorative graphic consisting of several thin, curved lines in shades of blue and grey, resembling stylized grass or reeds, located in the bottom left corner of the page.

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Marc Littlecott is the Director of Gift Planning at the South Dakota State University Foundation in Brookings SD. He is a Chartered Advisor in Philanthropy® and a Certified Gift Planning Professional. He has worked in the field of non-profit development for over two decades, working for the Boy Scouts of America, The Salvation Army, and since 2014, the SDSU Foundation. He has specialized in the discipline of Planned Giving since 1999, securing a combined-roughly \$120 million in planned gifts.

This paper has been constructed to detail certain key notes from Marc's presentation to estate planning councils, bar associations, and law firms about the topic of how best to approach the subject of philanthropy with clients, particularly affluent ones.

In addition to his role with the SDSU Foundation, Marc is on the editorial board of the planned giving field's leading trade-journal, *Planned Giving Today*. He also serves as Board Secretary for the Charitable IRA Initiative, www.charitableira.org, which is the nonprofit organization that both created and secured the popular Charitable IRA Rollover for seniors over age 70.5 and is presently pushing for its expansion to include funding inter vivos charitable remainder trusts and gift annuities from traditional IRA's, via *H.R. 1337, The Legacy IRA Bill*.



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Why It Matters

The Other William Wallace

William B. Wallace (not to be confused with the protagonist in the film *Braveheart*) was signing his will one day. The affluent owner of one of the Phoenix region's leading financial and insurance firms looked around the table of assembled attorneys, accountants, and financial advisors and asked a simple question, "Can anyone tell me why I'm leaving \$X millions of dollars to the Boy Scouts (National Council)?" To hear Wallace tell it, he was peeved when none of the advisors he had been working with over the last year to revise his estate plan could supply an answer. Sure, everyone could tell him "how" he was making planned gifts to various charities, but not a soul in the room knew "why".

Over the following months, Wallace stewed about what he perceived as a lack of interest concerning the motivations for a (very affluent) client's charitable interests. He told an interviewer how, as not only a client, but as a business owner he was doubly concerned that perhaps quite a few of his firm's clients were also a little put-off that his staff was not showing a satisfactory level of interest about their clients' passions.

What Wallace came to realize, having trained and mentored hundreds of financial/insurance professionals (including a few in the room that morning), was that no financial planning program, law school, or financial course adequately gives training to professional advisors in how to best approach the subject of personal philanthropy with clients. Certainly, there is a lot of information and training about various planned giving tactics like charitable trusts, family foundations, etc., but these vehicles and options are usually resourced when tax issues present themselves. For Wallace, and most Americans of all levels of wealth, taxes are usually the last thing on their mind when it comes to making charitable donations, especially in their estate planning (See the **7 Donor Motivations** portion of this presentation.)

Convinced by discussions with similarly wealthy friends and acquaintances who also felt much was missing in their estate planning experience, Wallace decided to approach **The American College** in nearby Bryn Mawr, PA about creating a certification for estate and financial advisors to better train those who are working with especially wealthy people to have a deeper, philanthropic conversation with their clients. The **Chartered Advisor in Philanthropy**[®] was born (with a sizeable donation from Wallace), mostly as an online certification that many advisors throughout the nation have added to their skill set, with amazingly satisfying results for both their clients, and their practice. (The Omaha study-group sometimes has a waiting list of attorneys and financial advisors.)

Today's presentation will tap many of the principals and concepts I learned when I took the CAP[®] course in 2011 and which I've has seen work successfully from similarly credentialed estate planning attorneys and financial professionals. For those interested in the CAP[®] certification, it can be found online at the college's website.

-Marc Littlecott, CAP[®]
September, 2018

WHAT'S EXCITING ABOUT WILLS & SNOW TIRES?

In the winter of 2018, I was meeting with a local estate attorney who was personally flummoxed (to use his word) as to why so few - actually almost none - of his clients ever made charitable provisions in their wills. Quite correctly, he knew most South Dakotans were charitably minded and sensed there was disconnect between how they lived their lives and how he was planning their estates. He asked me to explore with him how he might add the charity component effectively to his conversations. Seeking an analogy, I looked out the window that February morning and asked him what he liked best about his snow tires. More like a question, he answered with "They keep me from driving into a ditch?"

I continued, "Well, imagine you were to ask someone what they like best about their will, or better, what they think are the most exciting outcomes or aspects of their estate plan? For most people, that question would resonate the same as if someone asked them what they like best or find most exciting about their snow tires. For the majority of Americans, an estate plan is perceived as a mere tool or mechanism to convey assets between generations. Suggesting that a will can be "exciting" is, to say the least, a new paradigm for most folks. What if clients thought of their estate advisor(s) as someone who facilitated something so unusual and exciting that they would commonly tell their friends about the experience, and the planned results? This would certainly be the most productive kind of advertising for any practice." (Our case study is just one example of this happening.)

One practitioner who plans for "exciting" was a Tyler, TX attorney I met while working for The Salvation Army over a decade ago. John Payne, JD told me that about 80%+ of his clients had an estate plan including at least one non-contingent, charitable bequest. When he first told me this, and after I picked my lower jaw off of the floor, I asked him how he broaches the subject of charity with his clients. "I don't", he insisted. Noticing the quizzical look on my face, he continued, "I try my best not to use the word 'charity' at all with my clients, and I especially never ask them whether they want to include charity in their estate plan." He went on to tell me that an attorney who asks "the charity question" should expect an immediate "no" from most of his clients, way before they even know what they're saying "no" to. "I learned early in law school that it's never a good idea for an attorney to paint himself into a corner with his own question," he told me.



John Payne, JD – Tyler, TX

Instead, John asks most every client, "Besides your family, are there any other people, or organizations, that have had an impact on you in your life, or which you have impacted with your own time, talent, and/or treasure?" Rarely does he get a negative response. He then explores with them what causes in particular they feel passionate about, and most importantly, "why". John then will posit the idea that they might be able to continue to impact, possibly even transform these causes through their estate plan "...without compromising a penny of what you already intend for your heirs". (More about this "Give-it-Twice" concept later in the presentation.)

The reason why John is inarguably the most popular estate planner in his region is that clients are excited about the estate plan he designs for them, because it does amazing things for causes they're passionate about, without diminishing family goals and priorities. The subject of personal philanthropy (not to be confused with charitable giving) is something people are passionate about, and a topic at many a dinner party. To say John gets lots of referrals because of this different approach is an understatement.

“8 out of 10” Clients Should Tell Us Something

The United States of America is the most charitable country in the world. A little over 80% of Americans make regular charitable gifts to at least one cause or organization per year, yet only about 11% of Americans with a valid estate plan (testate) actually include a non-contingent charitable bequest. If one removes the testate-Americans without children from the mix, this percentage plummets to 1.8%! What happened? Do people suddenly become uncharitable when they do their estate planning, or is something else at work?

Just like voting for a political candidate, or choosing a mate in life, most people give to charities primarily for emotional reasons. Indeed, as we will introduce later, many people – most especially millennials – give to impact specific “Issue Areas”, no longer satisfied to give “to charity” simply because grandpa and their parents always did the same. Their consumer and political choices also reflect this change of attitude, by the way.

Setting aside the whole idea of doing something noble for both society and their clients, an advisor would do well to discern that this huge gap between the number of intervivos and testamentary charitable donors begs a golden opportunity to differentiate themselves from the herd of companies, firms, and outside resources (like online will kits), with which or with whom they compete for business. People do want to make a difference with their lives, and *ergo* their legacy, if someone will just show them how they can do it. The 2002 and 2006 study by Hanna Shaw Grove and Russ Prince covered in today’s presentation, titled *Square Peg, Round Hole* bears this out, especially as pertains to affluent individuals and couples.

So why the huge gap? Why don’t more people plan a testamentary estate gift to fix, change, preserve, cure, enhance and/or affect a cause they hold dear? I submit it’s all in how the topic is broached when they do their planning.

Effectively Identifying and Facilitating Philanthropic Planning

TWO OPPOSITE APPROACHES

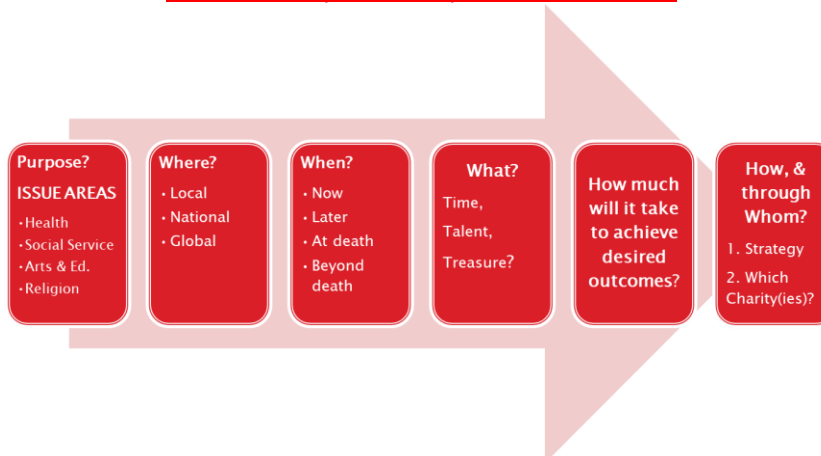
There are two approaches an estate planner may take with clients to identify and develop their charitable interests. One is the classic “Charity Question”, which puts the cart before the horse. “Do you wish to include any charities in your estate plan”, or some variant thereof is the usual question. Typically, especially for clients with children, the answer is “no”, and that’s the end of that. Time to move on to something else. For the rare client who answers in the affirmative, the typical follow-up questions are “which charities” and/or “how much?” Sometimes, even the purpose for these charitable gifts may be discussed. A paralegal is then tasked to look on the charity’s website and secure bequest language. That’s usually the extent of the gift planning.

Flow of the typical “Charity Conversation”



The other, more effective approach – the one practiced by what the Fithian brothers identify in their classic tome, *The Right Side of the Table* as “Above the Line Planning” – is to ask “Impact Questions”, instigating a conversation about philanthropy without necessarily pushing the subject on to the client. Examples usually begin with questions like, “Tell me...” or “Describe to me...” seeking to stimulate a conversation about philanthropic interests, as opposed to mere charities the client might give to. “Issue Areas” important to the client are explored, long before any charities or potential giving amounts are discussed.

Flow of the optimal “Impact Conversation”



Assuming the practitioner is adopting the “Impact Conversation”, there are a few more factors and techniques to consider that will help make whatever level of conversation he or she adopts go a lot smoother with their client.

- 1) Identify 1-3 of the four kinds of “**Issue Areas**” that the client particularly feels passionate
 - Health/Medical
 - Arts/Education
 - Religion
 - Social Services
- 2) Have the client describe what would successful or amazing **outcomes** in these Issue Areas
- 3) Subtly identify which of the **7 Donor Motivations** influences how the client decides to donate.
 - a. Ask him to describe which gift has given him the greatest satisfaction, and why.
 - b. Ask which gift she’s made in her life she found to be the most exciting, and why.
 - c. Ask why it’s important to give philanthropically. Look for these motivations in their answer:
 - 1) Because she just likes to help people (Altruist)
 - 2) Because he wants to affect a cause, but do so intelligently and purposely. (Communitarian)
 - 3) Because the universe, karma, the Bible or some spiritual reason compels him. (Devout)
 - 4) Because it’s the example he was raised to adopt, or which he wishes to instill in heirs. (Dynast)
 - 5) Because the IRS incentivizes giving to charity. (Investor)
 - 6) Because she wants to “give back”. (Repayer)
 - 7) Because he likes the feeling of giving, especially when others like himself do so too. (Socialite)

Discerning...

The 7 Kinds of Donor Motivations

- ▶ **Altruist** – contributes out of generosity and empathy, not necessarily to qualified charities
- ▶ **Communitarian** – the venture capitalist version of an Altruist
- ▶ **Devout** – gives primarily for religious reasons
- ▶ **Dynast** – has a family tradition for giving, or wants to instill one
- ▶ **Investor** – gives with one eye on the cause & the other on tax/financial benefits
- ▶ **Repayer** – “Giving Back” because charity helped him or her, a friend, or loved-one
- ▶ **Socialite** – gives as part of a peer group concept or motivation

Remember: 8 out of 10 clients are on this list

The practitioner would do well not to project their own donor-motivation upon the client. For example, many in the accounting and financial services fields are personally wired as “Investors”, personally wondering why a client who has maxed-out their annual charitable deductions for the year is curious to know what else they might give. A Communitarian or Devout may have a “reasonable”

answer in the practitioner’s mind, but an Altruist’ or a Socialite’s reasons may leave their investor-oriented advisor almost speechless. Whether for inter vivos or testamentary giving purposes, identifying which of the seven donor motivations apply (and rarely are they the same with a married couple), is very important for how the practitioner communicates with clients about their philanthropic interests and passions.

TIP: Understanding that just one of seven clients is motivated as a “Repayer”, an effective advisor might do well to avoid using the now-popular phrase “give back” when asking about their client’s philanthropic interests, lest the phrase ring hollow, confuse, or in the case of a devout contributor, offend them.

Asking the “Wright” Questions

THE WHAT: Author Kurt Wright in his tome *Breaking the Rules: Removing the Obstacles to Effortless High Performance* shares a 5-Step questioning method he has honed to develop the optimal results in any discerning conversation. These orbit the concept of what he calls “What’s Right” questions.

Wright is a highly-sought consultant who advises large corporations, usually in manufacturing. Unlike other consultants who often brush past what’s working right and well in order to develop solutions, Wright is keen to harness what indeed is working well, challenge the staff to identify why these aspects are working well, then stimulate the managers and employees to create what might be ideal. This is what the Fithian brothers label in their earlier cited book *The Right Side of the Table* as “Discernment”, at the highest and most effective level.

Recall the salient point cited earlier by the Fithian brothers and the Shaw/Grove study as to what clients, especially affluent ones, are seeking from their estate and financial advisors – a higher level of interaction, stimulation, and most especially humanity when it comes to interacting with practitioners. Wright’s 5-step method clearly works not only for factories and corporations, but at the individual level between the discernment-oriented practitioner and his or her clients.

THE HOW: Wright’s method is to develop questions along the following model:

1. What do I know is already right/working?
2. What is it that makes it right?
3. What would be ideally right?
4. What, then, is not yet quite right?
5. What resources do I need to make it right?

Tools, Tips, & Techniques

The Discernment Model using “What’s Right” Questions

1. “What do you like best (or find most exciting) about your estate plan?”

The agenda-setting question.

Answer: “Well, it takes care of my spouse, then of course, the kids.”

2. What makes that important?

The energy producing question.

Answer: “Well that should be obvious – I love them!”

3. What would be ideal?

The question that exposes a gap.

Answer: “What else is there? The grandkids perhaps? My church? What do you mean?”

Source: *Breaking the Rules*®, by Kurt Wright

Tools, Tips, & Techniques

4. Well, pretend for a moment your family didn’t exist and your whole estate were to instead all go to do something amazingly philanthropic. What would “Amazing” look like?

The motivating question that fills the gap.

Answer: “Off the top of my head, I suppose I’d want to honor my late-mother by enhancing that scholarship she set-up at the university. It meant so much to her...”

5. If a way could be found...without compromising a penny of what you intend for your spouse and heirs...?

The focusing question

Answer: “Well, if we were to really try to endow my late-mother’s scholarship to the level we’re talking about, the school says it would take \$XXX,XXX. If you think that kind of thing is possible, I’m all ears!”

Source: *Breaking the Rules*®, by Kurt Wright

PUTTING IT ALL TOGETHER

The following situation depicts estate planner Jane and her never-married client, Stan. Jane who adapts Wright's model, more-or-less, to her own style of questioning.

The reader will note that she's first keen to determine if Stan even has an interest in the topic of philanthropy. Then she seeks to develop his level of present involvement, including the "Issue Areas" that peek his interest, and what motivates him to give.

She diagnoses that Stan has two "Issue Areas" that appeal to him and that he is a Dynast because it seems his motivation for giving stems from wanting to honor a family tradition, informal as it may be, as exemplified by his late mother. Stan doesn't really mention a lot of passion for the causes he regularly supports, as perhaps a Repayer, Communitarian, or Altruist might do, nor does he care a whit about taxes, recognition, or cite religion as motivating factors either.

Discerning his motivation, Jane selects open-ended questions that both explore Stan's dynastic giving motivation and elicit excitement for an estate plan that will do something amazing to honor his mother's example. More than likely, Stan will walk away with an unusual and dynamic estate plan designed by Jane that he will want to tell his friends and especially family. Jane might reasonably expect a few calls from some of these contacts about doing something similarly dynamic in the future.

ADVISOR (setting the agenda): "Stan, what do you like best about your present will?"

STAN: "I can't say I necessarily 'like' anything about it other than it is pretty simple and leaves my money to my nieces and nephews."

ADVISOR (clarifying & producing energy): "Tell me about your relationship with your nieces and nephews. Why is it important to provide your money to them?"

STAN: "I don't think I have a choice to otherwise. My siblings are all older than me, so it seems natural to keep my wealth 'in the family', I guess."

ADVISOR (exposing a gap): "Besides your family, are there any other people, or organizations that have impacted you or which either of you have dedicated significant time, talent, or treasure during your life?"

STAN: "Hmm... besides my family, you ask? Because my parents really had an influence on me and my siblings, that's for sure. I don't know that any have. I was a Cub Scout for a few years and I did play in the High School band. I guess those activities helped shape me a bit, though I can't say I support those groups with money or time."

ADVISOR (filling the gap): "If in an alternative universe none of your heirs existed and you had no individual persons to whom you could leave your estate, what one thing in this world would you might possibly want to impact with your entire estate?"

STAN: "I'm not sure what you mean, Jane. Kind of like Jimmy Stewart in that 1940's Christmas movie?"

ADVISOR: “Yes, something like that. Well, think of it this way: what keeps you up at night? Is there anything in this world, the nation, or the community that if you could wave a magic wand and make better, preserve, cure, fix, enhance, etc. you would if you could?”

STAN: “There are so many things!”

ADVISOR: “Well let’s just stick to 2 or 3, for now.”

STAN: “I suppose I’d love to see hunger alleviated. Domestic violence and human trafficking are also pretty big on my agenda, now that I think about it.”

(ADVISOR: Thinking to herself, Stan’s “Issue Areas” seem to be in the category of Social Services. That’s helpful to know. I’ll wait a few seconds to see if he elaborates on these a bit.)

STAN (continuing): “You know, my mom was pretty big on education, now that I think about it. I guess doing something in that area would be rewarding to me.”

ADVISOR: “You mentioned a few issue areas having to deal with both social concerns in society, as well as education. Do you see a tie-in, or are they pretty much separate in your eyes?”

STAN: “I’m sure a lot of the challenges with hunger and the rest stems significantly from an undereducated class in society. Then again, with the way colleges keep raising their tuition and costs, there may be fewer people considering that route anymore – unless they don’t mind a lifetime of student debt!”

ADVISOR: “Tell me more about your mom.”

STAN: “She was a saint. I’m sure you hear that a lot from people, but she really was!”

ADVISOR: “Was she involved in the education field?”

STAN: “No, she stayed a homemaker all her life, but her father insisted she get a degree from State College before she married and raised a family. She sure made us kids hit the books, and I have her to thank for that discipline she inculcated in us, for sure! I know she always talked about an old professor of hers up at State, quite fondly.”

ADVISOR: “Tell me, did your family ever reconnect with State after she graduated?”

STAN: “Can’t say that we did...other than my sister paying a lot of money there for her degree!”

ADVISOR: “Let me ask you an odd question, Stan. You mentioned a few significant issue areas, particularly with regards to education and social challenges. Do you presently give through any charities to address those concerns, and if so, which ones?”

STAN: “Not to the degree I should, I have to admit. Still, I help The Salvation Army every year with a nice donation, though I could probably do more. I never thought of giving to my alma mater, probably because they’re too persistent asking for money!”

ADVISOR: “What would your mom think of your philanthropic giving?”

STAN: “Umm...probably not liking it, compared to what I know I’ve accumulated in life.”

(ADVISOR: Thinking to herself, Stan definitely seems to have his mom's example looking over his shoulder, likely meaning he is a Dynast when it comes to his donor motivation to charity. He hasn't talked so much about any of the four "Issue Areas" and what he'd like to see happen with them if he could. Let's see how he responds to this next question.)

ADVISOR (still in motivating mode): "Stan, what would excite you the most if you could make a significant philanthropic impact in those areas of education, human trafficking, hunger, and/or domestic violence? What would make mom proud?"

STAN: "Wow! Hmm...I don't know. (Pause) Well, maybe if we could honor that professor mom talked so much about. "Dr. Reeves", I can recall as clear as day! Not sure on the social issues, but I'd like to help The Salvation Army out some more because they really seem to be doing good work."

ADVISOR (focusing): "Stan, if we could provide a way to honor Dr. Reeves' and your mom, plus empower The Salvation Army to do a whole lot more good on those social areas without compromising a penny of what you intend for your nieces and nephews, would you be interested?"

STAN: "That sounds a little too good to be true, but as long as it doesn't cost me more, I'm willing to see what you have in mind."

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