



NATIONAL CENTER FOR  
FAMILY PHILANTHROPY

# SPLENDID LEGACY

CREATING AND RE-CREATING

YOUR FAMILY FOUNDATION



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# ETHICS IN FAMILY PHILANTHROPY

## What's A Nice Foundation Like You Doing in a World Like This?

BY MICHAEL RION

John D. Rockefeller, the infamous oil industry titan, created a large and long-lasting family foundation. From his early days tithing from meager wages to his legacy of professional philanthropy, Rockefeller's generosity enabled vast and lasting contributions to “promoting the well-being of humanity throughout the world” in arenas such as health care and education.<sup>1</sup> The sum of his good deeds is incalculable. But all this goodness arose from business practices widely seem as harmful to individuals, communities and the commonweal.

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ETHICS IN FAMILY PHILANTHROPY

Like Rockefeller, your intentions as you create or refine your own foundation are undoubtedly good and grounded in your character and conscience. If you achieve your aims, you will indeed make positive contributions to your community and the larger society. And, like the rest of us — Rockefeller being an extreme example — you may also make mistakes. What some have called the “veil of nobility” can cloud your vision. The goodness of your cause is so great that you may ignore how you accomplish it (by,

for example, treating staff or grant seekers disrespectfully or ignoring potential conflicts of interest). Rockefeller, “clad in the armor of self-righteousness,” typified the way the veil of nobility undermines ethical awareness; he was impervious to any criticism.<sup>2</sup>

Taking time to reflect on ethics will help to clarify the values propelling your good work and to sharpen clear-sighted responsible decision-making.

## You Are Doing Morally Good Work

Which programs and agencies do you support? The opportunities are endless, from the arts and education to health care and community revitalization. Your contributions in any of these arenas will — with due diligence and a bit of luck — achieve positive outcomes. Even if your sole interest is in tax advantages and you distance yourself from the foundation work, your gifts can serve the public good. More likely, your motivation is deeper and richer. The beliefs nurtured in your family, a sense of stewardship, your personal commitments and interests, perhaps even your desire to foster charitable impulses in your children — all these are morally laudable intentions.

These core values are the foundation of your family philanthropy. Articulating and discussing them regularly is part of ethically responsible giving. Without that touchstone, you risk drifting into haphazard giving practices. Consider, as well, that results matter as much as good intentions. You have an ethical obligation to ensure your grants and gifts are effective in achieving your goals. To be genuinely “good,” good deeds must work.

Here, we need to recognize the peril of moral blinders that can lead us astray. The dictionary notion of blinders is “something that serves to obscure clear perception and discernment.”<sup>3</sup> Rationalization is probably our most familiar example; we readily explain away something that might otherwise bother us, convincing ourselves that nothing is wrong. Our judgment can also be blinded by misplaced loyalty, allowing our family and personal relationships to cloud our thinking about, say, a potential conflict of interest. Over-confidence,

and even arrogance, that often comes with power and privilege can likewise blind us to insights from grant seekers and others about the effectiveness of a particular program.

Raising the challenge of moral blinders is not an accusation. It simply acknowledges that we often overestimate our capacity for doing good and underestimate the chances of getting it wrong. The idea of moral blinders is nicely captured in an archaic but helpful word, “purblind: having imperfect perception or discernment, lacking or incapable of clear mental, moral or spiritual visions; ...obtuse.... “To advance purblindly upon the problem ... is to intensify the mischief.”

Clear ethical thinking can help avoid unintended mischief and enhance the integrity of charitable giving. It starts with understanding more precisely what we mean by *ethics*.

## Ethics “101”

People sometimes shy away from discussing ethics. It sounds too soft, too laden with emotional disagreement, too dogmatic, or too relativistic. Fear not, there is actually much common ground.

First, some simple language clarity. *Ethics* derives from the Greek word from which we get *ethos*, that is, from the notion of character, culture, and deeply shared values. Likewise, *moral* comes from the Latin root *mores*, the customs and accepted rules of a group or society. While these words are sometimes distinguished, they are basically synonyms pointing to standards of what is right and good.<sup>5</sup> I use them interchangeably in this chapter.

While people surely disagree on many issues, there is far more consensus than you might think. Principles like fairness and promise keeping provide the basic ground rules that enable any community to function. Imagine trying to conduct day-to-day activities if you couldn't rely on colleagues, merchants, and others to be generally honest and reliable. The wariness would be exhausting. Ethics simply means treating each other with respect. Some of us come to that

insight from deeply held religious beliefs, others from family upbringing or reflection on psychology and philosophy. These will shape our particular values and approach to *why* we respect one another, but the common ethical principles are not unique to our traditions or beliefs. Indeed, the late Rushworth Kidder demonstrated through global research that honesty, responsibility, respect, fairness, and compassion are virtually universal values.<sup>6</sup>

Legal compliance is an ethical obligation but not the only one. You will surely consult legal counsel in setting up and managing your foundation. Many compliance concerns are rooted in ethical principles. As Mark Twain is said to have quipped, “If there were no bad people, there would be no good lawyers.” Legal restrictions often reflect the desire to correct or prevent ethical misdeeds. Once you understand various legal concerns, you will find that ethical decisions arise that go well beyond the legal minimums.

## Ethical Decision-Making

Responsible decision-making balances three essential ethical dimensions: consequences, principles, and character.

### Consequences

Our natural desire to accomplish something good gives rise to this perspective. The “end justifies the means” is one version: the ethical choice maximizes good outcomes for the most people. Doing good deeds is the essence of philanthropic work. Of course, if we focus *only* on consequences, we may miscalculate benefits and underestimate negative impacts of what we think is a very good thing to do. We also need to remember two other aspects of ethical decisions.

### Principles

Keeping promises, acting fairly, and telling the truth represent a different approach. Principles, as we have already noted, arise from those basic ground rules that help us to interact dependably with one another. We cannot simply “translate” one unit of promise keeping into three units of fairness in order to do a utilitarian calculus. Suppose you met with two agencies and promised to review their proposals based on specific program criteria. If you then give a grant to one of the groups, and that group has a family member on its board, you have violated your promise, even though the money will be well used. At the same time, of course, emphasizing an ethical principle as the sole criteria can lead to its own kind of mischief. That program your sister is involved with may do really good things even better than competing agencies. Sorting out the right decision involves balancing both consequences and principles.

## Character

Where did your values and integrity come from? You would probably talk about parents and family, school, and religious communities, or other significant people in your life. These communities of conscience nurtured and sustained your personal integrity. We all need these relationships as we are growing up and also as adults. “Knowing who we are and expressing our identity and integrity in the family foundation, as in all parts of our life, is “foundational” in the sense of laying the foundation for everything else.”<sup>7</sup> Decisions based only on the “head” — reasoning about consequences and principles — may miss this distinctive perspective of the “heart,” resulting in choices that won't sit well with you. Asking, “am I being true to myself?” is essential. But acting *only* on your sense of personal character and values without reflection can foster self-righteousness leading to poor decisions.

So how do we balance these three perspectives in foundation decision-making? Consider the following hypothetical case.<sup>8</sup>

“Look, AIDS wasn't even identified when Dad died. But I'm sure he would have supported a grant like this.”

Stan Marks, Marks Foundation trustee and eldest son of Matthew Marks, was making the case with his two sisters and the executive director for a substantial grant to an AIDS clinic on whose board he served.

“I'm not so sure about that, Stan,” argued Phyllis. “Our funding on health, before and after Dad died, has always focused on cancer research, not direct health services. Besides, I think you're too emotionally involved with the clinic to make an objective judgment. Don't you think so, too, Ellen?”

Phyllis was addressing Ellen Lambert, executive director of the Marks Foundation for the past three years and, prior to that, a staff person with an unrelated corporate foundation.

Recently, Susan Marks — the third sibling trustee and several years younger than Stan and Phyllis, had asked to speak to Ellen “confidentially.” She shared her concern that Stan and Phyllis continued to bring personal resentments toward one another into the meetings and that she, as the much younger sister, felt powerless to challenge them.

“Every time I try to say something substantive, it seems to bring them together against me,” Susan told Ellen. “Can't you talk to them about this?”

Ellen had said she needed to think about it and they could talk again.

Many thoughts raced through Ellen's mind as she prepared to respond to Phyllis. Yes, Stan was clearly very emotionally involved with the AIDS clinic, but then so was Phyllis, who served on a cancer research center board, and their passions inspired their public service. Certainly, a grant to the AIDS clinic could fit the broadly stated purposes of the foundation. But it would also mark a somewhat new strategic direction.

She could appropriately duck the question by deferring to the three trustees, but this would mean turning the question to Susan who would probably resent her doing so.

“Well, Phyllis, .....”

How would you expect Ellen to respond? Are you more likely in the role of Phyllis, Susan, or Stan? How should they decide on the proposed AIDS clinic grant? Let's consider the ethical concerns from the youngest sibling Susan's perspective.

### Consequences

Both the AIDS clinic and other familiar cancer research activities are presumably strong programs with proven track records. The first consideration should be to establish the merits of any proposed grant based on evidence of effectiveness. There is no end to great possibilities for health-related grants. If the family trustees have not established a clear strategy and criteria, it will be hard for Susan to argue for or against any particular decision. At the very least, Susan should try to lay the groundwork for some agreed-upon approach to assessing individual grants as time goes on. Meanwhile, the other ethical dimensions may be more important.

### Principles

Susan's brother and sister honor the important principle of transparency: their siblings and the executive director know that each serves on a board eligible for grants. If they are not personally benefitting from any grants made by the family, there is nothing wrong with their service. And the

strategic question of grantmaking focus raises no ethical concerns so long as grants fit the stated purpose of the foundation. Of course, the underlying ethical concern about effectiveness is important. The more thoughtful and consistent the process used in making grants, the more likely they will be ethically responsible.

Another ethical principle affects Susan's behavior in this example: fairness and respecting role responsibility. Her siblings apparently bring family resentments into their approaches to grantmaking. Susan's effort to enlist Ellen (the executive director) unfairly puts Ellen in a very awkward position. In order to duck another tense moment with her siblings, Susan has, in effect, abdicated her board member responsibility. If she continues to do so, the dynamics of foundation decision-making will only get worse.

### Character

The heart of the disagreement here concerns family values — the Marks' family values. Should their father's particular concerns continue to direct their giving? How should each adult child's own passions and public commitments weigh in grant decisions?

The answers are rooted in their integrity, both individually and as a family. And they are complicated

— no surprise — by sibling rivalry. No amount of program effectiveness data will resolve the conflict. Susan (or Ellen) might help the process by inviting Stan and Phyllis to talk about their respective personal commitments and what drives their passion. All three could reflect together on their dad's values and why he began the foundation in the first place. None of this will necessarily resolve the disagreement — they are, after all, competitive siblings — but better mutual understanding may clarify specific grant decisions.

You will notice that reflecting on these ethical dimensions does not yield a simple crisp answer. Sometimes the lines are clear and you'll know something is definitely right or wrong. More often, though, the challenge is reconciling competing "rights." Whether the Marks Foundation makes a grant to the AIDS clinic or not, the family faces this challenge. The grant decision involves balancing all three ethical perspectives and goes beyond the simple question whether to say yes or no to the grant applicant. Engaging in this kind of careful reflection — sometimes simply in your own mind, other times in dialogue with your colleagues — can open your moral imagination to ensure ethics is embedded in the work of your foundation.



## A Word About Codes of Conduct

Did you expect a chapter on ethics to begin with discussion of a “code of conduct”? Legal concerns often lead us to think “compliance” when we hear “ethics.” Many family foundations develop written guidelines to ensure decision-making consistent with core values. You might want to discuss and then document the important values and principles guiding your work. And you could develop more specific guidelines on topics such as criteria for awarding grants, handling potential conflicts of interest, and policies related to staff roles. Your own disposition as well as the size and complexity of your foundation will affect whether and how you document a code.

Remember that no rulebook is ever thick enough. There are always new ethical questions and gray areas where people of goodwill and integrity may disagree. That's why considering consequences, principles and character is so important. And one more thing: in large organizations, codes of conduct always emphasize asking for help. The same is true in your own decision-making. From consulting friends and family to calling on professional counsel to consulting publications and peer groups in the family foundation

world, you are never alone. When in doubt, seek help!

## Road Signs: Ethics Issues Ahead<sup>9</sup>

Did you notice the range of ethical concerns in the Marks Foundation case? Keeping family dynamics in check while making grant decisions is, of course, a key driver in this example. It also raises questions about honoring donor intent and about the role of trustee personal values in determining foundation priorities. How important are objective criteria and transparency in making decisions? And what is fair and what is off-limits in burdening staff members with trustees' personal concerns?

Not every decision raises these or other ethical concerns, of course. But there are some predictable issues that have emerged as groups like the National Center for Family Philanthropy have worked to understand and support families and their foundations. Here are some of the most common ones you'll want to recognize as you develop your foundation:

### Clarity of Mission and Purpose

Mission statements are as varied as family foundations themselves. What

is “foundational” is clarity of purpose among the trustees. At a bare minimum, articles of incorporation include some statement of purpose, but this is typically quite broad. Adopting a more specific and clear purpose is common and will help you to carve out the distinctive arena(s) where you will concentrate giving. You are unlikely to encounter puzzling ethical dilemmas in clarifying your mission. The moral challenge — and the moral opportunity — is to ensure that the purpose and values of the foundation clearly and effectively express the deep concerns that gave rise to creating it in the first place.

### Honoring Donor Intent

What do you intend for your charitable giving? If the foundation is already up and running, how does the original donor's intent shape decisions about new opportunities? Promise-keeping, integrity and legal compliance are among the ethical concerns that may arise. Some things are clear: grants that conflict with the donor's intent are ethically problematic while openly interpreting donor intent in light of unanticipated circumstances is appropriate. Gray areas requiring ethical reflection might include balancing a living donor's commitments with those of other family board members and exploring together new strategic directions when board members disagree.

### Strategic Choices: Active or Passive Grant-making

Writing checks to nonprofit agencies is what foundations do. Is that all you want to do? If time and money are limited, a relatively passive approach may be appropriate. Grants go to charities traditionally supported by the family without undue paperwork or research. Or you may want to be more proactive: seeking out new opportunities, welcoming unsolicited proposals with new ideas, or even working actively with other partners to develop new initiatives. Responsible stewardship includes making clear strategic choices about how and why you choose to operate.

Balancing immediate charitable needs with support for systemic change poses another strategic choice. “Do you ensure that foundation funds go directly to the worst hunger cases, the most gripping public health situations, and the neediest classrooms? Or, do you use them to build better nonprofits capable of strategically addressing the underlying causes of these ills — even if some of today’s sufferers get no relief?”<sup>10</sup> There are sound moral arguments for both approaches. Considering your strategy with some in-depth discussion among board members will enrich your work.

### Transparency and Accountability

Just how much transparency is appropriate to ensure public accountability? You can file the required federal tax forms and be done with it. Or you can be much more expansive: publishing criteria for grant proposals, developing an informative website, issuing an annual report to the public, even hosting conferences or other events. Limited resources may affect your decision — too much publicity may prompt more grant applications than a small foundation can handle.

Your foundation is a family affair generously expressing your values. It is also a tax-exempt organization granted that status as a public trust. Therein lies a tension. Genuine concern for family privacy can clash with the desire for public transparency. You may worry that publicity will bring unnecessary attention to family members outside the work of the foundation. Family comes first, but remember also your public trust. There is no one right way to resolve this tension. Ignoring it, however, falls short of ethically responsible philanthropy.

### Board Membership and Process

Who will govern your family foundation? Some board meetings look a lot like family dinner; they might simply be a couple and their adult children around the table. Others add trusted advisors like an attorney, accountant, or faithful family friend. Still others with larger and multi-generational families enlarge the circle. One practical concern can be family interpersonal dynamics. “Shared family values and close working relationships among family members adds vitality and effectiveness to the work of the board. Resentments, personality conflicts and on-going tensions within the family about matters unrelated to the foundation work can disrupt trustee discussions in counter-productive ways.”<sup>11</sup>

These conflicts raise ethical issues if trustees allow them to interfere with their fiduciary duty to make responsible decisions. Other ethical considerations include fairness in succession planning when there are multiple siblings or generations and ensuring that board members understand their distinctive role as trustees. Fostering a sense of stewardship in your children or grandchildren through foundation involvement is another worthy ethical consideration.

## Respecting Staff

Do you need staff help? If so, remember to treat them well! The “Golden Rule” says it: we should treat others as we would like to be treated. The “veil of nobility” is particularly relevant here. Our grantmaking does so much good, we overlook how we treat staff in the process. It starts, of course, with appropriate compensation and working conditions. In addition, staffing a family foundation is uniquely challenging. Sometimes it feels like being a dinner guest during a family argument. Recall how Susan put Ellen in such an awkward position in the Marks Foundation case. Clearly defined role boundaries and common courtesy with staff go a long way to ensure respect.

## Respecting Grantees and Applicants

Grant recipients do the good deeds you make possible. Sometimes funders forget that. Respecting applicants and grantees means learning from their insights, not just relying on your own judgments. “[S]pending more time telling charities how to behave than listening to their perspective [is] not illegal and may not noticeably harm a foundation’s early record of success, though [it] surely speaks of arrogance.”<sup>12</sup> Respect also means remembering common ethical principles like honesty, fairness,

and promise keeping. Ensuring fair criteria in making decisions and communicating those decisions clearly are important. And beware the temptation to make promises you can't keep. If you are unlikely to fund a good person with a worthy program, don't lead them on to avoid hurting their feelings.

## Use (and Abuse) of Power

Money is power. Your grant-making deploys that power to make positive contributions benefitting others. With that power comes potential for misuse, often unwittingly. For example, you may serve on a nonprofit board and use your influence and grantmaking to enhance its programs. All to the good — unless you carelessly merge your personal and foundation roles. Legally, for instance, you may not use foundation resources to fulfill personal charitable pledges. Ethically, you may bring your passion for that nonprofit to foundation decision-making, but you should be sure your colleagues understand your stake. And arguing for a grant in order to enhance your chances of joining a prestigious board is morally dubious, especially if there are other priorities governing foundation decisions.

## Final Thoughts<sup>13</sup>

The “mirror test” is a familiar adage encouraging ethical awareness. “Can you look yourself in the mirror and know that you’ve done the right thing?” Usually this advice is offered metaphorically — you probably don’t spend time interrogating yourself before the vanity at home or the mirror above the sink at work.

But what if we actually did have a mirror before us in the course of the day? A behavioral science study on “moral hypocrisy” raises the tantalizing possibility that it really would make a difference in our behavior. Individuals were asked to assign tasks using coin flips in a way that one outcome clearly favored the interests of the coin-flipper. Participants agreed that fairly distributing the tasks was more consistent with moral standards than subtly “fixing” the results to favor the coin-flipper. Yet many did, in fact, favor themselves without seeming to admit it even to themselves. (By, for instance, flipping the coins again because they “couldn’t remember” how many heads and tails had come up so far.)

Now enter the mirror. When the same tasks were conducted with the participants seated near a mirror, the incidence of “cheating” went down significantly. Apparently, seeing oneself in the mirror has more than metaphorical power in encouraging ethical behavior.

What if there were a large mirror on the wall where the Marks family members were meeting? Might they be more inclined to think twice about potential biases? Indeed, what if witnesses in court were sworn in not with a Bible but with a mirror? Would hypocrisy — pretending, even to oneself, to uphold a standard while acting inconsistently with that same standard — be deterred?

I don’t think the National Center for Family Philanthropy will be handing out mirrors anytime soon, but the metaphor and the real mirror both remind us to check our initial impulses and be alert to ethical pitfalls as we do the good work of philanthropy. Careful ethical thinking about consequences and principles is critical. The mirror test brings us back to that all-important third dimension of character.

Moral blinders like rationalization and misplaced loyalty can cloud the vision of people with integrity. We think of ourselves as good people. It is easier to sustain that image if we avoid confronting uncomfortable concerns. We take moral responsibility seriously when we pay close attention to consequences and principles, when we strengthen our moral imagination in conversation with others, and when we steadfastly continue our personal commitment to integrity. Then we have a good chance of sustaining clear-sighted moral vision. The good we seek to do in the world will flourish. ■

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1. <http://www.rockefellerfoundation.org/our-work/>
  2. Ron Chernow, *Titan: The Life of John D. Rockefeller, Sr.* (New York: Random House, 1998), p. 140 and throughout.
  3. *Oxford English Dictionary*, 2nd ed., s.v. "blinder."
  4. Ibid., s.v. "purblind." For more reflection on moral blinders, see Michael Rion, *What Were They Thinking? Why Good People Make Bad Decisions* (West Hartford, CT: Resources for Ethics and Management, 2013).
  5. This paragraph is adapted from Michael Rion, *The Responsible Manager - Practical Strategies for Ethical Decision-Making* (West Hartford, CT: Resources for Ethics and Management, 1996), p. 14-15.
  6. Rushworth M. Kidder, *Shared Value for a Troubled World - Conversations with Men and Women of Conscience* (San Francisco: Jossey-Bass Publishers, 1994).
  7. Michael Rion, *Responsible Family Philanthropy: A Resource Book on Ethical Decisionmaking for Family Foundations* (Washington, D.C.: Council on Foundations: 1998), p. 7.
  8. Ibid., p. 5.
  9. The discussion of these issues is adapted in large measure from Rion, *Responsible Family Philanthropy*.
  10. Rushworth Kidder, "Why Did I Make All This Money? Values and Ethics in Family Foundations," *Splendid Legacy* - (National Center for Family Philanthropy, 2002), p. 47.
  11. Rion, *Responsible Family Philanthropy* ....., p. 55.
  12. Kidder, "Why Did I Make All This Money?" p. 47.
  13. This section is adapted from Rion, *What Were They Thinking?*, pp. 134-135 and p. 153.
  14. Daniel Batson et. al., "Moral Hypocrisy: Appearing Moral to Oneself Without Being So," *Journal of Personality and Social Psychology*, 1999, volume 77, 535-537.