

“WALK THE LINE”: HOW INSTITUTIONAL INFLUENCES CONSTRAIN ELITES[☆]

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ABSTRACT

Private foundations in the United States are powerful actors in contemporary society. Their influence stems in part from their lack of accountability – they operate free from market pressures or finding sources of funding, and they are not subject to formal democratic systems of checks and balances such as elections or mandatory community oversight. In recent decades, foundations have become increasingly influential in shaping public policy governing core social services. In US education policy, for example, the influence of private foundations has reached an unprecedented scope and scale. Although economic and electoral accountability mechanisms are absent, foundations are aware

[☆] Authors are listed alphabetically and contributed equally. This paper is based on Tompkins-Stange's (2013) Stanford University dissertation, and noted portions of the paper are derived from her prior work.

How Institutions Matter!

Research in the Sociology of Organizations, Volume 48B, 281–309

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ISSN: 0733-558X/doi:10.1108/S0733-558X201600048 B010

that their elite status is rooted in a wider acceptance of their image as promoters of the public good. They are incentivized to maintain their role as “white hat” actors and, in balancing their policy goals with the desire to avoid social sanctions, the ways in which they exert influence are shaped and limited by institutional processes. Drawing on rare elite interview data and archival analyses from five leading education funders, we observe that foundations seek to sustain their credibility by complying with legal regulations and by drawing on cultural norms of participation and science to legitimize their policy activities.

Keywords: Foundations; K-12 educational policy; elites; organizational theory; institutions

Americans have long debated the role of private interests within democratic processes. Controversy about the influence of private wealth was documented as early as 1788, when James Madison cautioned citizens in the *Federalist Papers* against “factions” (p. 58). These critiques have persisted and accelerated over the last century, as private philanthropic foundations have grown and moved into the public policy realm. The debate stems from their oversized voice in the public arena, a consequence of their concentrated wealth and high social standing (Karl, 1987). Foundations use private assets to advance their own vision of the “public good,” while remaining relatively free from formal political authority. This freedom, however, has a price – foundations have few formal grounds on which to base their legitimacy as actors within the public realm (Frumkin, 1998; Hammack, 2006; Karl & Katz, 1981).¹

As a result of their questionable role as policy actors in a democracy, foundations face heightened scrutiny. Since 1908, there have been three periods of inquiry from elected representatives of Congress. The specific concerns varied in each instance: Foundations were, ironically, suspected of sabotaging the US economy through unchecked industrialism in the 1910s, accused of fomenting Communism in the 1950s, and questioned over funding civil rights causes in the 1960s (cf. Wooten, 2016). The unifying thread between these distinct accusations is that they reflect a fear of the influence of private elites over public matters. After the most recent set of investigations in the 1960s, Congress passed the Tax Reform Act of

1969, which set limits on foundation political activity and remains, for all intents and purposes, active today (Zunz, 2011). The Act provided a government definition of a “private foundation” for the first time, differentiating the foundation form from “public charities” in the 501(c)3 tax-exempt category, and spelled out limitations on the use of foundation grants for lobbying or political purposes. However, the Act has proven to be largely symbolic, as no foundation has ever been censured for violating its provisions.

In fact, foundation pursuit of policy-related activities has increased, rather than diminished, since the 1969 Tax Reform Act (Tompkins-Stange, 2016). Foundations – particularly those with assets in excess of \$1 billion – routinely embrace policy influence as a central strategy, and in recent years have concentrated more capital toward policy and advocacy activities (Ostrower, 2004; Reckhow, 2012; Tompkins-Stange, 2016). This rise in policy activism, coupled with the quintupling of foundation assets over the last 15 years, has re-ignited concern about the appropriate role of private foundations in a democratic society.

Using foundations as a case to illuminate the “black box” of elite legitimacy represents a timely contribution to the sociology of organizations. Literature has remained relatively silent on the nuances of powerful elites, particularly how they may be constrained despite their power, and more topically, has provided few insights on the “nuts and bolts” of how foundations enact their positions as elite organizations (Elster, 1989; Stinchcombe, 1987). While numerous excellent historical accounts have traced the landmark policy actions of foundations over the past century (Anderson & Moss, 1999; Bremner, 1988; Zunz, 2011), there is limited work on their contemporary influence. Existing empirical research on the effect of foundations on contemporary social sector organizations, such as Bartley’s (2007) study of how foundations channeled and tamed protests by creating the field of forest certifications, points out that “even the best research glosses over” the social mechanisms of foundation influence (p. 231).

Existing research on foundations tends to focus on the “democratic dilemma” (Clemens, 2015, p. 224) that elite influence poses for political equality by “anointing” new practices or fields of social action (Bartley, 2007; Quinn, Tompkins-Stange, & Meyerson, 2014). For instance, Horvath and Powell propose that disruptive forms of philanthropy “crowd out the public sector, further reducing both its legitimacy and efficacy, and replace civic goals with narrower concerns about efficiency and markets” (2016, p. 3). Others argue that foundation influence in policy produces a “democratic deficit” due to the circumvention of democratic deliberation through

a preference for expert-driven agendas (Reckhow, 2012). Beyond these insights, scholarship that considers how foundation influence operates and is limited remains relatively rare (Reich, Cordelli, & Bernholz, 2016). We address this gap showing how institutional pressures can mold and curb the ways elites exert power over public policy.

In order to investigate the effects of institutions on powerful actors, we analyze the ways in which social forces constrain foundations' policy actions.² Institutional constraints govern what actors perceive as possible courses of action and may thus determine the choice of strategies and the degree to which an organization chooses to exert its potential power (Scott, 2013). We find that policy activities are predominantly constrained through professional practices and social norms. For example, program officers attend to legal compliance more as a matter of professional ethos and out of fears of reputational sanctions than as a liability issue. Foundation staff carefully manage their actual and potential relationships with peers, the public, and other stakeholders in order to safeguard their employers' reputations. Some foundations go so far as to endorse democratic forms of decision-making as part of their core organizational identities (as opposed to operating primarily through elite networks) and others justify their activities in terms of science and research (as opposed to framing policy work as the personal preference of a powerful benefactor). In practice, we find that foundations are socially embedded entities, making them more inhibited in their policy- and advocacy-related strategies than a focus only on the lack of formal democratic oversight and freedom from market pressures might predict.

We derive these insights from unique empirical data consisting of archival materials and 32 in-depth, semi-structured elite interviews with informants in five of the largest and most influential foundations that are engaged in K-12 education policy reform in the United States. Conceptually, our findings illustrate that institutional pressures shape even what are arguably the least accountable actors in society. Organizational theory commonly emphasizes that external pressures shape run-of-the-mill actors, but the most influential persons or entities are sometimes depicted as agents free of the confinement of social structure (e.g., see the depiction of US firms in Perrow, 2009). Further, we show that the way institutions matter is as much through social controls, such as maintaining legitimacy and reputation, as through any direct legal oversight. When they are embedded in society, even powerful actors are burdened by the pressures of social conformity. Foundations' efforts to shape public policy evidence the salience of the sociological observation that, "Many of the positions,

policies, programs, and procedures of modern organizations are enforced by public opinion, by the views of important constituents, by knowledge legitimated through the educational system by social prestige, by the laws, and by the definitions of negligence and prudence used by the courts” (Meyer & Rowan, 1977, p. 343).

METHODS AND DATA

Eisenhardt’s (1989) work on case study research provided the basis for our study’s design. This approach allows a researcher to explore phenomena through an inductive and iterative process, wherein concepts emerge from analysis of data, often in tandem with data collection, which in turn informs subsequent analysis and collection. Rather than seeking to prove or disprove a theory, a researcher instead examines a topic of interest, allowing the most important themes to arise through observations, interviews, and artifact analysis. The researcher constructs an emerging conceptual story by refining inferences and making comparisons between data points. While the researcher may establish some initial a priori assumptions or use a guiding theoretical framework to support data collection and analysis, the overall process is sensitive to new information that may expand or contradict existing theories, and allows for modification of guiding assumptions accordingly (Eisenhardt, 1989). Due to the closed nature of the foundation field and the lack of empirical literature on the topic, an open and iterative process was necessary.

Sample

The field of public education is an apt setting to study foundation influence in public policy because although it is a state function required by law, it has been strongly impacted by foundation involvement, particularly within the last decade (Carr, 2011; Hess, 2005; Reckhow, 2012; Tompkins-Stange, 2016). The sample of foundations was theoretically motivated and developed purposefully, with some constraints based on access.³ The foundations are all large (in the top 20 donors making grants to K-12 education in the United States with assets in the hundreds of millions of dollars), but varied in age and geographic location. The decision to limit the study to large foundations was motivated by Ostrower’s (2004) findings that large

Table 1. Foundation Characteristics.

Foundation	Approach	Policy Experience	Foundation Age	Endowment Size (All Over 400 m)
Alpha	Most assertive, mainly grasstops	Since founding	Young, past 20 years	2nd smallest
Bravo	Assertive, mainly grasstops	Initially no, increase since the 2000s	Young, past 20 years	Largest
Charlie	Hesitant, mainly grassroots	Initially no, increase since the 2000s	Old, first half of the 20th century	Middle
Delta	Assertive, mainly grassroots	Since founding	Old, first half of the 20th century	2nd largest
Echo	Limited policy work	Initially no, increase since 2000s	Middle, shortly after WW II	Smallest

Note: All five foundations are in the top 20 largest private funders to K-12 education.

foundations are nearly four times as likely to be involved in policy as smaller foundations. The decision to vary geographic locations and ages of the remaining foundations was guided by scholars' findings about "a changing of the guard" in K-12 philanthropy (Hess, 2005, p. 5), wherein some of the largest and most influential education funders were located on the West Coast, rather than the East, and were founded in the last 20 years (Carr, 2011; Hess, 2005; Reckhow, 2009; Scott, 2009). We outline their key characteristics (e.g., age, size, location) in Table 1. The synonyms Alpha, Bravo, Charlie, Delta, and Echo protect the anonymity of our informants.

Interviews

Our primary source of data for the study was qualitative, semi-structured interviews with high-level current and former foundation officials. We relied on this data because it is extremely difficult to obtain data about the internal workings of foundations, and public-facing materials such as annual reports, websites, and press releases are unlikely to convey the authentic views or complexity of opinions present in an organization. Thus, we sought an "insider's" perspective on foundation influence (Merriam, 2009, p. 125). Informants were selected to represent roughly structurally equivalent positions in each of the foundations, primarily comprising senior

staff, program officers, and policy officers in each foundation’s education program. The group of informants we interviewed represents a population with a high barrier to entry (Weiss, 1994). To address these concerns, we solicited help in contacting informants from professional and personal contacts, many of whom have links or past professional experience in these foundations or in the philanthropic field. These intermediaries helped us gain inroads into otherwise closed organizations. The process of soliciting participation from interview subjects was lengthy and time-consuming, often involving multiple channels of communication with different contacts to reach some informants.

Because the purpose of the study is to understand foundations’ policy-related activities, the questions we asked were designed to solicit informants’ opinions about two distinct areas of inquiry: (1) how they negotiated and managed legal regulations in their policy work and (2) how their foundations viewed the pursuit of policy influence. Elite interviews are considered a specific type of qualitative tool, and researchers recommend specific guidelines for performing them, including thorough preparation, allowing for flexibility in the interview protocol in case an informant is unresponsive, establishing trust and rapport, and attending to time constraints (Berry, 2002; Dexter, 2006). We structured the interview protocols accordingly, using two semi-structured interview protocols guidelines – one for current and former foundation officers and one for other informants. The protocols were adjusted to reflect the unique context of each foundation’s structure and activities, and contained specific probes depending on the informant’s position (e.g., a foundation president would be asked different follow-up questions than a policy officer or legal counsel would). Protocols were shared with informants in advance via email along with a description of the study and relevant informed consent documents. The majority of interviews were conducted in person, and were tape-recorded with the permission of the subjects. Interviews averaged approximately 60 minutes in length, and ranged from 30 to 90 minutes.

Qualitative studies that explore sensitive information are often subject to the concern that the interviewer will not be able to gain information beyond the party line (Merriam, 2009). In this vein, several staff members were not forthcoming with information about their foundations, but the majority of informants were candid and thoughtful about their experiences, on the condition that they were not identified by name or with descriptive information that could link them personally to a quote. Additionally, several informants asked to be off the record for certain portions of our discussions. Assuring the informants’ anonymity, along with a credible

endorsement of ethical behavior from their trusted colleagues, and speaking with some former employees (rather than just current ones) helped promote open discussion. We also interviewed multiple informants at each foundation and triangulated these discussions with additional archival material to build a general characterization of each foundation.

Analysis

We began the process by developing individual case studies of each foundation's approach to polity influence, drawing evidence from the interviews as well as archival analysis. We reviewed annual reports for each foundation from the last 10 years, as well as studying websites and conducting Lexis-Nexis searches for major press activity, mainstream media and field-specific publications, and transcripts of relevant speeches made by foundation personnel and field-level actors. We used each foundation's publicly available grants database to review grantmaking patterns and priorities related to policy. Using this corpus of data, we composed descriptive case write-ups of each foundation, which Eisenhardt regards as "central to the generation of insight" (Eisenhardt, 1989, p. 540), allowing the researcher to become familiar with each case and enabling "unique patterns of each case to emerge before investigators push to generalize patterns across cases" (p. 540).

Once we established sufficient familiarity with each individual case study, we began the process of cross-case analysis. The purpose of comparatively analyzing the data across cases is to establish noteworthy patterns that may help to understand a phenomenon. After initial comparisons between obvious themes that arose, we began an in-depth process of coding, based on the key concepts that emerged from the data. We drew on coding from a related project for the characterization of each foundation's approach to strategy (Tompkins-Stange, 2016) and conducted a new round of coding on the theme of constraints for the purposes of this paper. Findings emerged inductively by iterating between coding the interviews for relevant themes, discussion among researchers, reviewing literature, and returning to the data. Each interview was encoded to protect confidentiality and then professionally transcribed verbatim. We selected a group of five transcribed interviews and read through them line by line to inductively develop a first round of analytical categories that describe elements that appear in the data. We assigned these codes to highlighted text sections in the initial five transcripts. As we read through additional transcripts, we

refined and honed the conceptual categories through on-going discussion and parallels to existing literature.⁴

Eisenhardt (1989) explains how the process of building theory from case study data must be executed in a rigorous fashion, rather than “leaping to conclusions based on limited data, are overly influenced by the vividness or by elite respondents ... or dropping disconfirming evidence” (p. 540). Throughout the process of data collection and coding, we composed analytic memos that help to contextualize observations within relevant literature, indicate areas for further questioning, and document deviations from previously observed patterns. We attempted to ensure reliability and validity of our findings in several ways, including making extensive use of data triangulation procedures, using both interviews and archival data to determine themes of note, and interviewed multiple informants in each organization, who often had different perspectives on the topics we discussed. We were also careful to consider instances of discrepant information, and cross-checked our interpretations with other experts in the field.

FINDINGS

The Cases

The five foundations varied in terms of their policy influence on a number of dimensions. In particular, the foundations differed as to whether policy influence was a highly central element of their mission versus more peripheral, and they had varied levels of comfort with openly pursuing policy-related activities. They also subscribed to different strategies about policy, with some foundations preferring what they described as a “grasstops” approach (i.e., working predominantly with elites) and others valuing a “grassroots” approach (i.e., building coalitions of community organizations) (Table 2).

Alpha Foundation and Bravo Foundation were both highly committed to policy influence and generally preferred to engage in grasstops strategies, wherein they worked with high-level elites, such as elected officials, as opposed to broader grassroots engagement. However, these foundations diverged in terms of how aggressively they pursued their policy-related goals. Alpha was a highly visible, activist grantmaker since its founding. Its grantmaking criteria mandate that its investments must bear the potential to produce transformative change. One informant stated that “the goal was

Table 2. Summary of Foundation Strategies for Influencing Policy.

Foundation Approach	Sample Practices
Grasstops: Alpha & Bravo	<ul style="list-style-type: none"> • Hiring staff with lobbying expertise • Placing sympathetic individuals in high-level administrative positions (e.g., District Superintendents) • Funding particular advocacy efforts • Seeking to align government policy agenda with own educational theory • Having conversations with policy-makers in capacity as private citizen
Grassroots: Charlie & Delta	<ul style="list-style-type: none"> • Hiring staff with connections to grassroots communities, or members of local communities • Including community members in decision-making and governance • Providing grants for general operating support rather than funding specific efforts • Having conversations with clients and end-users of potential policy changes • Connecting grantees with legislators and policy influentials

Note: Given Echo Foundation's limited engagement in policy influence, they are not included in this table.

always to influence or impact the system whether it was at the district level or state or national," while another explained that the foundation preferred to make grants in areas where "we as the Alpha Foundation can come in and really try and have sort of a catalytic effect, and highlight something that has been off the agenda." According to one foundation officer, Alpha aimed to increase the funds directed toward advocacy from currently 10–15% to 40–50% of its budget.

In contrast to Alpha, Bravo was initially hesitant to engage in policy activities, but since roughly 2,000 pursued a "rapid and ascendant" embrace of direct policy engagement. According to one informant, the foundation quadrupled its activities in advocacy over the course of just a few years. One informant described this transition, noting that Bravo realized that educational change "involved much more than structure; it needed to involve the context, the policy context." Policy initiatives came to hold a place of importance at Bravo, using a grasstops strategy that relied on working with governors. As one informant described, "Bravo had a very explicit theory of action about working at the state level to create a

policy environment that would be supportive of the kinds of changes that they wanted to make at the local level.”

Charlie and Delta differed from Alpha and Bravo in how they operationalized their policy work. Unlike the grasstops, top-down approach that Alpha and Bravo used, Charlie and Delta were explicit about using a “social justice” approach that required engagement from community members and organizing at the local level. While Charlie and Delta approached policy work similarly, they differed in terms of how visible they were in their actions. Charlie invested in a number of policy-related initiatives, but it remained guarded about its public image, preferring, in the words of one informant, to stay “under the radar.”

Like Charlie, Delta staff shared a vision that policy influence should stem from the grassroots, but, unlike Charlie, Delta had an upfront and assertive approach (more similar to Alpha). One informant described Delta’s culture of policy activism, particularly as it related to social justice issues, as “unique and quite longstanding at the foundation.” Another described how the foundation’s policy activities went back to the civil rights era:

So Delta then gradually, in the 50s but mainly in the 60s, embarked on an aggressive set of programs that attacked ... tried to push public policy around, tried to create public policy, and had previous experience trying to do it mainly passively through creating national commissions or giving money to White House commissions or stuff like that ...

The activist identity from the 1960s persisted through today, according to a number of informants. Staff pointed to the foundation’s history of active out-front policy advocacy, noting that this did not change after the 1969 Tax Reform Act, despite Delta’s censure in Congress. One informant explained, “In addition to what happened in the 60’s [with the civil rights movement], we have legacies around some of the issues that are part of the history of this institution ... it’s the entire program here ... everybody from the president on down is on the same page about that.”

Echo Foundation differed from the other foundations in that it viewed policy advocacy as an inappropriate role for it to pursue. Echo instead cultivated a reputation for neutrality and objectivity in its funding priorities, which centered around research and intellectual capital-building through grants to universities. But in recent years it has started to think about its work in terms of indirect policy influence, prioritizing the funding of policy-related research rather than education research in general. One

described this tension in the following way, using similar words to Charlie informants:

I think [traditionally] that Echo Foundation. ... could sort of fly under the radar ... but I think by saying, "We think these things are important," we're taking a different position in some of the relatively public debates about what matters. That's been an adjustment to some degree. The fact that we're willing to put a stake in the ground and say, "We think this is important," that's been a shift for us. ... It's certainly not traditional advocacy but it is a form of calling attention to something, which I think is a version of advocacy, and I think we are trying to do that.

Institutional Constraints

Although these five foundations are among the largest and most powerful in the field of K-12 education policy, their activities were noticeably shaped by legal and cultural institutional influences. Despite their elite status, it was neither possible nor acceptable for foundations to shape public policy as a straightforward exercise in power. One informant noted, "They [foundation management] can't pick up the phone and say, 'Hey, this is what I want you to do.'" Similarly, in describing the process of policy influence another informant said, "It isn't so much, 'We want you to vote this way on this Bill,' which advocacy really can't do." Instead, foundation influence operated through legally and socially sanctioned channels, which at times tempered the foundation's voice.

Formal legal regulation circumscribed how foundations pursued their policy goals, as did the social and cultural context (Meyer & Rowan, 1977). In particular, foundations worried about their reputations and perceptions of overreaching. The concern about social repercussions moderated how foundations worked to influence policy. One foundation official described their organization as "thin skinned" and "averse to any criticism from the public." Another described how policy activities generated fear of "getting burned" and the thought that went into "maintaining credibility." Foundations across the board took their reputation vis-à-vis the public, other foundations, and other organizations very seriously. An Echo official explained, "Our biggest asset in my view, and I think the board's view, is our reputation ... we don't want to compromise that by putting such a focus on a public policy agenda." Across the board, the five foundations worried about what others might view as legitimate and behaved in accordance with this speculation, even in advance of or absent actual criticism (Mead, 1934).

Legal compliance played an important role in the process of maintaining credibility. For the most part, however, it was the specter of social sanctions that might follow from legal entanglement that circumscribed the foundations’ behavior, despite acknowledging that actual law enforcement was unlikely. This finding parallels prior work in the area of firm compliance with civil rights protections (Dobbin & Kelly, 2007; Edelman, 1992). One informant explained, “Risk aversion [to policy advocacy] isn’t about breaking the law, or being too close to the boundary, it’s about public exposure.” Describing the process and rationale for legal compliance, another explained, “We are much more comfortable on the legal front. We managed the hell out of that ... It’s really not that constraining, current legal constraints. It’s more about public opinion, the sniff test.” In large part, foundations comply with the law to maintain their social standing rather than out of fear of punitive legal repercussions.

The foundations also carefully justified their policy influence by framing the work using socially acceptable strategies and “vocabularies of motive” (Loewenstein, Ocasio, & Jones, 2012; Mills, 1940). A main approach was to show that their policy preferences were scientifically supported by data. Research served to depoliticize and depersonalize foundations’ advocacy agendas in a manner akin to the “anti-politics machine” described in prior research on international development (Ferguson, 1990). Additionally, foundations depicted their goals as stemming from a broad base of support. Connections to grantees, government agencies, and peer foundations were used as evidence the foundation was pursuing a widely shared agenda, rather than pushing the arbitrary preference of a single powerful leader. The fear of losing credibility motivated foundations to draw on cultural norms of science and participation to justify their policy advocacy, and in some instances the embrace of these rationales circumscribed foundation autonomy.

Legal Compliance

All of the foundations were acutely aware of legal restrictions and compliance. Informants evidenced detailed knowledge about the legal intricacies of lobbying, and all the activities we observed fell within the law. Informants relied on their in-depth knowledge and the availability of ongoing expert advice from counsel to facilitate the pursuit of both grassroots and grassroots strategies within legal boundaries. One official described

some of the mechanisms that foundation staffed used in this process of due diligence:

We have a briefing on the law. We have things that you can say and that you can't say. We have case studies of what you can say and can't say, and then we have ... internal policies about a legal vet for anything that goes to a government office ... we're very conservative about that.

Legal counsel and professional foundation staff were the main carriers of these legal pressures. Several staff members at Bravo explained the range of legally allowable ways in which information could be communicated to decision-makers who were formulating legislation. One informant gave examples of some of the exceptions in the law: "If the committee asks us for a technical paper, then we can write that up ... We can publish white papers about the research. We can give grants to [state education leaders] and they can put out papers ... we have a ton of ways to do it." Informants repeatedly and routinely demonstrated extensive knowledge about the law and steps they took to ensure compliance. In interviews the informants would routinely launch into describing a litany of detailed practices and procedures. We display the overwhelming emphasis on compliance in a selection of additional quotations and interview descriptions in [Table 3](#).

On the one hand, in some instances foundations went beyond legal requirements: Two interviewees described their efforts as conforming not only to the letter of the law, but also to its spirit. Similarly, a Delta informant described that the yardstick he used for the appropriateness of a policy action was not exactly the legal restrictions, but rather "good foundation practice which would be recognized by most of my peers." Another informant discussed foundation resistance even in the face of pressure from government officials to be more aggressive:

I've actually had ... congressional staff get up in my face and say, "No. Your lawyers are too conservative ..." or "[another] foundation was just in here and they just gave us language on such and such," and it's like, "I'm just telling you what our lawyers advise us and I can't do that. Nothing personal. I'm not giving it to you". ... I've been really surprised. A couple of people have said that we are wrong, that we are too conservative but that isn't going to change.

On the other hand, in several cases informants indicated just the opposite, that their technical knowledge was useful for evading the spirit of the law while adhering to the letter. For example, Bravo staff mentioned "creative writing of the proposals" in order to avoid the appearance of lobbying behavior. Along the same lines, one Charlie informant described "a few

Table 3. Sample Quotations of Legal Compliance.

“The attorneys are ... heavily involved in almost all of the big advocacy grants because the foundation certainly does not want to get out compliance with the federal restrictions on lobbying ... they are very, very cognizant of the rules. We had extensive legal training from in-house attorneys [who were hired] just to support advocacy.”

“So we have advocacy people who are ... assigned in states where there’s a lot of activity to ... be the traffic cops, to make sure that I don’t schedule an appointment with the lieutenant governor on Wednesday to talk about [one program] and that somebody else schedules one on Friday with the lieutenant governor to talk about [another program] without one knowing about the other ...”

“We also would talk to grantees about [the boundaries] ... about walking up to the line. If you have three funders providing a third of your funding each, and your lobbying activities are 20% of all of your activities, as long as they weren’t directly funded solely by one of the funders but they were funded through all of those funds or through multiple funders, then it could be funded. So we would talk to grantees about that ... You had to be very clear in how you talked about it.”

Our advocacy folks get involved again as sort of, who talks to the governor when and with what message and how often ... it’s their task to be a part of certain meetings, to know what’s going on whenever anybody is going to be talking to certain government officials in a given state or in Washington DC and just help to guide, direct and make and shape and also keep legitimate any activity that crosses the line into [lobbying].

“We think about it all the time and ... it’s very much a part of our rhythm of business. We have a ... lawyer who is expert in this stuff who sits with us ... and I talk to her every day just to be sure that we’re within the lines and we do regular training, big about what the rules are and then we do ongoing regular training for all of our people ... it’s better to be really safe ...”

“We obviously have very strong legal counsel that we turn to on a routine basis ... we have all of those systems in place to make sure that we’re, you know, following the law both in terms of letter but also in terms of spirit.”

crafty ways to get around that” when faced with a grant to an organization that engaged in lobbying stating:

If you can go fund an effort and you can essentially create a slush fund of money, we could fund lobbying but we have to call it [a specific title] and it has to jump through a bunch of hoops and it’s really a pain. We can also do general operating grants but really what we try to do is keep the lobbying out of the work and out of the reports.

In the most extreme case we observed, one informant described the creation of a 501(c)4 entity (which has fewer advocacy restrictions than foundations) as a central element in enabling Alpha’s evolving strategy. As informants disclosed, by design the 501(c)3 foundation and the 501(c)4 organization are not entirely separate from one another. Several foundation employees are paid, in part, by funds from the 501(c)4. While this

structure is legal, it is uncommon for a foundation to be unapologetic about acknowledging the existence of a 501(c)4, and rarer still for a benefactor to compensate employees in this manner, which one source described as “brazen.”

At Bravo informants reported instances where their benefactor demanded more aggressive policy involvement after a longstanding attempt to achieve structural change failed. “What [our benefactor] would say is, ‘I want you to walk right up to that line. Don’t cross it. Don’t ever cross it but I want to walk right up to it ...’” But even in the most aggressive foundations there was caution about not overstepping their legal boundaries. An informant at Bravo described the “scary” (a word used by several other informants) legal and social fallout that would come from breaking the law:

Informant: So the general counsel at the Bravo Foundation is very, very savvy about the rules ... I mean, its scary stuff.

Interviewer: Yeah.

Respondent: If you do it wrong, you can lose your charitable status and that’s a big deal and it would be a huge hit from a public relations point of view, and so they’re very careful.

All five foundations cited the law as limiting their policy-related actions. At the most extreme, Echo explicitly avoided more activist strategies because of regulations and the accompanying sense that policy work would damage their reputation as a neutral party. Even those not bound by the spirit of the law conformed to its letter. Some informants strategically used legal loopholes to achieve their goals, while formally complying. But for most compliance was a taken-for-granted aspect of work, one that they perceived as an indisputable reality not requiring special attention (Berger & Luckmann, 1966). For example, in response to a question about how regulations impact day-to-day work, one informant responded, “They don’t. I mean, they’re there and you just work within them. It’s just a fact of doing business.” Similarly, another informant reported, “It’s very much a part of the rhythm of our business.” A third official said, “We do everything [about policy advocacy] in a way that’s both organizationally consistent and clean and also in a regulatory sense, consistent and clean. And that works. There’s formal mechanisms for that and there’s just informal, collegial mechanisms. Maybe not mechanisms, but professional habits that you cultivate to do that.” Thus, in some instances legal compliance was internalized as a professional routine (see, for instance, Glaser, Fast, Harmon, & Green, 2016). Regulatory pressures were not merely coercive, given the

lack of enforcement. Instead, the threat of violating federal regulations and worries about reputation and public response to the mere *appearance* of improper behavior constrained foundation staff (Suchman & Edelman, 1996). This observation is consistent with North’s (1991) widely accepted proposition that, despite the importance of formal rules for shaping social behavior, “to work effectively [laws] must be complemented by informal constraints (conventions, norms of behavior) that supplement them and reduce enforcement costs ...” (North, 1991, p. 20).

Sources of Legitimacy: Science and Participation

While the law represents a core institutional constraint on foundations, “softer” controls matter substantially as well. The same concerns about reputation and public opinion that underpinned much legal compliance also shaped the strategies foundations used to justify and pursue their work. As has been aptly demonstrated in prior work, in organizations “behavior is guided by a sense of what is appropriate, by one’s social obligations to others, by a commitment to common values” (Scott & Davis, 2007, p. 260). These common values are not agreed upon ad hoc or as a matter of managerial foresight, but are influenced by the specific context stemming from an organization’s tradition and history (Glynn, 2008; Lockwood & Glynn, 2016). In the case of contemporary foundation work in policy in the United States, we observed that they found it necessary to justify policy activities using the rhetoric of science or broad participation. It was not culturally acceptable to state the only reason for pushing a public policy was because the foundation benefactor or leadership preferred it.

Science. Many informants viewed their policy work as heavily tied to research, data, and information. For example, an Alpha informant shared, “We used to talk a lot about data-driven decision making and now we’re talking about information-driven decision-making and advocacy.” Using similar language, a Charlie official noted that, “A lot of the foundations that do this [education policy] work are very data-driven.” Along the same lines, a Bravo official reported, “We do a lot of research and evidence building and we share that research with policy makers and other organizations to advocate for doing more of what works to increase student outcomes and less of what doesn’t.”

Informants emphasized the role of research as “mitigating” and “mediating” foundation policy influence. For example, one interviewee discussed how the way to “combat” self-interest in politics was through foundations pushing “data-driven, evidence-based knowledge.” In the same spirit, at

Bravo, the largest foundation, an informant described the role of research in constraining the foundation's "oversized voice":

I think they [foundations] can have an oversized voice and that's important ... I think that's why I emphasize the evidence. If it's just, "Do this or do that," and "We're [benefactors name], so you should do this," that doesn't fly for me. But when an organization has gone to the trouble of collecting really strong evidence about the needs and about how to address those needs and is willing to put its own resources into this and not just tell people what to do with theirs – that is a very powerful combination.

Foundation staff were typically highly knowledgeable of scientific methods. Similar to the ease at which informants slipped into legalese to talk about policy regulations, some drew effortlessly on the language of "proof points," measures, metrics, and evaluations to justify their work:

Our investment with [a specific center] in terms of trying to put together some proof points you could actually use in the policy universe about expanded learning time ... I would have been disappointed had we not seen a significant, i.e. at least a five per cent, improvement in student achievement.

But staff were also well aware of the importance of translating scientific research into a compelling story that could be easily understood by a general audience in order to increase the research's policy relevance. Several commented on the importance of communications and how the information was expressed. In the words of one informant, "It's not just about doing good research, it's about doing good research and putting it together in a way that's going to have impact."

The transformation of research into a policy position was unsettling for several informants. The most cynical respondent compared the studies commissioned by nonprofits to a fast food marketing effort saying, "It always entirely supports their view. It's like McDonald's conducted a study on the fat they fry their fries in and they found out that really it's no worse than organic whatever." Another official expressed discomfort with how research limitations disappeared from the policy debates, which were then based on "dubious" evidence:

I don't mean manufactured evidence. It's just that I've read enough technical appendices to know that most good research is usually surrounded by a ton of caveats. So take value added, right? All those caveats about the effectiveness of value added methodologies, as people get away from technical appendices and the caveats that are in the reports and distill those into summaries and into PowerPoint, into bullet points, and then into data to inform decisions, all that gets washed away and comes back down to sort of what was originally the presupposition you began with which is value added is the way to evaluate and pay teachers, right?

But not all foundation informants used data cynically to support existing positions. An Alpha staff member recalled instances of the foundation withdrawing from projects where foundations officers felt the research was poorly done, saying, “It just doesn’t fit our quality bar and so we’re not going to be associated publicly with the project.” At times, research results were used to change course, informing and redirecting the foundation’s initial policy preference. For instance, a Bravo official discussed a shift away from grants to structural reforms, including charter schools and efforts to reorganize school buildings, and toward a focus on teacher effectiveness based ongoing “back to the research.” And others described research as a tool to use the foundation’s voice to better serve communities:

I think the bottom line is I want foundations to be able to present evidence, to be able to be good at collecting evidence and presenting evidence to people who are making decisions about public resources about effectiveness. What’s going to be more effective for the community? Help them [policymakers] understand the needs in the community and help them understand effective ways of meeting those needs.

Thus, foundations deployed science in variable ways. Some did so rather cynically to support a pre-existing view, while others internalized scientific standards and used research to build and shape their policy activities. Across the cases, a common thread is that foundations drew on the language of science to legitimate their policy activity within a wider cultural frame.

Participation. Like emphases on science and research, the rhetoric of broad participation served to legitimate foundation policy influence. This emphasis appeared most strongly at Charlie and Delta, the two foundations that used grassroots strategies to shape policy, but weaker versions emerged in all the foundations.

At Charlie, community and grassroots participation were a key part of all its activities, from grantmaking to policy influence. Although no living benefactor was present, multiple informants discussed the influence of the Charlie family’s legacy in defining policy influence as part of the organization’s core identity and organizational values, as one staffer described, “It’s a genetic part of our institutional work – it’s part of our DNA here, the value that we give voice to those who are invisible and voiceless in policy conversations.” This value stemmed from the Charlie family’s political and religious history, according to staff members, and formed the basis of a progressive foundation that emphasized civil rights in low-income communities.

This core value of giving “voice to those who are invisible and voiceless” has remained deeply ingrained.

Informants from Delta spoke about the foundation’s legacy in a similar manner to sources at Charlie, also invoking the foundation’s legacy and values, but with less concentrated focus on the actual Delta family itself, and more attention to the foundation’s social justice approach that defined it in the 1960s and remained an important part of the foundation’s institutional identity. One Delta informant confirmed this characterization about the foundation’s “democratic, inclusive social justice work”:

When we were thinking about our transition, we confirmed our values and our history in social justice, and doubled down on that. We’re still in this process of looking at ... our core values of building capacity of communities to participate – building more agency and power, and offsetting efforts of elites and business leaders. Elites don’t understand what policies will be best for communities that are underserved.

Another Delta official explained the foundation’s philosophy about deliberately engaging in democratic organizational processes, as opposed to a more top-down, grassroots approach that was characteristic of other foundation peers:

If you want a democratic, egalitarian society, that the process you engage in themselves should be democratic, egalitarian so that the values you want at the end are also embodied in the work you do, and I think that’s the best guideline for philanthropy.

This organizational identity was reinforced and reflected by informants from other foundations, who viewed Delta as a leader in the foundation field with regard to grassroots policy organizing. One Charlie informant explained: “The most methodical and aware and proactive and kind of engrained or integrated foundation employing good policy practices is the Delta Foundation ... they are not afraid of policy influencing or advocacy and they do a lot of it.” Thus, at Charlie and Delta, the foundations’ identity and values regarding grassroots empowerment required the foundations to maintain community engagement in their policy activities as a core component of their strategies.

In contrast to the bottom-up view of participation, in some cases this participatory ideology was used as a way to increase the legitimacy of foundations’ existing views. At times, foundations built networks, partnerships, and coalitions around their positions to construct the appearance of broad support. One informant described the power they had over partners saying, “There’s a reverence and a belief that the foundation just knew so much more than anyone else and a bowing to the power of that kind of money, and being affiliated with [our benefactor].” At Charlie, an informant

described a fellowship program aimed at building a cohort of people to “push the Charlie agenda even though they won’t necessarily be saying, ‘This is the Charlie agenda.’”

But for the most part, even when partnerships were being intentionally constructed to shore up credibility, informants described a losing a level of control in the process. In Charlie’s fellowship program, for example, the staff described bringing people together in hopes of developing more support for their agenda, but with a great sense of uncertainty of how it would turn out, a sentiment echoed by others who shared instances of success and failure. The informant says, “You create that conduit and that open process. You can’t force it but at the very least, you create a dialogue.” Another informant shared, with some frustration, the “messy” work of coalition-building: “I mean, two years to pull folks together, get some alignment. Even when they were pulled together, they still wanted to do [two different programs] ... The role of the liaison in bringing folks to the table and hashing things out – it was messy.” A Bravo informant reflected on the trade-off between working through partnerships and having complete control:

It’s trickier game when you do it that way [finding partners with the same worldview] because there’s certain limits to the degree to which one can manage a grant once it’s made. It just means a lot of extra work up front defining what that grantee will do. But it also amplifies whatever message you’re trying to send and it brands it as owned by the organizations you funded rather than by the foundation and then thereby sort of distributing it. It lends a certain kind of source credibility, right?

Notably, even at the most top-down foundations some informants framed their work as community-driven. At Bravo, which at times has been criticized in the media for its grasstops approach, an informant described the foundation’s work as providing a platform for excluded groups to be heard in government stating, “In general, the voiceless don’t have enough voice and I think it’s about time that they had big champions like Bravo and its benefactors.” Charlie informants also discussed their work as emerging from the ground up: “It doesn’t start with coming up with how to message the idea. It literally starts with engaging with someone on the ground and says, ‘Well, what do you think needs to happen?’ And then being a better listener.”

Foundations found it necessary to frame their policy intentions as participatory and empowering. In some cases, the foundations worked sincerely to amplify community voices rather than impose their own, while in other cases “participation” was constructed intentionally to give legitimacy to

their activities. In a sense, drawing on the cultural script of participation facilitated foundation advocacy work. But it is also a constraint, as conformity to the script of participation was also deemed necessary to maintain social acceptance despite the foundations' status, wealth, and lack of formal accountability. Furthermore, even when coalitions are built from the top-down rather than stemming organically from the grassroots, foundations lose a level of autonomy and control when they work with and through partners.

All of the foundations were acutely aware of their embeddedness in a larger social context, and feared losing credibility and legitimacy if they deviated from cultural norms. Informants evidenced a strong understanding of and compliance with legal regulations, but they were most concerned with their organizations' reputations as opposed to legal censure. They commonly invoked an image of "walking the line" to describe negotiating the balance between influencing policy and managing the threat of legal and reputational sanctions. If they stay behind the line they can use their power to shape policy, but legal and social institutional pressures make them concerned about "crossing the line."

CONCLUSION

The core issue at stake is whether foundations use their influence as a "bully pulpit," in the words of several interviewees. Democratic ideals are seriously challenged when elite opinions are heard more than others. This concern is aggravated in the case of foundations because they are insulated from economic and political forms of accountability (Reich, 2013). Wealth, social status, and a lack of formal democratic checks give these private actors an amplified voice when it comes to discussions about how best to provide the public good. Foundations know that "their voice is at least as powerful a tool, if not more so, than their checkbook," and purposefully seek to use that voice to shape public policies. In some cases, a louder voice may translate into policy change (although this is not a foregone conclusion, as the case of Mark Zuckerberg's failed attempt to reform the Newark school system illustrates).⁵ While arguing that institutional factors shape even the most unhindered actors in society, it is not our intention to portray institutional forces as keeping elite influence in check completely or exclusively. We agree that it is a concern that foundations have a

disproportionate voice in society, regardless of whether this influence improves or exacerbates how effectively social problems are solved.

At the same time, we follow Walker and Rea’s (2014) observation in the context of corporate political strategy, that social scientists need to depart from the blunt conception that private actors “simply buy votes,” in favor of a more nuanced view of how private politics influence society. Deepening our understanding of the paths through which power is exercised and constrained can contribute to discussions of how to moderate elite influence. Despite the absence of market and democratic checks on foundations’ power, they are to some extent limited by legal and socio-cultural pressures. As Scott has outlined, “institutions provide guidelines and resources for taking action as well as prohibitions and constraints on action” (2008, p. 50).

What does it mean to say foundations are constrained by institutional influences? As our interviews show, foundations are powerful, but they are also socially embedded. Foundations seek to maintain social acceptance more than one might expect given they do not need to obtain financial or electoral support. We show they seek to garner social legitimacy via legal compliance and by drawing on cultural scripts of participation and science to justify their participation in policy advocacy. At a minimum, institutional constraints specified procedures and scripts that foundations symbolically employed in order to garner social acceptance (Arndt & Bigelow, 2000; Elsbach & Sutton, 1992). At times, however, these pressures were tied to a meaningful moderating of elite influence; some foundations self-regulated by internalizing the spirit of the law and drawing sincerely on norms of participation and scientific research to inform their policy goals.

Our findings lead to several hypotheses for future research. First, we argue that social embeddedness is a constraint on foundations that generates conformity to wider norms and values. Thus, foundations that are more socially embedded will conform to a greater degree than foundations that are more isolated from wider society. Measures of embeddedness could include organizational variables like being higher profile (e.g., due to size or the types of activities they work on) or being more central in social and organizational networks. Dimensions of conformity to norms could involve displays such as providing public evidence of legal compliance, or going beyond the law to show responsiveness and responsibility by developing organizational structures like a Grantee Perception Report, codes of conduct, whistleblower policies, term limits on program officers, or inclusivity in board membership or governance decisions.

Second, we predict variation in the degree to which the law or norms of science and participation actually moderate the extent to which powerful, elite individuals define foundations' voices. We observed variation in the extent to which vocabularies of legal compliance, participation, and science were deployed cynically rather than deeply embraced and internalized. We have limited understanding of why this variation might occur, another valuable area of research, but our findings hint that one channel may be linked to organizational identity (perhaps stemming from an imprinting effect of the benefactor's preferences). In Delta, for example, inclusivity seemed to truly be a part of the organizational culture and identity. Delta's strategies were developed in concert with the communities they worked with and they sought to include community members in their advocacy.

Third, over time there may be changes in how democratic, market, and social constraints operate across organizational forms, particularly as lines between sectors become blurred (Bromley & Meyer, 2014). To some degree, we expect the social pressures we observe here to hold true for other types of organizations (e.g., firms). For instance, social expectations can help explain why companies adopt corporate responsibility and governance practices that go beyond the law. But it is also plausible that social constraints are stronger in the nonprofit sector because, unlike firms, their legitimacy is largely derived from their status as "white hat" actors. That is, the public expects them to be more trustworthy than firms (Weisbrod, 1989). Absent a widespread trust that foundations are acting in the public interest, we would expect a backlash and eventual legal dismantling of these entities.

Because the study examines five of the largest and most influential private foundations in the field of education nationally, the empirical findings are not generalizable to other settings, particularly for smaller or more local family or community foundations. As mentioned, social constraints may be less relevant for smaller (and often less professionalized) foundations that operate farther from the public eye. In addition, the paths we identify – legal compliance, participation, and science – are the central taming pressures we observed in these five cases, but there are likely other paths that would be valuable to consider in future research. We do not contend that ours is the only valid interpretation of the data, but we provide evidence showing that it is one plausible analysis that merits consideration. It sheds light on the general process of how elites are embedded in society, a critical but under-studied issue in organization theory (Zald & Lounsbury, 2010). The core insight that emerges from the cases is that even

powerful and unaccountable foundations can and do, to some extent, “self-censor” in the pursuit of their goals as a result of institutional pressures.

Looking to the future, for those seeking to further limit foundation influence, our findings suggest that foundations’ power is most effectively tempered by a combination of formal and informal mechanisms. Existing literature has focused on the lack of formal democratic and market controls, overlooking the social mechanisms that constrain foundations. Strategies that target their desire for social acceptance by creating new standards for what counts as a “good” foundation are likely to be particularly effective. For example, methods of “democratic organizing” (Battilana, Fuerstein, & Lee, forthcoming; Schmitz, 2015) could be promoted as a best practice among foundation leaders and professionals. Resistance to stakeholder expectations is difficult because foundations are committed, as a matter of legal definition and organizational identity, to pursuing the public good. If a particular foundation resists public or peer pressure, other actors can easily rally in opposition. Thus, foundation “choices” for how to influence policy are more susceptible to and bounded by outside pressures than rational choice or power-based perceptions of organizations would expect. Foundations’ public policy strategies are neither arbitrary nor solely guided by the endeavor to maximize political influence.

NOTES

1. Following Suchman (1995), legitimacy is the perception of an organization as desirable, proper, and appropriate; this definition goes beyond ideas of a regime’s legitimate authority (Weber, 1978 [1922]) and the public’s voluntary acquiescence to a government (Verba, Nie, & Kim, 1979). For a more detailed discussion of legitimacy see Deephouse and Suchman (2008). We do not rely on sharp distinctions between legitimacy, reputation, and status, but other organizational theorists have worked to differentiate between these concepts (Bitektine, 2011; King & Whetten, 2008).

2. In sociological terms, institutions “are the cultural understandings, rules, scripts, and constraints that shape the activities of actors ... Counter to its more popular usage, an institution, by this definition, is a particular form of culture or ideology that influences how reality is constructed and organized within a particular domain” (Binder, 2000, p. 70). Conformity to institutional pressures is assumed to help actors maintain legitimacy and gain material and symbolic resources, while violating institutional norms is expected to trigger formal and informal sanctions, such as legal repercussions or reputational damage (DiMaggio & Powell, 1983; Meyer & Rowan, 1977). Institutions constitute the larger environment of the organization,

and thus, at least in the short run (cf. Christiansen & Kroezen, 2016), robust to modifications by any one organization (Powell & DiMaggio, 2012).

3. A more detailed account of the case selection and data collection process is provided by Tompkins-Stange's (2013).

4. For example, the final category of "participation" began initially as "foundation values and identity," and the code for "science" did not appear in initial coding rounds but was subsumed under a broad category of "social embeddedness" that we later eliminated as we found it overly ambiguous.

5. In 2010 Zuckerberg donated \$100 million to the Newark schools with the idea of turning the district around in five years. A core reform he hoped to implement was to renegotiate teacher contracts, and half the donation went to that cause. He was unable to achieve this goal and faced substantial criticism for acting without substantial community and government support. More details are available online at, for example: <http://www.businessinsider.com/mark-zuckerbergs-failed-100-million-donation-to-newark-public-schools-2015-9>

ACKNOWLEDGMENT

We are grateful to Markus Höllerer, Aaron Horvath, Michael Meyer, John W. Meyer, Woody Powell, Rob Reich, and David Suárez for comments on the paper, and to members of Stanford's Philanthropy and Civil Society workshop.

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