



Fourth Annual Symposium on Public Policy for Nonprofits

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Introduction

For the fourth year in succession, the Association for Research on Nonprofits and Voluntary Associations convened a seminar to explore cutting edge issues in nonprofit public policy based on original research generated by ARNOVA members. Each annual seminar has brought together researchers from the worlds of academia, think tanks, and research centers with former and current government regulators and, most importantly, with leaders of organizations representing nonprofit practitioners. Notwithstanding the diversity of participants in this year's seminar, as in every seminar convened by ARNOVA, one core theme unites everyone in the discussions, a commitment to strengthening the nonprofit sector through public policies that draw on the practical experience, empirical information, detailed research, and analytical insights of researchers and practitioners.

In years past, the ARNOVA seminars were convened around single themes. This latest seminar, given the multiplicity of issues emerging in the nonprofit and philanthropic sectors, ARNOVA invited contributions drawn from the most promising public policy research efforts underway under the aegis of ARNOVA members. The result is the presentation of seven papers on what might appear to be a range of policy issues, but revealed more commonalities and intersections than the papers' topics imply. The seven papers, benefitting from commentary and feedback at the policy symposium, will be published in full in ARNOVA's *Nonprofit Policy Forum*. This brief report provides brief summaries of the papers, but draws on the discussion in the symposium to draw out lessons and applicability for nonprofit policy and practice.

The overall structure of the policy symposium was guided by Chao Guo of the University of Pennsylvania and Dennis Young of Georgia State University, the two co-chairs of the ARNOVA Symposium Planning Committee, plus Alan Abramson, the current president of ARNOVA and Shariq Siddiqui, ARNOVA's executive director. At the symposium, the authors gave very brief presentations of their papers. One or two people were designated to provide formal comments after each presentation, followed by a vigorous question-and-answer discussion by the seminar participants. For the purposes of this report, none of the discussion following the presentation of the papers is attributed to particular individuals.

While the paper topics varied, what emerged was a platform of ideas that merited attention, additional exploration, and in-the-field testing. Among the policy ideas debated during the symposium, several resonated among the participants as worthy of continued debate and of deeper research, notably these:

- Strengthening employee-like protections for volunteers while creating underscoring the importance of increased volunteerism and the necessity for strengthening incentives for people to participate in nonprofits as volunteers or stipended volunteers
- Rethinking the design of participatory processes such as task forces, advisory boards, and citizen councils so that they work better as legitimate instruments for community engagement

- Because of increased competition within the nonprofit sector and between nonprofits and for-profits in the realm of human services, designing mechanisms for collaboration among nonprofits, “co-production” between nonprofits and the communities they serve, strengthening nonprofits’ community connections as a competitive advantage, and building capable intermediary organizations that can emphasize collective impact but workthrough grants and contracts to community-based agencies
- Protecting, enhancing, and understanding nonprofit values, particularly around core issues of equity, pluralism, and liberty, as a counter to society’s increasing focus on commodification and efficiency in nonprofits as service delivery mechanisms
- Countering the “evidence-based” systems for designing and evaluating service delivery with the inclusion of feedback from beneficiaries about what they really want and value
- Slowing down the local government juggernaut in favor of “PILOTs” (payments in lieu of taxes) and “SILOTs” (services in lieu of taxes) by getting to government decision-makers early in their thinking to better understand the negative efforts on nonprofit institutions and communities at large that will ensue from ideas that local governments can balance their budgets with payments from nonprofits
- Building and strengthening new working relationships between government and the nonprofit sector to create advantages and movement for nonprofits, improvements in government contracting with nonprofit service deliverers, and government endorsements of nonprofit-generated principles for operations and accountability

All of these policy ideas draw on issues that are current in the nonprofit sector today, imbuing them with a pragmatism that emerges when researchers and practitioners interact and collaborate. The insights of the participants in the seminar led to new targets, priorities, and innovations for nonprofits (for example, new approaches to nonprofit roles on government task forces), but also potentially troubling dynamics (such as the over-emphasis on evidence-based, pay-for-success models) that nonprofits know all too well. These ideas and others are further described in the summaries and commentaries in this document, beginning with the author’s policy brief followed by the commentary of the symposium participants.

Policy Brief #1: The Law and the Volunteer

Joseph Mead, Assistant Professor, Cleveland State University

Millions of Americans volunteer each year, contributing billions of dollars in unpaid service, but this service can sometimes go horribly awry. Unpaid workers might be sexually harassed or discriminated against based on their race, sex, disability, or other duty-irrelevant characteristic. Other times, volunteers might hurt clients, other workers, or themselves, giving rise to a complicated set of rules for assigning liability between the organization and the volunteer. And sometimes, labor thought to be freely given may implicate minimum wage and maximum hour rules. How these laws apply to charitable volunteers is clouded by cryptic legislative language and inconsistent judicial precedent, undermining predictability for volunteers and nonprofit managers alike. Even worse, the standards fail to reflect policy judgment that balances the legitimate expectations of altruistic workers against the realities of the nonprofit-volunteer relationship.

“Employee” Protection Laws: Should Volunteers Be Covered? Employees in the United States enjoy a range of protections from federal and state law, including laws prohibiting discrimination, harassment, or retaliation, rules prescribing wages and hours, insurance requirements, and employer mandates to provide safe working environments. Whether a worker is covered under most of these diverse rules depends on whether that person is an “employee,” unhelpfully defined as, “an individual employed by an employer,” (29 U.S.C. § 2000e(f) (Title VII of Civil Rights Act); 29 U.S.C. § 203(e) (Fair Labor Standards Act)). The Supreme Court has criticized this definition as “completely circular and explain[ing] nothing,” (Nationwide Mut. Ins. Co. v. Darden, 503 U.S. 318, 323 (1992)), but it could actually be worse: the National Labor Relations Act explains, somewhat incredibly, that “[a]n ‘employee’ includes an employee,” (29 U.S.C. § 152(3)). Implementing agencies have issued informal guidance but not binding rules, leaving decisions about these laws’ application to unpaid workers to fact-specific judicial rulings.

Courts have coalesced around one of two approaches when determining whether a volunteer is an employee. One set of courts ask whether the volunteer is under the control of a nonprofit within the meaning of an ancient 10-factor “master-servant” test most commonly used to distinguish employees from independent contractors (Bryson v. Middlefield Volunteer Fire Dep’t, Inc., 656 F.3d 348, 352 (6th Cir. 2011)). Under this test, it doesn’t matter if the worker is paid or expects to be paid (Restatement (Second) of Agency § 225). The second judicial approach uses this same master-servant test of organizational control, but only after applying a threshold requirement that the individual have the expectation of compensation (Juino v. Livingston Parish Fire Dist. No. 5, 717 F.3d 431 (5th Cir. 2013); Restatement (Third) of Employment Law § 1.02 (Draft April 2014)). The threshold compensation test is easy to meet—insurance and training offered to the volunteer can be enough; even free use of a golf cart has been found to qualify—leading many decisions to hinge on the same control-based test.

By puzzling over whether a volunteer is “employed by an employer,” we are not asking the right question. The master-servant test of organizational control maps onto the nonprofit-volunteer relationship awkwardly and unpredictably, failing to provide guidance to organizations and workers about their rights and obligations. Much worse, we are failing to ask and answer the difficult questions about whether and when the law should guarantee charitable volunteers freedom from discrimination and harassment. Volunteers might not lose a paycheck, but they do suffer real injury when they are discriminated against or harassed during their volunteering. It degrades the value of volunteering and the dignity of the volunteer to ignore this injury simply because it is not financial. On the other hand, it can be difficult to quantify the unpaid worker’s injury, and worries about ensuring compliance may push some nonprofits to reduce demand for casual volunteers. More controversially, extending protections against discrimination into the realm of voluntary behavior may precipitate a clash between nonprofits’ diverse religious and ideological preferences and society’s interests in eradicating odious discrimination. (Boy Scouts of Am. v. Dale, 530 U.S. 640 (2000)).

Beyond Discrimination: Volunteer Liabilities and Immunities: The nature of the nonprofit-volunteer relationship has implications well beyond employee protection laws. Federal and state legislation provides immunity from many types of liability to volunteers, if they are acting within the scope of their duties to a nonprofit organization. At the same time, state law holds the organization responsible for the misdeeds of volunteers acting within the scope of their responsibilities, and this liability is not changed by volunteer immunity laws. In fact, organizational liability and volunteer immunity are linked: if the volunteer is immune, that implies he is acting for an organization that would then be vicariously responsible. To decide if the nonprofit-volunteer relationship is sufficient to lead to organizational liability and volunteer immunity, courts use the master-servant test of organizational control—the identical test used in the employee context.

Conclusions and Implications: Consider how current standards might play out in a plausible volunteer situation, based loosely on allegations from a recent case (Marie v. Am. Red Cross, 771 F.3d 344, 349 (6th Cir. 2014)). For several years, a volunteer spent one day a week alongside paid staff helping the nonprofit further its mission by performing various office tasks and responding to disasters. She did not expect a paycheck, but she did receive a number of meaningful personal benefits: training, workers’ compensation and life insurance, a chance to meet people in her community, and the joy that comes from helping others. Should this volunteer have a legal right to be protected from discrimination and harassment at her unpaid position? Should this volunteer be entitled to a minimum wage? Should this volunteer be immune for simple mistakes made in the course of her service under volunteer immunity legislation? Paradoxically, under existing law, the answer to all of these questions is the same, or, at least, dependent on the same inquiry into organizational control. Yet different courts will apply the test of organizational control in different ways despite similar facts, meaning the nonprofit and the volunteer will not know of their rights and duties until the matter is brought to court.

It need not be this way. First, brighter lines and clearer rules would benefit nonprofit organizations and volunteers alike. Existing legislative ambiguities and inconsistent, fact-specific judicial decisions make it difficult for nonprofits to ensure that they are complying

with the law when they use volunteers, and for volunteers to accurately assess their risks. Second, the law must decouple the extent of various volunteer protections from one another. Simply because a volunteer is covered by one set of protections, say immunity (which is explicitly dependent on the volunteer working without compensation), should not imply that the volunteer is also covered by minimum wage protections (which would inconsistently require that the volunteer receive compensation). Different interests are at stake, and each track should be developed separately without being bound to the clumsy master-servant test. Third, the development of policy towards volunteers should be done consciously and deliberately to allow for full deliberation and balancing of the values of individual dignity, organizational autonomy, and the realities of volunteer management. The millions who volunteer each year, and the organizations and communities that they serve, deserve at least that.

With tens of millions of Americans volunteering annually for all sorts of nonprofits, this issue cross-cuts all kinds of nonprofits and voluntary associations. As Mead noted, thinking about the law as applied to volunteering for nonprofits is not what typically people like to do, “it takes some of the fun out of it.” Nonetheless, the issues of the treatment of volunteers are still unclear, as federal agencies have issued guidance but no binding rules. Moreover, as nonprofits often are wont to do, the notion that binding rules and regulations might be established raise concerns about the cost of compliance and worries about litigation brought by volunteers against nonprofits as quasi-employers even though no paycheck is involved. Would nonprofits stop using volunteers if mandated rules and regulatory burdens were seen as too burdensome and intrusive? Should the voluntary sector as a distinctive part of civil society be allowed more latitude in policy and behavior in the treatment and management of volunteers that nonprofits are typically given in the treatment of paid employees? The symposium participants’ answers and policy solutions included the following:

- Volunteer Management: “While there is no reason that volunteer roles should be (treated) all that differently than employees, it would be better if you had more capacity and management” in the nonprofit sector. Insufficient support for the nonprofit management of volunteers is one of the problems and should be addressed in public policy through greater support for building nonprofit’s volunteer management capacities. However, as one participant noted, “there’s not a lot of nonprofit expertise within government [and]...you don’t have any group of people who have spent any time at all thinking about nonprofit capacity.” Another participant noted that in his experience, volunteer management is less frequently a job responsibility in nonprofits, as the emphasis has shifted to the management of interns and of people serving on nonprofit boards. The movement toward professionalization of the nonprofit sector might be diminishing attention to the function of volunteer management—to the detriment of protecting both nonprofits and the volunteers.
- The Importance of Volunteers: “Volunteers are not perceived as very valuable,” one symposium participant added. Given the increasing size of government contracts and the increasing professionalism of nonprofits, the evidence that demonstrates

cost savings or service delivery quality attributable to volunteers isn't necessarily available, and for the smaller nonprofits that tend to depend more on volunteers than larger nonprofits do, they "don't have the money to do an evaluation" (of the importance of volunteers).

- Nonprofit/Volunteer Impacts: Despite the existence of the Corporation for National and Community Service which manages AmeriCorps and other programs that support stipended volunteers (who unlike other volunteers, do lose something—compensation, educational benefits, etc.—if they are dismissed from volunteer positions), there is no cross-agency entity in the federal government that looks at volunteer issues (and, for that matter, nonprofit issues more broadly). In response to legislation proposed in 2010 by Rep. Betty McCollum to create a bipartisan nonprofit commission of sorts, the Obama Administration converted the initiative to a focus on "community solutions" rather than nonprofit sector issues. CNCS itself has rejected the option of taking on that cross-agency nonprofit/volunteer oversight role. Some nonprofits are concerned that an agency or commission taking on that role and, perhaps, developing a structure for assessing the nonprofit impacts of potential or actual laws and programs could amount to too much unnecessary bureaucracy. Nonetheless, without such an entity, as the National Council of Nonprofits demonstrated in its intervention with the federal government over employee tax credits for health insurance, without a government agency tasked with nonprofit concerns, policies potentially adversely affecting nonprofits and their employees and volunteers can slip into law.
- How Volunteerism Is Changing: Several seminar participants noted that volunteerism today is much different than it was in the past. Much of it boils down to the changes wrought by technology and by crowdsourcing. According to one participant, "crowdsourcing will change the nature of who is volunteering." It may be that the change is in viewing volunteering much like donating: "If we think about volunteering as donating, it changes the rubric; if someone donates their time and if their time is misused, why is that different than when someone donates (money or material goods)." Nonprofits frequently tabulate how many hours of volunteer time they have aggregated, much like they tabulate the donations of money and goods they have received. It may mean that volunteer hours should be given a different legal rubric.
- Dealing with the Misuse of Employees and Volunteers: In the wake of the recession and before, there have been growing instances of organizations compelling employees to "volunteer" extra hours, an often coercive treatment of lower paid employees. The challenge for volunteers is not necessarily that they will "fired", but that they might be used to replace paid employees or that volunteering by paid employees (that is, working without pay) will be required as a matter of job retention or being compelled to volunteer for the possibility of paid employment in the future. Attorneys general have legal standing on behalf of donors, a power that AG charity offices increasingly demonstrate. It may be that AGs might have to be given equivalent legal standing on behalf of people who donate their time.
- Nonprofit Volunteer Management Accreditation: Several participants discussed their experience with volunteer management "best practices", writing handbooks

and guidelines that have been adopted and implemented by several nonprofits over the years. One possibility might be to develop a system of accreditation for nonprofits that demonstrate best practices in the treatment and management of volunteers. However, this would have to recognize the different kinds of volunteers deployed in the nonprofit sector, ranging from university alumni who play large roles in interviewing prospective college applicants to individuals who volunteer their time to serve on nonprofit boards of directors to neighbors who take on roles with the local Little League or other sports programs. This may be a very obvious area where a “one size fits all” accreditation process would be of limited utility.

- Issues of Diversity: When the issue of volunteering to work with children comes up, so do concerns about background checks and other protections for the beneficiaries of nonprofit programs. But background checks can look at more factors than safety, getting into questions of ideology and belief. One participant suggested that the AmeriCorps experience with background checks has not been good, and if Congress is involved in legislating around this issue, the prospect of ideologically driven “poison pills” inserted into programs involving nonprofits could be dangerous. “Maybe we do want clarity (regarding volunteer management) on the discrimination pieces, but we don’t want full clarity on the freedom to associate pieces,” a seminar participant said. “As it relates to harassment, we can come to more consensus, but I can see some limitations there too.” Volunteer management practices that might seem to be abusive to some, for example, the coerced volunteerism of current or prospective employees, could be seen as freedom of association issues to others. He added with some poignancy, “when it’s us doing it, we find beautiful reasons for doing it, thus it’s not necessarily clear that we know where we want to achieve clarity” in policies and practices toward volunteers.

In hearing this vibrant conversation, Mead acknowledged that the current system lacks clarity. “The way the law looks at it, it is so random, almost chaotic,” he noted. There are benefits to the lack of clarity, allowing nonprofits to fashion their own rules and practices that work best for them and their program and community contexts. To give volunteers more rights under the Fair Labor Standards Act and other labor protections, would volunteers actually be more like “pseudo-volunteers” or, perhaps, “pseudo-employees” governed by other “pseudo-volunteers”, that is, unpaid nonprofit board members? Perhaps the most telling dimension of the issue evolved last year at Northwestern University: the students who volunteered to play for the Northwestern football team got the approval of a regional director of the National Labor Relations Board for the notion that they are not volunteers, but employees of the university and therefore entitled to be represented by a labor union. Northwestern and other Big 10 and NCAA football schools protested and successfully appealed the regional NLRB ruling in 2015, but in the interim, some schools have responded with offering improved scholarships to the “volunteer” football players, bigger scholarship stipends, and even post-graduate health benefits. “That’s what the threat of a union does,” said the quarterback who initiated the union organizing. He might have added, that’s what the standardization of policies and standards for volunteers also does.

Policy Brief #2: Nonprofit Organizations' Involvement in Participatory Processes: The Need for Democratic Accountability

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Participatory processes—defined as formal efforts to involve constituents in government decision-making—are an increasingly common tool adopted by public agencies and other elite decision making bodies. Conceived as a way to make government more accountable and more responsive to its citizens, these processes include task forces, advisory boards, and community councils. Participatory processes are thought to promote individual political engagement, while also increasing policy effectiveness and promoting government accountability. These processes are used in the fields of health care, the environment, and poverty reduction, among others. Unfortunately, although conceptualized as a way to incorporate lay citizens as stakeholders, participation in such processes takes time and expertise that many citizens do not have. Interest is often low and it is hard for the designers of such processes to know who or how to recruit. This is particularly true for low-income or hard-to-reach individuals or members of marginalized communities. As a result, nonprofit leaders are often invited to participate as a logistical shortcut for citizen involvement.

Representatives of nonprofit organizations are often seen as established leaders in the community, they are easily identifiable, and are often presumed to have unique knowledge about community needs. Research has shown a wide variety of nonprofit organizations are involved in participatory processes including neighborhood associations, community based organizations, religious congregations, and social service organizations. This representation, albeit nonelected and unaccountable, is an increasingly important way vulnerable groups are represented and a key aspect of many nonprofit organizations' advocacy involvement.

We need to ask, then, how well do nonprofits do at this role? It is likely that nonprofits vary greatly in regards to how well they actually represent their claimed constituents. While many organizations work to engage constituents in democratic ways—including ongoing outreach and communication strategies, establishing participatory mechanisms within their own organizations, and soliciting resident feedback—other nonprofits do not. This may be particularly true of large, professionalized social service agencies, or historically important religious organization that often get seen as “leaders” in low income communities of color. Indeed, there are reasons to believe that legitimately representing the interests of a specific community is a daunting task. Communities contain significant diversity, including different opinions about needs, priorities, and appropriate responses. Meanwhile, organizations have competing priorities themselves. Organizational leaders may disagree with community sentiment on important issues. And nonprofits need to maintain accountability to stakeholders beyond community members, such as funders, board members, and staff members.

Connection to Current Research: Over the past 5 years, my collaborator Colleen Grogan and Mosely have engaged in a multimethod study that addresses to what extent and how well nonprofit community-based organizations represent vulnerable communities—from the perspective of both residents and the organizations that represent them. We have focused on

three research questions in regards to residents: 1) Do residents believe nonprofit community-based organizations can play a legitimate representational role? 2) What organizational characteristics or behaviors do residents see as important determinants of legitimate representation? and 3) Do residents view certain types of organizations as better embodying these elements of legitimate representation? These questions have then been paired with two research questions addressing the activity of nonprofit organizations: 1) How do nonprofit leaders conceptualize their representative role in participatory processes? 2) How might different conceptions of what is 'good' representation influence how leaders carry out representative activities? All of this work has been carried out in low-income, primarily African-American neighborhoods on the southside of Chicago.

In a recent survey of the population of nonprofit organizations in three Chicago neighborhoods, we found that most nonprofit leaders are involved in some kind of representative activity, and involvement in participatory processes is high, even among small organizations that do not otherwise engage in advocacy. However, nonprofit representatives differ in their view of whom they actually represent. For example, many religious leaders believe they are only responsible for voicing the needs of their congregation, while many human service leaders believe they speak for the larger community. Our findings also suggest one cannot assume that nonprofits are in active communication with the residents they represent: most organizations had only minimal processes in place to exchange information with residents around their representational activity. However, our previous work indicates this is crucial for building trust with residents. In a qualitative study of residents' perceptions of nonprofit representational activity, we find that attention to democratic processes was recognized and strongly desired by community members and a key element of building trust. A focus on producing concrete benefits (outcomes) was also mentioned by residents as an important element of legitimate representation. Since organizations clearly differ in these respects, these findings help inform how selection procedures for participatory processes can be designed in ways that advance legitimate representation.

Specific Policy Proposals: Based on the background and research presented above, I identify three specific policy proposals. These proposals are designed with an eye to facilitating the inclusionary goals of participatory processes, promoting democratic accountability among nonprofit representatives, and making sure the needs of vulnerable citizens are met. 1) Government administrators responsible for designing participatory processes should prefer nonprofit participants that have a demonstrated commitment to democratic principles in their own organization. 2) A variety of nonprofit participants should be chosen to participate and designers should be aware that large nonprofits with seemingly long histories in a community are not always well informed about the concerns of the current community. 3) Nonprofits that participate in participatory processes should be held accountable to democratic principles by being encouraged and supported in their efforts to a) return information to community members and b) involve community residents in participatory forums directly.

Conclusions: Nonprofits are important and valued partners in state and local government decisionmaking. Participating in such processes, on behalf of the communities they serve, underlines the role of nonprofits as key civic intermediaries and is one of the many ways that

nonprofits mediate the relationship between citizens and government. Finding ways to more fully integrate them in decision-making processes is important in order to make government more accountable to constituents. However, policy should recognize that nonprofit organizations are often being selected into such processes in lieu of citizens, and address more explicitly the degree to which nonprofits adequately represent community interests. Policy solutions that fruitfully encourage nonprofit organizations to be more explicitly democratic in their interactions with constituents have the potential to improve government decision-making and reduce political inequality in diverse communities.

Mosely's research paper goes to the heart of the nonprofit role in democratic accountability. As occurs so frequently, the creation of task forces, advisory boards, and other entities by government or by other elite bodies are sometimes used to get buy-in from communities for decisions that may be made or, not infrequently, decisions that have already been made. One thinks of participatory processes such as the Detroit Future Cities program of the Kresge Foundation with the challenge that Kresge's multiple community engagement experts had in designing structures that would bring in the authentic voices of community residents and balance the interests of various community-based nonprofit organizations. The perception that nonprofits are automatically effective and legitimate substitutes for citizens because of their place embedded in communities and their altruistic missions doesn't always hold true. As Mosely pointed out in the symposium, communities are frequently quite heterogeneous, and community-based organizations might not necessarily reflect nor represent that diversity. She cited as a powerful example the divisions in the South Side of Chicago regarding the creation of a potential Walmart store: community leaders were opposed, viewing the low-wage big box retailer as bad for the community, but many people in the community wanted Walmart for both the jobs and the low-cost goods it would bring.

While there is a diversity of kinds of nonprofits, when they are recruited for task forces and advisory boards, their participation is, as Mosely described it, "unelected and unaccountable." Although some nonprofits solicit their communities for feedback, many don't. She cited large professional service organizations and historically black churches whose congregants have moved to the suburbs as examples of nonprofit or voluntary entities that may be in communities, but not necessarily interacting all that much with community residents, much less turning to them for guidance and ratification. As she pointed out in her paper, government should prefer nonprofits that have a commitment for democratic representation processes and should be held to deliver on the function of providing information to community residents, but even that is a limited prescription for democratic accountability in the range of advisory bodies that governments and elites are developing as mechanisms to get community buy-in.

- Getting Past the Usual Suspects: Whether it is in the U.S. or elsewhere in the world (one participant cited the Middle East, notably Egypt), there is the question of exactly what government entities actually mean by—or in some instances even know about—identifying nonprofits with a “commitment to democratic principles.” Notwithstanding the creation of these advisory bodies, it might be that not all policy makers are themselves all that committed to full community participation in the first place. In some places, there are questions as to the legitimacy of the nonprofits

brought to the table and the level of trust that the public or community might have in them. In other instances, it might be that the government agencies creating task forces and boards are simply using nonprofits as tools to validate their predetermined decisions after the fact and to circumvent dissenting voices. Comparing the research setting of the South Side of Chicago with the dynamic of government/NGO relations in Egypt, one symposium participant said, “the brief assumes that residents are citizens. Is this always a legitimate assumption? In Egypt, many residents are more subjects than citizens.” On one hand, through engagement in these participatory processes, residents might become more “legitimate” citizens, but government there might not be open and welcoming to the engagement and empowerment of NGOs representing marginalized communities and groups. While few might object to the inclusion of this social service agency CEO and that local church leader on a task force or board, as they might typically and repeatedly be called on to do, the challenge is to get past the “usual suspects” and find avenues for the voices of nonprofits representing and mobilizing marginalized communities.

- Holding Government Accountable: Much of the discussion of this topic tends to gravitate to an examination of how to hold nonprofits to being accountable to the communities and constituents they ostensibly serve, a top-down look at nonprofits, but the history of these community participation structures is that when they are powerful, they often aim to hold government accountable—and government may not be all that interested in being held accountable by the nonprofits and community leaders brought into these participatory structures. One observer noted the history of the War on Poverty and the “nothing and everything” meaning of the “maximum feasible participation” structure built into the early versions of community action/anti-poverty agencies. One participant asked how to engage citizens and community-based entities on these boards in ways so that the involvement is a floor, not a ceiling. For example, she noted that the typical requirement of client involvement usually ends up with the appointment of one former or current client on the board as opposed to a more extensive process of recruiting the voices of marginalized communities. She called for “more experimentation for involving citizens in nonprofits” and consequently, more experimentation in maximizing constructive engagement of community and nonprofit leaders in these participatory bodies. Another symposium attendee added, “there is an opportunity for holding government accountable by calling for (and monitoring) the correct use” of these participatory bodies. Focusing on appropriate design may be an avenue toward looking at appropriate—and more representative or democratic—governance from the public sector.
- Place v. Population: There is an implicit bias in the discussion of these participatory bodies that community representation means representation of “place”, but community can mean either place or population. Some cities do not have strong histories of place-based nonprofits, but have stronger cultures of multi-neighborhood, issue-based, or population- (ethnic/racial) based organizing. Moreover, the kind of issue being addressed plays a role in distinguishing the kind of design and recruitment that works or doesn’t work. For example, as one

symposium participant noted, “does it matter whether the [participatory structure in question] works for community development but not for workforce development?” Designers of participatory structures must take into consideration community culture, the structure of the nonprofit infrastructure, and the different kinds of issues under consideration.

- **Optics:** Nonprofit leaders brought into these task forces or advisory boards may assume that they are at the table to contribute their expertise, but in some cases, the governmental designers may have them there with the expectation only that they carry messages back to their constituents—or worse, that they are at the table because it was due to some sort of legal mandate. One participant with experience in such bodies at the federal level expressed her self-described “jaded view” that “so often [these advisory bodies or task forces] are used for optics,” that government agencies are “very often not going to pick the most vocal critics,” and that they may be created to “coopt the opponents.” As she said, none of those structures are predicated on the nonprofits and community leaders at the table playing roles in participatory democracy. She suggested that in contrast to these Potemkin Village examples of democratic process, a more productive tack might be doing what companies do. When a corporation is considering a new process or a new product, it talks to consumers. When a government agency is considering a new process or program, it might be well advised to do “human-centered research” as opposed to creating task forces and advisory bodies that really aren’t structured for democratic processes.
- **Nonprofit Capacities:** Can nonprofits actually deliver if they are asked to be authentic participants in a task force that is thinking through issues rather than simply ratifying decisions that have already been made? Much of the nonprofit sector, even much of the nonprofit sector’s infrastructure organizations, are undercapitalized and overstretched. It may be important for nonprofit leaders to be invited into task forces and advisory boards, but, according to one participant, “the nonprofit sector as a whole suffers when it doesn’t have the staying power to be represented in front of government.” If nonprofit leaders are going to play authentic roles in these participatory bodies, strengthening nonprofits in human and financial capital terms may be a necessary strategic component.

In the end, it may be a matter of who is using whom. In some advisory body situations, nonprofits may want the “in” because of the access it gives to policy-makers, perhaps to affect their decisions, in some cases simply to gain profile and recognition. In others, government agencies may be trying to circumvent opposition, with the old aphorism, “keep your friends close and your enemies closer.” Ultimately, what is at stake is not simply the design of participatory structures for community and nonprofit leaders, but nonprofits’ holding governments to higher levels of democratic engagement—a core, cross-cutting mission of the U.S. nonprofit sector.

Policy Brief #3: Nonprofits and Human Services: Influences of an Open, Sharing Economy on Public Policy

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Nonprofit human service agencies are an essential part of the social safety net and their role in many policy fields such as community care, workforce development, and disability services is growing. The funding, delivery and entire configuration of human services systems is under enormous pressure in the US, as in many other countries, which is already producing a range of reforms. The magnitude of the challenges facing human services, however, indicates that more profound transformations are on the horizon in order to create more sustainable, effective models. As these systems are restructured, the nonprofit sector will be subject to major change, producing differing sets of winners and losers and an increasingly bifurcated sector. Public policy for nonprofits will need to square several competing imperatives that present several financial and management challenges.

Drawing on evidence from the policy and nonprofit literatures, this brief offers a set of hypotheses about the implications, and possible paradoxes, for the nonprofit sector that are likely to emerge from the intersections of the existing marketized system and an emerging collaborative-oriented approach to human service delivery. We explore both public policy for nonprofits in human services and strategic responses by this sector, considering the first order effects designed to enable nonprofits to adapt to a reconfigured model, and the second order effects in which governments and nonprofits address the consequences of the first round. These effects are likely to vary by organizational size and by service field, resulting in quite different outcomes and relationships with government for large multi-service agencies and those in highly regulated fields such as child protection versus small nonprofits, particularly in fields such as community care that may become absorbed into an informal sector.

Reconfiguring Human Services: The delivery of human services bears the legacy of New Public Management (NPM) overlain by several waves of fiscal restraint. Public funding remains scarce and competition for grants and contracts continues to increase, accentuated by the entry of more for-profit providers into human service markets especially community programs funded by Medicaid and Medicare. In 2012, 50 percent of social services were provided by for-profits, up from 45 percent a decade earlier. Government program responsibilities are fractured across different levels, institutions and budgets, and services are fragmented among multiple providers. The financing and contracting regimes created by the marketization of services reward competition, not collaboration among nonprofits, and the shift away from income support to greater reliance on services to address social needs is further compounding service coordination issues. The extensive regulations produced by NPM over most services are still in place, reducing the ability to adapt to changing circumstances. In several states, government-nonprofit task forces are seeking to improve efficiencies amidst this fragmentation by streamlining reporting on contracting, and several have reorganized their human services departments to break down silos and make better use of technology for one-stop shopping for users. Although these are positive steps in improving information and access, four factors are converging to inspire more fundamental change in human services:

- *The growth of human services agencies and resulting service fragmentation is prompting calls for more integration of services and collaboration among different agencies. The lack of coordination is a particular problem for certain vulnerable groups such as the chronically mentally ill, poor children, and people with serious health conditions.*
- *Demand for many types of community services such as home care, home health, and various types of social housing are rising, partly fueled by the aging of the population, creating competitive, capacity and infrastructure challenges for human service agencies, especially smaller community agencies.*
- *Public expectations, influenced to some extent by personal experiences of collaborative consumption, are changing: rather than administrative mandates as the primary organizing principle, users and the public expect delivery to be user-centered and outcome focused. This includes “co-production” that involves citizens and users in “planning, designing, delivering and evaluating public services” as well as greater personalization of care with increased client control over spending decisions and choice of service providers, with such choices facilitated by technology and resource allocations guided by assessment of impact. In addition, many public and private funders are worried about the duplication of services and are very supportive of more collaboration among human service agencies, particularly at the local level.*
- *The interest in “social investment” intended to produce both social and financial returns and in social innovation and collective impact that is led by entrepreneurial nonprofits, a variety of new hybrids such as social enterprises and low-profit limited liability companies and by private foundations and philanthropists is stimulating momentum for systems change. Social innovation and social enterprise now attract widespread interest from public and private funders in the US and elsewhere although many nonprofit human service agencies have had great difficulty adapting their existing program models due to a difficulty in raising earned income and a lack of adequate capital and infrastructure.*

Collectively, these factors point to major reconfigurations of human service delivery systems, although degrees of change will be uneven across locales and service fields. Two trends are likely to be universal. First, in a context of continuing financial restraint, governments can be expected to identify priority versus secondary needs and services, leading to a restructuring of local service with the attendant winners and losers. Thus, human service providers will exist in an inherently more competitive environment for public and private funds. Second, and relatedly, performance and outcome measurement, supported by big, open data and technology, will be even more widely institutionalized, driving decisions about funding and providers. Outcomes and evaluation will need to be more transparent and providers will need the capacity to undertake evaluation and ongoing program monitoring. The current interest in pay for performance (social impact) bonds is one manifestation of the marriage of outcomes and funding, but other methods and fashions can be expected. Reflective of the collaborative economy, user and peer-to-peer ratings akin to platforms such as Uber and Airbnb will make ratings of performance more immediate and transparent, enabling anyone with a smartphone to provide “expert” feedback.

Somewhat paradoxically, another likely and less predictable change is toward more collaborative, integrated and systems-based approaches – which have been attempted, with limited success for several decades, but have a renewed imperative. Service “integration” refers to joined-up funding, administration, organizations, delivery and governance for the benefit of interconnected user outcomes. It may occur vertically (across different levels of care) and/or horizontally (joining related but previously separate services). Some degree of integration is already occurring particularly in health and social services, for instance through co-location of services, coordinated case management or integrated eligibility for social as well as health services under the Affordable Care Act. The barriers to such integration have proven to be high, however, including: jurisdictional differences; the need for major upfront financial investment while results may not be evident for a long period; professional differences; legal limitations on and a reluctance to share data; and lack of measurement tools. In addition, the ingrained principle of user choice of service provider has promoted continued fragmentation over collaboration, as have the political challenges of government funding of specialized agencies – effectively picking only a few “winners” among the nonprofit field.

Evidence of the cost effectiveness and improved quality of more integrated systems is beginning to overcome some of these historical barriers, and we argue will accelerate experimentation in integration and place-based delivery models, potentially with a greater role for local governments. Indeed, many government initiatives in areas such as early childhood education, homelessness, substance abuse and mental illness have required collaboration among different service providers (such as housing and support services).

Importantly, the related interest in customization of services and coproduction in which users actively contribute along with professionals in not only design but point of delivery is promoting use of a variety of policy instruments such as personal budgets, vouchers and compliance agreements between providers and service users in managing agreed upon solutions. Examples include: volunteers tutoring children after school; the co-creation of a new integrated service system for youth by local officials, citizens, and youth; or a clubhouse program where the staff and mentally ill individuals work together to administer the clubhouse program and promote greater independence of the mentally ill citizens in the program.

The trend toward co-production tends to push local human service agencies toward more individual and organizational connections and more differentiation – by user and by place. However, greater fragmentation by place or by co-production may impair efficiencies of scale and the ability to integrate different types of services in any consistent manner. While the push for more integrated services reflects an effort to reduce or eliminate perceived inefficiencies in local service systems, the interest in more place-based integration may reinforce such inefficiencies, or at least the perceptions of them. Whether more localized institutions have the financial and leadership capacities to navigate the complexity of new models of service delivery remains to be determined. The challenge for public policy then is to create the incentives or requirements for collaboration, co-production and integration – among both nonprofits and government departments – and to do so in a manner that aligns with financial constraint agendas given that service integration likely involves significant

upfront costs and may lead to significant disruption in the local service system. What are the consequences for nonprofits as public policy attempts to square such competing imperatives in human service delivery?

First Order Implications for Nonprofits and Public Policy: Attempts to produce more integrated human services are by no means new, and the literature has identified the steps necessary for governments to facilitate movement in this direction including: establishment of coordinating or governance mechanisms and requirements or incentives for providers to collaborate; blended or braided funding across programs and jurisdictions with appropriate payment methods for providers; upfront investment in technology platforms and other shared infrastructure; removing barriers to data sharing; and systems to track performance. However, the likely effects on nonprofit providers including their strategic responses of nonprofit providers and relationships with government has been under-studied.

Large multi-service agencies that can more readily integrate across their own services or effectively diversify into new areas and that are invested in data analytics and performance measurement will undoubtedly have a strong advantage. In order to build adequate capacity quickly and scale up geographically, many medium-sized nonprofits and social enterprises may need to borrow on private markets, increasing the need for access to such capital – and good internal governance to strategically manage this -- but also increasingly the risk of default by some. Smaller nonprofits may increasingly be forced into niche services or population subgroups, subcontracting to multi-service agencies, or will operate more on the periphery, being absorbed into the informal sector particularly in fields that are not highly regulated. Increased funding through Medicaid and integration into health-based services suggests that human service agencies will be required to adopt policies and practices characteristic of health care organizations, especially in competitive local markets.

An important means of integration will occur via technology, but to the extent that services which already have large physical facilities that can serve multiple purposes – for example, low income housing, schools, child care centers and nursing and assisted living homes – these agencies may have an initial place-based advantage. Because for-profit providers have a strong presence in service delivery, dominating home care and child care, the successful nonprofit collaborator must be prepared to work closely with for-profits. To be sure, a role will remain for small providers such as soup kitchens and homeless shelters, especially providers with ties to the informal and/or the faith community, but these providers will increasingly be a relatively small segment of the local service system; they are also likely to be unstable since they will not have access to the capital, political connections, and resources of larger providers.

The overall effects, we suggest, will be to create more sharply differentiated power relationships among nonprofits, accentuating the value of umbrella associations such as provider associations in providing the connective tissue for collective action. Knowledge of and connection to “community” will serve as a critical advantage for nonprofits, particularly when collaborating with very large for-profits that may not be rooted in the locale, as for example in assisted living and nursing home care where in some states for-profits, including many very large chains, have 80 percent of the market. Community support can also be

critical for a nonprofit in this more competitive environment for public and private funding. Integrated and co-produced services will give rise to new types of specialist professionals and staff who work in more than one sector – another classic feature of a policy field. Capable professionals will increasingly be highly mobile, with organizational and sector jumping more common and accepted, making wages more competitive for some, and probably depressed for those less adaptable. This development also places smaller providers at a disadvantage in the competition for talent, especially since many smaller providers do not have a lot of upward mobility for staff. To the extent that professionalization and sector hopping becomes more frequent, staff turnover could also increase, particularly among smaller providers, thus negatively affecting the quality of services and the ability of providers to develop long-term community networks and support. New ‘professions’ may emerge and be accredited, especially given the widespread interest in “evidence-based practice” in social work and related fields—even as interest in co-production remains on the policy agenda . Governments will need to work closely with state and local nonprofit associations and with professional bodies to anticipate and support relevant training programs.

A lesson from successful experiments at service integration indicates that governments need to make initial investments in the capacity and infrastructure to support the transition to a new model, but most will be seeking alternative, private sources to supplement operational costs. Only 19 percent of philanthropy in the US goes to human services, however, and local nonprofit human service agencies struggle to attract private philanthropy. An emerging model, then, is linked to the ability of nonprofit human service agencies to generate alternative, non-philanthropic funding; this model relies heavily on revenue diversification linked to increased earned income, corporate partnerships, and private investment linked to impact. As a result, pressure to develop standardized, yet appropriate and meaningful, indicators of impact will rise.

With integrated and co-produced services, though, outcome evaluation and performance based funding systems are much more complex than the early social impact experiments such as the pilot project to reduce recidivism among returning prisoners in Peterborough, UK or the number of children in foster care. The potential risk to investors is also much greater than in single service situations. The challenge of making success-based and other social financing mechanisms work for this context in which the success of collaborators depends on the effectiveness of their partners is likely to generate greater self-regulation and peer-to-peer scrutiny, and may also require support from public and private funders and intermediary bodies to reduce the accentuated risks and support quality, collective evaluations of outcomes.

This rapidly changing context for human service agencies is generating new and significant governance challenges. First, the ability of the board to exercise its strategic and oversight function will be critical as a collaborative environment is more complex, particularly if financing is tied to success. Governance structures need to be flexible and promote responsiveness on the part of the board to emergent developments in the environment including changes in funding and public policy and they need to ensure organizational decision making is very attentive to succession planning and human resource development. Such governance needs to include a diverse set of individuals who have the skills and capabilities to oversee the operations of their organizations and support active resource development. Being connected to and

knowledgeable about users, volunteers and local community members will be an important factor in success. This effort can include providing user and community feedback, engaging them in service impact, community participation in the governance of the agency such as board service, and helping with fundraising and resource development. Given that High Net Worth philanthropists are increasingly seeking to volunteer and be engaged with the organizations they are thinking of supporting, volunteer management has new saliency for both service delivery and private investment.

While many nonprofit human service agencies were initially established to be responsive to local community needs, many agencies tended to look upward toward their funders, especially as funding was rising. However, the more austere funding and political environment of recent years has pushed many, particularly local nonprofits, toward a concern with financial sustainability, and many are at the point in the organizational life cycle where they need to develop a more diversified revenue base and more professional staff and boards. Thus, the evolving service model will require nonprofit human service agencies to realign their focus back to community, including attention to the diversity of boards and their performance, engagement of volunteers and memberships, and other means of learning from users and the public at large. In addition, agency leadership needs to be able to compete effectively for scarce program funding but also develop collaborative relationships in support of agency programs. A wide range of possibilities exist including the co-location of programs and services, participation and support for human service coalitions, and cooperation on complex programs such as early childhood interventions.

A second major factor separating the successful agency from the struggling one is the competency at data gathering, analytics, impact evaluation and communication of results. Human service agencies need to build a performance management plan that balances their ability to improve programming with the expectations of funders and regulatory bodies for accountability and transparency, and they need to invest in such infrastructure and use it to publicly demonstrate impact and value. Agencies should also go beyond the sometimes narrow expectations of funders and strive to assay impact broadly, seeking the input of users and community members. The notion which has been a leading criterion for comparing and rating nonprofits – that effectiveness depends on low “overhead” ratios – is not only fundamentally misleading but has led to chronic under investment in such infrastructure by nonprofits and their funders.

Finally, human service agencies need to consider themselves as part of a complex policy system, comprised of government, private donors, community members, and other nonprofit and for-profit service agencies. The ability to engage with governments in sharing knowledge of what works and in advocacy will be essential, although this relationship will vary by field. For nonprofits working in multijurisdictional program areas, national-state-local relations will affect their work to a significant degree. In supporting services that make extensive use of vouchers and personal budgets rather than direct services, the relationship with government may be more arm’s length, creating a need to develop new spaces for information sharing about the service delivery supply chain which may have multiple links between payment methods to actual outcomes. Agency leadership needs to build adequate capacity to undertake advocacy but also engage with other nonprofit human service agencies and

coalitions to support broader policy goals, and foundations and other donors need to demonstrate a greater willingness to support advocacy activities as a constructive aspect of service delivery oriented to improved systems.

Second order Implications: The turbulence and disruption of the nonprofit human service field in recent years can be expected to continue. In particular, many smaller nonprofits will not be able to develop sustainable financing models, and will close or merge with more financially healthy agencies. The incentives to diversify service areas to become more comprehensive players in integrated services suggests that larger multiservice organizations may “acquire” smaller, specialized agencies. As the universe of social enterprises, social purposes businesses and other hybrids grows and as an even wider range of experimentation with higher levels of risk occurs with social financing, the suitability and adaptability of federal and state regulatory oversight and enabling programs will be tested, and would thus benefit from periodic review. Several responses may be anticipated from governments to address this shifting landscape.

First, government regulatory bodies are likely to increase their oversight of nonprofit governance and financial management, particularly through calls for greater transparency. The IRS has already signalled that it regards good governance as an aspect of compliance, and thus within its purview, and with the recent inquiry into the management of its endowment by a prestigious New York college, the state’s attorney general has indicated that “the laissez-faire approach to nonprofit governance is over” and the office will be “stress testing” nonprofits that show signs of potential trouble”.

Second, government officials are also likely to support expanded self-regulation and an approach of “responsive regulation” in which the greatest efforts are devoted to education and promotion of good practices. For example, the evidence-based practice movement is spurring agencies to adopt certain professional practice standards that are also embedded in government program regulations and expectations. If the human services field becomes bifurcated between the larger and more integrated nonprofits and the smaller ones with strong ties to the informal sector; governments may pursue increased regulation of these informal services and providers for purposes of quality assurance – a complicated and difficult task raising fundamental issues of programmatic autonomy and control.

Finally, under ongoing budget constraints, governments will continue to face pressure to increase their emphasis on performance management regimes. The complexity of effective performance management in human services will also increase the pressure on governments to work collaboratively with local human service providers to negotiate programmatic targets. Governments may also expand their support for social investment which has been relatively limited except for widely publicized pilot projects in New York and elsewhere. Faced with scarce funding, governments may also try to steer human service agencies to service the most vulnerable populations through regulation and the structure of tax benefits. For example, while donor choice is firmly entrenched in current philanthropy policy, several states have opened the door to enhanced incentives for donation directed to poverty alleviation or hunger relief and may be prepared to more audaciously enter this contested debate.

Conclusion: The hypothesis of this policy brief is that major changes to human services are likely to unfold in the next few years due to major shifts in the funding and regulatory environment. To an extent, current trends are also contradictory: funding is more competitive but government and private foundations are expecting more collaboration; new regulatory and programmatic demands require more professionalization while at the same time, funders are interested in innovative co-production programs tapping community residents and volunteers; and interest in service integration may necessitate more standardization and substantial infrastructure, even though funders extol the virtues of community based agencies. Consequently, the future, on the ground in the community, will be messy and unpredictable.

More collaboration entails more individual and organizational networks, and perhaps more disconnection from the services outside its ambit; the resultant periphery is more fragile and less easily managed or regulated. Integration makes the delivery of human services more place-based, but also more differentiated by place which may result in greater differences in overall quality and make sustainability for smaller organizations more difficult. With greater involvement of users with professionals at the point of service delivery, users may be empowered but nonprofits may also become more dominated by service professionals, at a potential risk of weakening attention to engagement with communities. Integrated systems may have more sources of financing, but with higher financial and programmatic risk and serious challenges tying program interventions to successful outcomes due to attribution and measurement difficulties. Yet, policymakers, scholars, and practitioners will need to wrestle with these important dilemmas, given the centrality of human services to the social safety net and their vital role in the life chances of many of our most vulnerable children and adults.

Smith's presentation highlighted the issue referenced in earlier discussions, the changing context and structure of the nonprofit sector. The content of human service delivery has been increasingly blurred with health service delivery, particularly as funding streams for many services have shifted to Medicaid and to a lesser degree Medicare and a corresponding de-emphasis regarding traditional public sector funding streams and a dwindling of United Way funding of human services. It is highly unlikely to be reversed as the proportion of the federal budget available for discretionary domestic spending shrinks in comparison to mandated formula spending, debt reduction, and the military.

The challenge is for nonprofits in the human services and health services realms to navigate new or enhanced government commitments to performance-based contracting, government and philanthropic support for hybrid entities and social enterprises, and funder pressure for collaboration. Smith cited the example of STRIVE in Cincinnati as a prototypical nonprofit response bringing together several organizations in a collaborative effort that promote more collective impact. It is actually an increasingly complex environment for nonprofits, one in which funding processes and structures (including the increasing shift to client-based subsidies) leads to more competitive pressures at the same time as funders call for more coordination and collaboration.

It is even now being built in to government policy in the form of "co-creation" or "co-design", for example, the USAID effort to bring various NGOs together to discuss and

explore new approaches to humanitarian aid delivery with the intention that the NGOs will also discover avenues for collaboration and partnership in the design and delivery of programs. On one hand, USAID is trying to get contractors and grant recipients to collaborate more than they had before, that bringing the groups together will generate better program design and delivery, but for the groups it is still an effort of funder-led top-down collaboration overlaid on what still remains as a competitive process among nonprofits competing for USAID grants.

Smith's research also reveals another area of contradiction, pressure for co-production, that is bringing nonprofits and their users or communities together in the generation of services at the same time as the nonprofit sector is becoming increasingly professionalized. He cited Youthbuild as a prime example of co-production, engaging young people from Youthbuild communities in building affordable homes. At the same time, the professionalization pressures are evident in the Affordable Care Act, for example, the pressure for community-based health clinics to become increasingly professionalized in order to meet requirements of Medicaid eligibility, particularly with the advent of the push for higher quality medical service delivery emanating from Accountable Care Organizations.

The ACA also demonstrates another part of the evolution of the nonprofit human services sector, the trend toward "bigness" in the sector which enhances groups' ability to access capital and develop the infrastructure for handling and tracking complex funding programs such as Medicaid and for competing against forprofits which have entered previously nonprofit-dominated fields. Smith pointed out that in some regions, mental health services is now dominated by for-profit providers and across the country, hospices and child care, both previously nonprofit dominated, are increasingly dominated by for-profits. Smith suggested that nonprofit competitiveness against the for-profit sector could be strengthened by emphasizing or reemphasizing community connections, which could be read as nonprofits turning to their nonprofit DNA for as a competitive advantage. Under the Affordable Care Act, newly created nonprofit health insurance cooperatives were compelled to compete against long established, huge for-profit insurers and, due to restrictive federal regulations, limited in terms of how they might be allowed to use the federal dollars they received from the Department of Health and Human Services, particularly being prevented from using the moneys for marketing. The more successful CO-OPs reverted to their community connections market themselves through public education and found those connections to be a competitive advantage that their for-profit competitors didn't have. As consumer-run or -governed nonprofits, the health insurance CO-OPs also turned to their community constituents to help design a better array of health insurance products, the "co-production" that Smith referenced as a trend, and, within the constraints of what it takes to provide financially feasible health insurance, to personalize the products and services to fit community needs.

These changing dimensions of the human services sector raised important policy issues for the ARNOVA symposium participants:

- Rebranding Nonprofit Human Services: The dynamic that Smith’s research reveals suggests the need for a “reframing” if not a “rebranding” of nonprofit human services. The forces cited in Smith’s work lead to outcomes of attrition within the nonprofit human services sector, future human services cutbacks due to the continuing decline as a percentage of GDP of government funding of human services, and a greater proportion of the nonprofit sector seeing itself connected to and enabled by opportunities within the Affordable Care Act as opposed to traditional human services funding programs. It may be somewhat new to nonprofit human services providers to view the ACA as a systems-building or sector-building issue, but the reality is that the ACA may have that effect. Human service providers may not necessarily want to be “coopted” into health care delivery, according to one symposium participant, but to let the dynamic happen without deliberate nonprofit sector preparation and organizing would be shortsighted.
- Reshaping the Nonprofit Sector Environment: While Smith’s policy brief emphasized the human services sector, symposium participants noted that the trends in human services delivery “translate to the broader nonprofit sector.” One observer suggested that for nonprofits overall, these changes add up to a “sense of overwhelming frustration...(about) the competing forces that nonprofit leaders are forced to reconcile.” The challenge for nonprofits is to find the places and opportunities to push back against these evolving trends and “shape our environment as opposed to where (it) can shape us.” The challenge to researchers, she said, is that “we aren’t providing good answers” to these trends. It may be, another symposium participant added, that researchers should be helping nonprofit service providers “prove their value” against the for-profit and social enterprise forces in their markets. “What is it we care about as nonprofits that social enterprise cannot do,” she asked, in a question that extends beyond human services delivery to broader concerns for the nonprofit sector writ large.
- The Roles of Funders: Proving the value of nonprofit human service providers and helping with the effective messaging that needs to occur may be roles for the foundation community to support, but there is a question about whether the philanthropic sector, much of it in the sway of “sector-agnostic” responses to social problems, gets the more fundamental challenges at work concerning the structure, content, operations, and value proposition for nonprofits. Advocacy to and within philanthropy may be needed, with researchers providing the grist to nudge philanthropy into action.
- Rethinking Bigness as Rightsizing: Although Smith’s paper predicted a continuing pressure for scaling up among human service providers, one observer suggested that size doesn’t always win. In the workforce development field in New York, for example, the two “marquee” players had been FECS and SEEDCO. Despite local public policies that pushed many other players to subcontract with FECS, FECS has now financially collapsed. SEEDCO was a dominant player until a couple of years ago when press and government investigations revealed that SEEDCO had been fraudulently reporting its workforce placements. The symposium participant who mentioned the FECS and SEEDCO stories said that both led him to be “not as convinced that ‘bigsizing’ is as important as ‘right-sizing’.” Moreover, for

communities of color which are generally not in the leadership of most big nonprofits, he suggested that “the bias toward size could (lead to) more segregation.”

Fundamentally, Smith’s analysis focused on human service providers brought the symposium to the larger discussion of the “hollowing out of the nonprofit sector” as nonprofits are increasingly—and according to one participant, stealthily--expected to do more with less. Much like the question of nonprofits participating in task forces and advisory boards revealing much about democratic practice in the sector and in government, the symposium participants concluded that the hollowing out of the nonprofit sector due to federal and state level funding cutbacks really amounts to a “hollowing out of government.” According to another symposium participant, maybe the best strategy for human service nonprofits and for nonprofits more generally is to emulate the health sector, using experimentation, random testing, and other “scientific” approaches to demonstrating the programmatic value of nonprofit delivery entities. Others strongly disagreed, suggesting that what is needed is not the “disservice” of focusing on programs, but a broader analysis that focuses on the role of nonprofits at the level of governmental if not societal strategy. To imagine that research that “commodifies impact” will reverse funding trends may well be fruitless. As one symposium participant summarized, the effort to commodify program results “completely abstracts from poverty,” missing the fact that for some time to come, discretionary funding is on a downward trajectory and the future, for example in nonprofit health care delivery, will be driven by nondiscretionary funding.

Policy Brief #4: Policy for Nonprofit Organizations: The Values Dilemma

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The history of nonprofit organizations in the U.S. and abroad persuades me that efforts to create universal, centrally-administered solutions to very tough social problems can challenge aspects of cultural and religious liberty in ways that make the solutions impossible to implement. If the solutions are not carefully designed, they may fail to bring needed change. But standardized solutions can evoke resistance for their alleged attack on legitimate distinctions and practices, and for undermining the institutions that deliver critical services. Effective policies must reconcile equality with liberty.

Narrowly economic analyses very often fail to pay attention to this challenge. Searches for “best practices” often ignore real and important disagreements over the precise results the activity in question is supposed to achieve. Efforts to “bring innovations to scale” too often seek the widest possible applicability, the lowest common denominator.

Too often, economic analysis assumes that “services” vary only in quantity, not in quality. Analyses, and program prescriptions, that ignore preference for elementary and secondary education in a particular religious or cultural spirit, for example, are incomplete. They can fail to consider important disagreements among parents about what sorts of things children should learn, what sorts of topics they should (and should NOT) study, what books they should read, or whether and when children should be encouraged to “think for themselves.” They can also fail to take account of the motivations that produce effective teachers.

The problem goes beyond the choice of programs; it also involves institutions – childcare organizations, schools, hospitals, and the like. It is such institutions that decide which programs to mount, that engage key service providers, that attract students and patients and clients – and donors. Institutions embody cultural values, operate in accord with preferred practices.

The problems involved are not simple ones. Defenders of special approaches to education – or to health, or to social welfare – are often, no doubt, seeking to protect the status quo, to find ways to maintain or reintroduce various sorts of discrimination and arbitrary social hierarchy, to protect jobs, to perpetuate what many would describe as obscurantisms of one sort or another. “Separate” often continues to mean “unequal.”

Analysts sometimes try to discern “institutional isomorphism”. But if they look they can also discern organizational congruence with one or another definition of liberal, or Catholic, or Orthodox Jewish, or Stone-Campbell Protestant, or scientific values. Freedom to shape an organization in conformity with preferred values is a good. Yet separate institutions can channel different groups of people into different and unequal opportunities.

Debates about the implications of standardized policies for nonprofit (and other) institutions are prominent in the press and in politics – in discussions about the “common core,” about the services that must be included in health insurance, about “workfare.”

U.S. governments, Hammack argues, have long dealt with conflicts of this sort by shifting the provision of services from government agencies to the nonprofits that can constitute “alternative power structures”. This process goes back to the beginning of the Republic; in the nineteenth century it kept “government out of sight” (Balogh, 2009, uses the term but does not do justice to the role of nonprofits). The process of assuring the provision of services, rather than providing services directly, has perhaps gone furthest in the care of the elderly and in health care, but it is also a very strong current trend in education. The shift to nonprofits, however, does not end the conflicts – it just moves them to different arenas. Nonprofits are valuable for the way they can accommodate variety, make space for minorities and newcomers and new ideas, make it possible to put the First Amendment into action, build new institutions. But they can also introduce, or reinforce, inequality.

*Over time, the U.S. has followed institutional pathways that have both divided Americans along racial, religious, cultural, and regional lines – and that have also enabled Americans to bridge those divides. In the decades before the Civil War, Southern Protestants split from their Northern colleagues, creating institutional differences that have narrowed since the 1950s but have by no means disappeared. Legal segregation, in the North as well as much more fully in the South, hardened racial distinctions. Opposition to Catholic schools came to a climax in the 1920s, was stopped by the Supreme Court in the *Pierce v. Sisters* decision, and has greatly declined – but distinctive Catholic, Protestant, and Jewish – and “progressive” – communities of social, educational, and health care institutions persist. And arguments about values persist, raising difficult questions often now framed as a tension between two clauses of the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” What constitutes “establishment”? What is necessary to avoid prohibiting the “free exercise” of religion?*

Americans have created many bridges between distinct groups of institutions. The Educational Testing Service is probably the best-known, though it is under-recognized for its importance in this way. Standard-setting boards in accounting, accrediting boards in education and health, and comparable bodies in other professional fields also do this sort of bridge-building work.

Both the divisions and the bridge-finders deserve more attention than they usually receive in the analysis of policy relating to nonprofit organizations. The U.S. has avoided many potential conflicts, even armed conflicts, by refusing to adopt an established church, to create a single national university, or to develop an official culture. Yet by making room for a pluralism of programs and institutions, the U.S. has made the adoption of single standards difficult. As Suzanne Mettler recently argued, today’s reformers must contend with a little-understood “submerged state” that constitutes “a dense thicket of long-established public policies . . . that are invisible to most Americans,” that lie “beneath the surface of U.S. market institutions,” and “that are extremely resistant to change”.

Hammack doesn't see a simple or single resolution to the values dilemma. His aim in this policy brief is to argue that it deserves thoughtful attention, and that discussions of policy relating to nonprofit organizations will be more sophisticated, and more useful, if that take advantage of the relevant historical analyses of institutional patterns.

Hammack's analysis continued the theme of the previous policy briefs that there is something different about nonprofits that cannot be measured by simple "evidence-based" techniques that measure program outputs. He told the symposium, "it's not only how much of a service that gets produced in the nonprofit field, but the character of the service." Part of the character of that service is that, as Brian Balogh has written in *A Government Out of Sight*, government worked through charities and nonprofits for the delivery of services. He added, from Suzanne Mettler's *The Submerged State* that the American people don't like to see how much government is providing them. Despite what the public cannot or does not want to discern, government delivers a great deal for the American public, but by relying on the delivery mechanisms of nonprofits and charities, the resulting outsourcing of service delivery means different standards, different models of delivery, and different regimes of accountability by type of charity, between secular and faith-based charities, and among different faiths themselves. Though focused on nonprofit values, Hammack's paper led to a few policy-specific issues:

- Understanding the Nonprofit Sector as More than Service Delivery: The emphasis on nonprofits as service deliverers, a typical focus of the public and the press, gives short shrift to an equally important nonprofit role, the community exercise of speech and assembly. That led to a debate over what the values of the nonprofit sector are today—and how they are formulated. One symposium participant suggested that all too frequently, values are "imposed" on the nonprofit sector, for example, government telling nonprofits that they should elevate the value of efficiency and foundations telling nonprofits that they should be focused on innovation. Another suggested that nonprofits might be well served by returning to and reconnecting with the core value of civic engagement.
- Programmatic Standards: Hammack may be right that the development of the nonprofit service delivery sector in the 19th and early 20th centuries, allowing for lots of variation among different faiths and different regions, was important in allowing America to avoid the sectarian conflicts that brought other nations to longstanding, modern-day wars (Hammack contrasted America's ability to "paper over" conflicts with an alternative vision he called "Belfast"). However, although "standards may set up divisions...standards have a role for providing consistency and some predictability." The theme of how much standardization in nonprofit behavior—and how much should public policy promote standardization—persisted throughout the symposium, introduced in the beginning of the event with the discussion of possible standardization of volunteer management and volunteer-as-labor issues. However, as another symposium participant noted, while the diversity of values and beliefs and the constraints on standardization may be important, a still relevant policy question is, "to what extent can nonprofits legitimately discriminate

based on their values.” That issue is on the public’s radar screen at this very moment, as members of Congress are introducing legislation that would “protect” the ability of nonprofits to abjure participation in social beliefs that they do not support, specifically lesbian and gay marriage. When does the exercise of a nonprofit’s value become an issue of discrimination that runs counter to larger national public policy concerns?

- Tax Policy Undermining Nonprofit Values: One symposium commentator suggested that the nonprofit sector’s increasing focus on tax policy “is a very quantitative approach that almost completely neglects the qualitative impact of nonprofit programs.” He and other participants reminded everyone that the “contrarian” nature of the nonprofit sector is crucial to the future of the sector and, regarding the value of nonprofits, “nonprofit contrarianism has changed society more than anything else,” not just in terms of affecting government policy, but in the competing views and ideologies within the nonprofit sector itself.

These value-related policy issues are less a matter of what government may or may not legislate than they are debate issues for nonprofits to wrestle with, reaffirm, and reinvent as the nonprofit sector undergoes the sometimes convulsive changes that Smith’s paper outlined. It may be, however, that the debate about efficiency, innovation, and metrics as a nonprofit value doesn’t really fit nonprofits. According to one symposium participant, “we are able to measure the big (nonprofit) organizations through our academic tools when they are least like nonprofits.” Most nonprofit sector organizations, he said, developed “as an expression of values, (from) a profound moral motivation. That is why we have this proliferation of organizations despite the pressure (from funders) to merge and collaborate, because people are driven by their values.” Measuring the quantitative outputs and delivery efficiencies of big nonprofits may work because those organizations hew to a value of product delivery rather than moral motivation. The tools of measurement work for nonprofits producing and delivering widgets. They don’t work nearly as well, this observer said, for nonprofits which exist “because people don’t like the way things are getting done.” That is the value proposition inherent in the historical dynamic described in Hammack’s paper that may be at the core of the importance of the nonprofit sector despite its being least malleable for academic tools of measurement.

Policy Brief #5: Beneficiary-based vs. Evidence-based Approaches: Impeding or Supporting a Balance for Nonprofits

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Nonprofits have struggled with finding the “right” line between bottom up ideas and top down ideas as they strive to improve their communities and to serve the individuals in them. Sometimes the struggle is about the types of programs to offer or the structure of the programs, and sometimes it is about the outcomes that define success.

Traditionally, top down referred to the ideas of the nonprofit leaders themselves and was characterized as philanthropic paternalism or parentalism when the clients or beneficiaries of service were not consulted about what they want to achieve. The recent movements to include clients or beneficiaries of services in the construction of programs are designed to counter that paternalism. Researchers have also pointed out the conflicts that nonprofits experience between funder expectations for particular performance outcomes and the desire to engage citizens and beneficiaries of service in determining which outcomes are most meaningful to them.

At the same time, however, nonprofits are experiencing a push from funders to become more evidence-based where evidence comes from professional studies of programs and their implementation with a particular emphasis on random control trials (pay for success, social impact bonds, and the Social Innovation Fund are grounded in this evidence-based approach). How are nonprofits to balance these competing mandates, and how can government policies and procedures either support or impede this balance? This brief is divided into four sections: a brief look at the merits of the evidence-based movement, a brief look at the merits of the beneficiary-based movement, a brief examination of conflicts between the two movements, and a beginning exploration of how government policies may impede or support the balance that nonprofits must achieve between the two movements.

Merits of the Evidence-Based Movement: The evidence-based movement has arisen because of concerns that millions of dollars are being spent year after year on programs to improve society, but year after year we see the same problems. There are concerns that resources are being wasted on programs with good intentions that are not really making a lasting difference. Therefore, a movement is afoot to collect evidence about programs to determine if they are truly successful, and then to promote or require use of the strategies that have been demonstrated as effective. Of course, we all want more effective, efficient use of resources, and we want to make a dent in alleviating suffering, preventing future suffering, and improving our society. The idea that we could spend money on only those programs or strategies making a difference is appealing.

Merits of the Beneficiary-Based Movement: There are three general premises in this movement. First, the beneficiaries of service are entitled to determine what they need to succeed, to set their own goals for success, and to have a say in how they work towards accomplishing those goals. Second, the beneficiaries of service may know better than the

“experts” the types of help that would lead to success. Finally, helping beneficiaries succeed on their own terms may have value in and of itself. The newest wave in this movement is coming from the philanthropic sector, but some of the government programs from the 1960’s were based on the premise that individuals receiving services also needed to be empowered, and giving them some decision-making authority was a way of doing so. In the youth services and civic engagement fields, evidence has documented that youth tend to have better outcomes when they are engaged in decision-making in their programs. In a youth services environment, beneficiary involvement is demonstrated by such things as youth feeling respected by adults, youth feeling like their ideas are taken seriously, and that they get to make choices and contribute to decisions. In these fields, evidence-based practice includes beneficiary participation, but not all fields have documented the extent to which beneficiary participation is beneficial.

Conflicts between the Movements: It is difficult to simultaneously shape and run programs that respect and empower beneficiaries AND follow evidence-based practices. One example occurs through government programs that were developed with the notion that they would empower the people they were serving by including them in the decision-making. For example, Head Start, a federal-to-local program with about 67% of grants administered by nonprofit organizations began in the mid-1960’s to help low income children and their families be ready for school and get a head start in life. A key element of the program that exists to this day is including parents in the decision-making through a Policy Council that reviews and approves local policies. However, over time, the Head Start program has moved to a more evidence-based approach. While each Head Start program is a little bit different in its structure and processes, over time the breadth of the items on which decisions can be made locally have dwindled as more and more federal proscriptions based on the evidence of what works best for educating children have come down from the top. Obviously, we want government funds to be used wisely in ways that have the most impact, but how does this change in autonomy affect the parent-side of the equation? Do parents feel that they have a say in how the program operates? Does that make a difference in the future success of them and their children?

Regardless of the service being delivered, each nonprofit must grapple with the extent that the evidence in their particular field will apply to their own population. One concern is the way that the evidence is generated. Random Control Trials (RCTs) are touted as the best way to generate evidence about what works in a particular service delivery program. The problem is that RCTs are designed specifically for stronger internal validity – that is they are very good for measuring what is going on inside of a program, holding all else constant. However, they are weak on external validity – that is they do not provide evidence of how appropriate the program may be for different populations, in different neighborhoods, or under different circumstances. Organizations importing evidence-based programs from one population or circumstance to another may need to consider the differences between the test group and the new group, but sometimes policies prohibit doing just that. Frequently, policies and funding require fidelity to the tested model. How does this notion of fidelity match with beneficiary-based services? How can a nonprofit maintain fidelity and involve their beneficiaries in decisions at the same time?

Ways Government Policies and Procedures May Impede or Support Balancing the Movements: Both the evidence-based approach and the beneficiary-based approach have important facets. The question is how to create the right balance between them? I provide a few suggestions here, but undoubtedly discussion will uncover more:

- 1. Include studying the interplay between evidence and beneficiary feedback as part of the evidence-based approach.*
- 2. Use what has already been learned about the importance of beneficiary participation in youth services and other fields to understand where beneficiary feedback is actually the evidence-based approach.*
- 3. Be mindful of the timing of proposals so that applicants can consult with beneficiaries before submitting their fully formed ideas. For example, a thirty or sixty-day turn around on an RFP that encourages collaboration is probably not enough time to engage the populations of interest.*
- 4. Consider the financial costs of beneficiary engagement. Beneficiaries may want to participate but not be able to afford to do so without some monetary compensation. Are nonprofits resourced in ways to support that participation? Can they be?*
- 5. Consider the broader role that nonprofits play in citizen engagement and helping citizens improve their communities. How is this broader role impacted by requirements for evidence-based practices and focusing on particular outcomes?*

As a field, we must understand the opposing incentives and trade-offs in evidence-driven and beneficiary-driven models. We need to understand how nonprofits are handling the trade-offs, and provide guidance on striking an appropriate balance. We also must engage with policymakers about the trade-offs to help them make decisions that support both efficient, effective services and the engagement of individuals participating in the services and those interested in shaping their communities.

As Derrick-Mills noted, this is not simply a challenge of the best ways to measure and evaluate program outcomes. “Nonprofits,” she said, “are challenged with balancing top down values with bottoms up values.” It is a less a matter to some extent whether nonprofit programs are measured with scientific precision and random control groups, but “whether evidence-based systems may or may not be what is valued in communities.” In response, one symposium commentator suggested that the “evidence-based movement has taken a toll on civil society,” that “the evidence-based empire only seems to be expanding” with strong support for programs such as performance-based impact bonds, even though those programs themselves may not be supported by the evidence, but are marketed as though they are superior leaps of development for the nonprofit sector and for public policy. The values of the nonprofit sector, as discussed in connection with Hammack’s paper and in Mosely’s analysis of participatory models, “introduce the demands of governance and democracy,” issues that “clutter up evidence-based thinking about the nonprofit sector.”

A similar perspective was suggested by another symposium participant, that “formal evaluation incompatible with a lot of the nonprofit field.” For example, noting the discussion of Head Start in the Derrick-Mills policy brief, that symposium participant noted that the evidence of benefits from Head Start are generally lost by the time Head

Start children reach the third grade. But, he said, “there are lots of reasons why Head Start is important even without gold standard evaluations.” Derrick-Mills raised the question of the “financial cost of beneficiary engagement”, but for many nonprofits, they are cut out of public and private sector funding because they do not possess the resources to implement rigorous, quasi-scientific evidence-based evaluations. What might not show up in the evidence based research but would potentially in efforts to collect stakeholder, constituent, and beneficiary feedback is that “if you engage stakeholders, you get greater stakeholder buy-in and support, and (that) improves stakeholders’ perceptions of organizational performance.”

One particularly astute question in this debate was over who gets to define the problem that the nonprofit is supposedly addressing and is the evaluation examining the right question. For example, according to one symposium participant, in Head Start, “are the beneficiaries the parents or the kids?” Given that Head Start is sometimes a vital resource allowing low-income women to enter the job market, another symposium participant asked whether the beneficiaries to be consulted for feedback on Head Start might be the employers. Yet another participant challenged the evidence-based approach in that “evidence-based is supposed to tell you what works, but we really want to tell what works for whom under what circumstances.” That participant added, “a beneficiary-based approach keeps evidence-based honest (and) makes evidence-based (research) more effective.”

Policy Brief #6: Efforts by Local Government to Collect Payments-in-Lieu of (Property) Taxes from Charities

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Media reports confirm that nonprofit property tax exemption has become a major policy issue in many communities. From Maine to California, local governments increasingly seek to collect property taxes from charities whose real estate holdings traditionally have been exempt from such taxes. These policies have targeted mainly hospitals and universities, but also museums, camps, and other charities with substantial real estate holdings.

Efforts to collect property taxes or some other form of payments in lieu of taxes (PILOTs) are often justified as necessary to relieve strained local government budgets by finding new tax revenue, especially in the wake of the Great Recession and the collapse of the housing market. The former threatened local sales and income tax collections and the latter property tax collections. Other arguments have focused on tax equity issues, e.g., that major charitable institutions make extensive use of fire, police, sanitation, streets and other public services that are financed at least in part by real estate taxes. As a result, other non-exempt property owners have to pay higher taxes than they would if all real estate properties were taxed. However, the initiatives may also reflect a more fundamental shift in attitudes towards charities as no longer automatically deserving the benefits and trust to which they have become accustomed.

The estimated foregone revenue (or tax expenditures) resulting from nonprofit property tax exemptions is significant - ranging from \$9 to \$32 billion, not counting religious organizations. Such numbers explain why charities are tempting targets for local governments seeking new revenues. However, they also hint at the economic and political clout that charities may hold in local communities and why PILOT policies are likely to reflect political considerations, rather than just fiscal ones. Media reports confirm that PILOT proposals have met with considerable resistance and controversy in the communities where they have been introduced.

We explore these issues by examining data from a survey of local government officials in Indiana on their attitudes towards payments in lieu of taxes for major types of charities. Previous research has examined the adoption of PILOT policies but not the attitudes of policy makers who formulate and enact them. We do so here and consider whether these attitudes are related to four major explanatory factors: local economic conditions, political factors, local government officials' (LGO) attitudes towards the relationship between local government and nonprofits, and the extent to which LGOs are personally involved with nonprofits as leaders, members or volunteers.

Also new are efforts to examine differences in attitudes towards major types of charities - hospitals, schools or universities, and churches - and whether attitudes with regard to PILOTs differ from attitudes towards requiring charities to provide services in lieu of taxes (SILOTs). Previous research on SILOTs is very limited and appears mainly as an afterthought

to PILOT studies. We therefore explore two overarching hypotheses, namely that the factors predicting attitudes towards PILOTs will be similar across all three major types of charities and that the factors predicting attitudes towards PILOTs will be similar to attitudes towards SILOT.

Our data come from the Intergovernmental Issues in Indiana survey conducted periodically by the Indiana Advisory Commission on Intergovernmental Relations (IACIR) to assess the attitudes of local government officials in Indiana - mayors, county auditors, county and town council members, county commissioners, school board members, and township trustees - on key community issues and major policy issues. We rely here on data from the 2010 survey of 1,150 Indiana LGOs with a response rate of 35 percent. The 2012 survey encountered some technical problems, and is excluded here for reasons of space; the 2014 survey is not yet available for analysis.

Each survey contains questions on whether LGO favor requiring PILOTs (or SILOTs) from nonprofit hospitals, schools and universities, or churches (the 2014 survey added questions about PILOTs or SILOTs for arts/cultural charities and social service agencies). Other survey questions capture several explanatory variables: whether the LGOs hold elected positions and whether they say local government depends on nonprofit service providers. For 2010 two three-item scales, ranging from 5 (agree strongly) to 1 (disagree strongly), measure officials' beliefs on whether local government should control nonprofits or whether nonprofits should be active participants in local government. For 2012 and 2014 we have questions on the extent to which LGOs trust nonprofits "to do the right thing." Finally, we have data on the extent to which LGOs are involved with nonprofits as members, leaders, or volunteers, and how important they perceive this involvement to be for their own work as government officials.

We merge these survey responses with county-level information on economic distress (percent unemployed), political engagement (percent voter participation), and total nonprofit assets from Form 990. We also consider whether respondents are from urban communities and from (or adjacent to) counties with PILOT programs. We use logistic regression analysis with county-level clustered robust standard errors to test the hypotheses for each of the dependent variables.

We have completed analysis of the 2010 survey and draw seven major conclusions so far. First, although less than a handful of local jurisdictions in Indiana have actually imposed PILOTs, (there is) widespread interest in such policies. About half of local government officials support requiring PILOTs and/or SILOTs from universities/schools and hospitals and about one-third do so for churches. The officials appear to be disproportionately interested in imposing PILOTs on universities or schools (38 percent vs. 25-29 percent) and SILOTs on hospitals (18 percent vs. 12 percent for universities/schools and 5 percent for churches).

Second, focusing only on PILOT policies for now, our models are at least moderately successful in predicting attitudes towards such policies. As (the appendix of the full policy brief) shows, we account for 12-17 percent of total variance. While that may seem modest at best, legit models examining social issues are usually less robust.

Third, local economic conditions appear to be relevant. As predicted, controlling for all other factors, LGOs are more likely to support PILOTs in counties experiencing economic distress, as measured by county unemployment. Support is also higher when LGOs reside in urban counties and in counties with higher concentrations of property-holding nonprofits, as measured by total value of nonprofit asset. The latter holds also if we use the value of nonprofit land and equipment, rather than total assets.

Fourth, some political factors are also important. In 2010 (at the same time the LGO survey was in the field), Indiana voters endorsed by a wide margin (72 percent) a constitutional amendment to cap property taxes, indicating that tax resistance is pervasive. Holding all other factors constant, we find LGOs from counties with higher voter turnout in 2010 are more likely to support PILOTs than their counterparts, suggesting they are sensitive to voter interests in property tax policies. We also explore whether LGOs holding prominent elected positions, such as mayors or council members, might be sensitive to the political pressure that major charitable institutions can mobilize in local communities, but find no consistent patterns.

Fifth, we find that the officials' professional/ political nonprofit philosophy matters, at least to some extent. Those who believe there should be more governmental control over nonprofits tend to prefer PILOTs from all three types of charities. The impact of personal nonprofit involvement is less consistent. Those who are personally involved with a greater variety of nonprofits (and therefore presumably have greater in-depth understanding of the role that nonprofits play in local communities) are more likely to support PILOTs, not less likely as we had thought.

Sixth, the attitudes of LGOs depend to some extent on the type of charity involved. The patterns outlined above are most pronounced for hospitals, less so for universities or schools, and least for churches. Seventh, LGO attitudes to SILOTs appear to be shaped by different concerns than those related to PILOTs. These latter two findings are particularly important, since most scholars and commentators do not distinguish among types of charities. They also usually treat PILOTs and SILOTs as synonymous with one another. Our research suggests that confounding either or both of these distinctions is misleading.

Finally, our analysis focuses on attitudes towards PILOTs and SILOTs, rather than on whether such policies exist in local communities. Only a few PILOT agreements exist in Indiana, but we find no differences between the attitudes of LGOs located in PILOT communities or adjacent to them and all other counties. Focusing on attitudes rather than existing policies allows for a deeper exploration of nonprofit taxation and inter-sectoral relations. Indeed, details about existing or proposed PILOT policies are very difficult to come by, suggesting that the actual payment of property taxes is not the primary consideration. Rather, PILOT policies are symbolic politics - occasions for local government officials and spokespersons of local charities to negotiate their mutual dependencies and relationships.

It is therefore particularly important to get a better understanding of how LGOs rationalize their positions on PILOT and SILOT policies. We hope to advance this agenda when we obtain

the results of the 2014 IACIR survey. The survey asks respondents to indicate how important ten issues are to them when thinking about imposing PILOTs or SILOTs on nonprofits. These questions were designed to capture several key arguments policy makers have used when discussing or proposing such policies, most notably fiscal justifications (the need for more tax revenues), but also equity issues. The latter take several forms. Some arguments focus on the fact that large charities (hospitals and universities in particular) use high volumes of municipals services (fire, police, sanitation, etc.) that are financed at least in part from property taxes. Consequently, their exemption from property taxes imposes non-trivial tax burdens on other property owners. Other equity issues focus more explicitly on unfair competition and whether exemption gives nonprofits an unfair advantage over for-profit businesses.

However, we also ask about political considerations that might be seen as more pro- charities, such as how important it is to LGOs whether nonprofits have the financial ability to pay taxes, whether property tax exemption allows local government to support nonprofits, and whether LGOs are concerned about financial burden PILOTs would impose on nonprofits.

Finally, we ask how important it is to LGOs what attitudes constituents have about PILOTs as well as whether it is important to consider the costs and logistics of implementing such policies. Results from the 2014 IACIR survey will allow us to explore these policy rationales and how they relate to support for PILOT policies for different types of charities. We believe these findings will be of considerable interest to local government officials faced with budgetary constraints, but even more so to nonprofit leaders and philanthropic policy makers who are likely to find themselves under pressure to address community needs.

Gronjberg and her team had taken on the hot button issue for nonprofits across the country, but little explored by municipal governments in Indiana. Their policy brief straightforwardly describes an overwhelmingly positive reaction of government offices toward exacting PILOTs and SILOTs from nonprofit property owners, even from religious institutions, usually the category of tax exempt entities that is not typically included in the political calculations of local government aiming to tap nonprofits for “voluntary” tax payments. Although not typically experienced in exacting PILOTs or SILOTs, Indiana municipal officials are sensitive to property tax issues because of property tax caps enacted by the state legislature earlier in this decade. While most municipalities were not significantly affected by the caps, some tax districts were hard hit with losses of taxable value, creating shortfalls that, with the impetus of suggestions from researchers, might make PILOTs and SILOTs, hitherto relatively little known quickly attractive, at least on face value.

The debate that ensued in the symposium centered on what and how to communicate to government officials. One symposium participant suggested that with the generally positive and open perspectives of Indiana local government officials to PILOTs and SILOTs, “it’s at the (nonprofit) sector’s peril not to figure out who is getting (to policy makers) first” with ideas about what the nonprofit sector is and whether it can and should be taxed. But the issue of PILOTs is not necessarily an academic exercise in evaluating one policy toward

nonprofits against another. In the case of PILOTs, according to another symposium participant, there were only five known instances of local governments in Indiana using PILOTs. The research focused simply on nonprofit property owners that might be taxed left open many other issues that could have been introduced into the research for a fuller discussion of the issue:

- Tax Abatements and Exemptions for For-Profit Developers and Businesses: In discussions about the potential of tax exempt property owners potentially making payments in lieu of taxes, the debate often seems like it is nonprofits that are the only property owners circumventing property taxes. In reality, local governments award significant tax incentives to private corporations and private developers in the hopes of inducing economic development, generating employment, and stimulating real estate development. There is rarely if ever a calculation of the lost revenues due to these subsidies, and municipal officials presented with notions of PILOTs and SILOTs rarely are asked how they would compare and treat a tax exempt property owner such as a hospital or university with significant local employment against a private developer that may or may not deliver on promises made to get mayors and city councils to approve tax incentives.
- Loose Numbers: The amount of potential revenues that is purportedly foregone by local governments due to tax exempt property ownership, not including churches, varies widely, even in this policy brief estimated between \$9 billion and \$32 billion, a difference in estimates by a factor larger than three. Without greater precision (that would also determine what proportion of that \$9-32 billion is due to the governmental property), the potential for misinformation and misunderstanding is significant and can make the best intended research problematic.
- Voluntary versus Mandatory Payments: By the constitutions of the states in which localities are exacting PILOTs from tax exempt owners, mandating tax exempts to pay property taxes is unconstitutional. But in local politics, the purportedly voluntary nature of PILOTs is often less voluntary than it seems, as local governments can pressure tax exempt property owners to pay through a number of mechanisms. In a way, exploring the interests of municipalities in getting their tax exempt property owners to cough up payments into municipal coffers is, in some cases, exploring ways in which local governments might try to circumvent state constitutional prohibitions against taxing tax exempt entities.

In the sciences, the Heisenberg Principle posits that, at least in quantum experiments, there is an unavoidable problem of the scientists affecting and influencing what they are trying to observe—even though they had no intention of having that impact and had taken steps to avoid just such a dynamic. In the social sciences, in this case, in research concerning the status of the nonprofit sector in public policy, something like the Heisenberg Principle also applies. It is difficult for the researcher in the process of trying to measure something about the nonprofit sector, in this case, the interest of local government officials in exacting tax-like payments from tax exempt property owners, to avoid influencing what the researcher is studying.

Policy Brief #7: Tsars and Task Forces –New Structures of Government-Nonprofit Collaborative Relations in the U.S.

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Introduction: Two key institutional arrangements for government-nonprofit collaborative relations have seen substantial growth. First, cabinet-level nonprofit “tsars” with formal titles such as Nonprofit Liaison to the Governor, and Interagency Coordinator for Not-for-Profit Services, are being appointed by state and city administrations as point persons for communication and coordination with nonprofits. Second, high-level task forces are being established to examine the current state of relations between governments and to recommend reforms in regulatory and oversight processes. This paper examines the emergence of the new institutional arrangements, analyzes their short-term impacts and speculates about their durability.

International Background to Contemporary Collaborative Relations: These emerging institutional collaborative arrangements are the U.S manifestation of a broader international trend to more deliberate relations between governments and nonprofits . Despite very different histories of nonprofit development and current operating models, countries as diverse as Australia, Estonia, France, Spain and Sweden have all recently developed formal policy documents for cooperation, commonly known as compacts. Many others, while not signing formal compacts, have strengthened deliberate relations through the establishment of new coordinating structures.

The efforts to establish more deliberate relations is credited by some with the potential to transform the relationship between governments and nonprofits, but others caution against underestimating the challenges of redressing the inherent imbalances in the existing purchaser provider relations. In particular, some compacts appear to have helped structure more horizontal relations, while others fail to live up to initial expectations and may even entrench skepticism amongst the nonprofit partners.

Moreover, in almost every country there appears to be an “aspiration gap” – the structure of deliberate relations and compacts aspire to embrace the widest possible definition of the nonprofit sector, but the nonprofits that are active and engaged participants in the compact processes tend to be more restricted in scope. Generally, it is the nonprofits providing social and human services that are most engaged in the compact processes, as the focus tends to be on improving procurement procedures and service outcomes in these areas. Nonprofits outside this ambit tend to have less interest in compacts, except when they involve possible changes to regulatory frameworks or tax structures.

Even within the social and human services, some organizations are more engaged than others. One of the consequences, intended or unintended, of the development and implementation of compacts appears to be a certain bifurcation of the nonprofit sector into a “compact (sub)sector” that works in close relationship with the government and the “noncompact (sub)sector” that remains more remote. While this split may be currently

defined by the interest and capacity of nonprofits to engage in contemporary compact processes, a similar dynamic that divided the “insiders” that benefit from their close relationships with legislators and bureaucrats from the “outsiders” that work on the margins has long been identified as a feature of government-nonprofits relations.

Collaborative Relations in the U.S.: In the U.S. there are currently no broad, sector-to-sector agreements that would be the direct equivalents of the compacts that have emerged in numerous other countries. The dominant political and cultural norms continue to be the independence of private voluntary endeavors, and both government and nonprofits seem to be somewhat wary of entering into such agreements. The key role played by private philanthropy means that the nonprofit sector spends more organizational effort cultivating relationships with the for-profit sector than with government. Various structural realities also make such agreements difficult to achieve, as the federal architecture of U.S. public administration devolves much of the oversight of nonprofits and the regulation of program funding to the 50 states. In most states, the Governors, who oversee program implementation through the line agencies, and the Attorneys-General, who generally regulate nonprofits, are both directly elected and so have separate, and often conflicting, political bases and agendas.

While these factors may explain why there have not been sector-wide agreements, they should not be interpreted as evidence that U.S. exceptionalism has provided alternative pathways to resolve the concerns that have emerged in other countries. On the contrary, the Aspen Institute has noted that “the relationship between government and the nonprofit sector has grown without a great deal of attention or focus” and that ambiguity exists about how their relationship should best evolve. Grønberg and Salamon decried the poor state of relations between the sectors and recommended a new paradigm of government-nonprofit interaction in which nonprofits acknowledge the legitimate performance requirements of government, and government acknowledges the advocacy responsibilities of nonprofits and its own obligation to provide greater stability in public funding for nonprofits.

The response to these concerns is a rewriting of the social pact between the sectors at national, state and local levels. At the national level, the need for better relations tends to be couched in terms of policy input, while at state and local levels, where there is a more coalface relationship concerning service delivery, the push for better relations are framed more as the need to ensure more effective and efficient government contracting process and nonprofit compliance with performance criteria. The mutual dependence between the sectors has resulted in dynamics that increasingly favor more horizontal, collaborative relations, but hierarchical structures continue to be central, particularly in times of budget shortfalls when public managers have less discretion to negotiate policy and programmatic decisions.

The genesis of most of the current U.S. initiatives are in dynamics that began before the financial crisis, but the upheavals since 2008 appear to have heightened the sense that nonprofits should be paying more attention to their relationship with government. During the economic bubble, nonprofits focused their energy on private philanthropy and entrepreneurial initiatives, but now more attention is being given to what government can provide and to government policies that impact constituencies. In response to the American

Recovery and Reinvestment Act of 2009 (which enabled the fiscal stimulus funds), the National Council of Nonprofits urged nonprofits to again assert their “historic role as champions of the common good” by helping monitor government operations and ensuring accountability. This shift in attitude in response to the financial crisis has served to reinforce earlier initiatives in favor of more collaborative relations with government, and they are significantly altering policy agendas. There continue to be contradictory dynamics -- budgetary crises at federal, state and local levels have seen many administrations retreat into more control and command modes, and there is pushback from those concerned about developing too close a relationship with government -- but the appears to continue to push to more interdependency between the sectors.

The increasing interdependence (between government and nonprofits) means that there are diminishing domains of truly separate activity for the two sectors. What was once the domain of government is increasingly being outsourced to, or subsidized by, nonprofits and what was once the domain of private nonprofit initiative is increasingly funded and regulated by government. While these initiatives appear to have widespread support in government and the nonprofit sectors, some commentators scorn the “fawning” between the sectors and question whether the relationship is becoming “too close for comfort”.

Recent Developments in the U.S.: An interest in strengthening relationships between governments and nonprofits has resurfaced over the past few years in the U.S. Government agencies have more explicitly recognized the contributions that nonprofit organizations make to society and have increased their efforts to promote the sector and to build nonprofit capacity. Industry associations and leadership organizations in the nonprofit sector have been gaining momentum as they build connections, cohesion, and capacity within the sector. With both governments and nonprofits coming to the table with renewed energy and a clearer focus, there appears to be a greater willingness to work collaboratively and to leverage their collective capacity.

There have been past attempts at creating closer cooperation, but lack of interest and political will, particularly in economic boom times, as well as the absence of clear institutional pathways appear to have hampered their development and restricted efforts to relatively isolated and smaller scale initiatives. In the 1970s, the Filer Commission recommended that Congress create a permanent commission on nonprofits, with the following mission:

“To study in depth the existing relationships between government and the nonprofit sector; to seek ways of encouraging and improving existing relationships in a spirit of cooperation while preserving the effectiveness and independence of the sector and the private initiative which gives it life; and to serve actively in close consultation with government as an ombudsman in the protection of the interests of the private nonprofit sector.”

While the hopes of the advocates for this new commission were thwarted in the transition to the Carter administration and it never materialized, the work of the Filer Commission led to the creation in 1980 of the first sector-wide nonprofit industry association, the Independent Sector, and the push for new coordination structures has never left the policy

agenda. The Filer recommendation for a permanent commission has resurfaced periodically, often in the form of calls to create a federal agency for nonprofits that would match the work done by the Small Business Administration created in 1953 to "aid, counsel, assist and protect the interests of small business concerns".

*In the 21st Century there have been various national initiatives to develop a stronger voice for nonprofits and sector-wide principles for collaborating with government, including the Aspen Institute's *The Nonprofit Sector and Government: Clarifying the Relationship* (2002) and the *Declaration for America's Nonprofit and the Nonprofit Constitution* sponsored by the National Council of Nonprofits (2007). In March 2009, a "call to action" signed by more than 400 nonprofit CEOs and academics was published as the *Forward Together Declaration*. The *Forward Together Declaration* states that it is time to "renew the compact" with the nonprofit sector (note that compact is used here in the conceptual sense and does not refer to a specific past document), and calls for the establishment of a *Commission on Cross-Sector Partnerships* and the development of a set of *Partnership Principles*. The text of the *Forward Together Declaration* invokes many of the same discourses that have fostered the establishment of new structures of deliberate relations in other countries.*

*In June 2010 the *Nonprofit Sector and Community Solutions Act* (H.R. 5533) was introduced into the U.S. 111th Congress. According to its principal sponsor, Representative Betty McCollum (D-MN), the aim was "to improve the relationship between the federal government and nonprofits ... by making the federal government a more productive partner with nonprofit organizations". Among other measures, the Act sought to establish a crosssector *Council on Nonprofit Organizations and Community Solutions* that would bring together representatives from government, nonprofits and business, and a federal government *Interagency Working Group on Nonprofit Organizations* that would evaluate recommendations from the new Council and coordinate policymaking relating to nonprofits. The proposed bill was the latest salvo in a long history of efforts to recalibrate the relationship between the government and nonprofit sectors in the U.S. The proposed Act languished in a House Committee and died there at the end of the 2010 111th Congress. The National Council of Nonprofits in its annual *Public Policy Agenda* has continued its call for the enactment of elements of the proposed Act in order to make the federal government a more productive partner with nonprofit organizations. The meantime, President Obama established in December 2010 a *White House Council for Community Solutions* to engage prominent business and nonprofits leaders in "cross-sector collaborations", with Michelle Obama as the *Honorary Chair*. The process of establishing the new Council appropriated much of the language of the 2010 Act and established a stronger symbolic presence for nonprofits within the Obama administration, but "cross-sector" was defined as involving the "nonprofit, philanthropic and private sectors" and the only direct representation of the administration is through the *Executive Director of the Council secretariat*.*

*Institutional arrangements for government-nonprofit collaborative relations have seen substantial growth in the last decade. Cabinet-level nonprofit tsars with titles such as *Nonprofit Liaison to the Governor* and *Interagency Coordinator for Not-for-Profit Services*, are being appointed by state and city administrations as point persons for communication*

and coordination with nonprofits. Many jurisdictions are also establishing ad-hoc or permanent task forces to examine relations between governments and to recommend reforms in regulatory and oversight processes. The tsars and the task forces primarily focus on human services procurement process, but they also aspire to the broader goals of strengthening the wider nonprofits sector in their jurisdiction and to improve collaborative relations between government, business and nonprofit sectors. They seek to reduce uncertainties and to smooth the tensions between governments and nonprofits generated by attempting to balance the realities of monopsony principal-agent contracting with aspirations of relational contracting. The tsars and task forces are generally government-generated, top-down manifestations of the quest to reduce uncertainties and smooth tensions, but there are also bottom-up efforts emanating from the nonprofit sector

The federal architecture of the U.S. polity make national solutions difficult, if not impossible, so much of the negotiation over policy and the majority of contracting process take place at subnational levels. At state and local levels there have also been the same trend towards more horizontal governance, as evidenced by recent initiatives by both governments and the nonprofit sector to create new liaison structures and processes. In 2003, Governor Granholm of Michigan established the Michigan Office of Foundation Liaison to broker strategic partnerships between the state and foundations, and in 2008 Governor Schwarzenegger of California appointed a Secretary for Service and Volunteering to improve coordination of volunteer efforts between the state's agencies (both states claim in various press releases and descriptions of the offices that theirs was the first cabinet-level position for nonprofits in the nation). There is no accurate documentation of the number of such positions that have been created throughout the U.S. but they continue to appear, including the January 2011 creation of the new Connecticut State cabinet position of Nonprofit Liaison and head of the Community Nonprofit Human Services Cabinet, and the January 2014 appointment of a Nonprofit and Faith-based Manager for the City of Pittsburgh.

Nine states have begun to promote more horizontal relations through the creation of State Government-Nonprofit Task Forces on contracting reform. Task Forces have been established in Connecticut, Hawaii, Illinois, Maine, Maryland, New Jersey, New York, North Carolina and Texas. No two are exactly alike in their composition, goals and operations, but all the Task Forces convene representatives from state government agencies and nonprofit organizations to coordinate discussions on contracting reforms. The National Council for Nonprofits is providing guidance and support to the state Task Forces on the presumption that they potentially provide the mechanism to establish more collaborative relationships based on trust, respect, and shared values. The Task Forces have been established through different pathways – legislation, executive order, executive agency, or Attorney General.

The various Task Force Reports contain similar recommendations, which include the establishment of more permanent liaison structures, increased communication between agencies in the design of contracting and evaluation process and in the sharing of good practices, and the creation of new structure for dialogue between government agencies and nonprofits. The Task Forces established through legislation or by executive order have the endorsement and support of high level officials and therefore a stronger perception of authority and accountability. In contrast, the report by Task Force established by the New

York Attorney General has resulted in new legislation that reforms governance of nonprofits, an issue directly related to the work of the Attorney General, but has had less impact on the contracting relationship between line agencies and nonprofits.

Other initiatives are taking place at the city level. One of the most comprehensive examples of the development of new structures and process of deliberate relations has been in New York City, where a series of coordinated initiatives is being launched that are fundamentally restructuring the relationship between the city administration and nonprofits. There are 42,000 registered nonprofits in New York City, 2,500 of which contract with city government for the delivery of services. The previous New York City administration, led by Mayor Michael Bloomberg, instituted a number of programs to strength its relations with nonprofits, particularly those with city contracts. These programs, collectively referred to as the Mayor's Nonprofit Initiative,

Policy Implications: Are the current U.S. dynamics simply an isomorphic blip, or harbingers of enduring structural changes? The new structures and process are seen as heralding a new era in the evolving relationship between governments and nonprofits, but also as necessary peace treaties between sectors that have been at odds due to previous excesses of the contracting and competitive tendering approaches, or because of a history of mutual distrust and political rivalry, and as much needed coordination mechanisms for interactions potentially beset by fragmentation and inefficiencies.

Changes in government often derail specific initiatives, but the various forms of deliberate relations and compacts are likely to continue as a central feature of government-nonprofit relations around the world in years to come. While they may have positive short-term process outcomes (e.g. they improve the relationships between those negotiating the documents), the challenge continues to be in embedding longer-term structural impacts. There is evidence that many of the new structures and framework agreements have helped create stronger partnerships between governments and nonprofits, but others have simply become empty gestures that have had little enduring impact on relations between the sectors.

Whatever the future holds for any individual initiative, they are all still strong indicators that momentum continues for new policy agendas that swing the pendulum towards cross-sector partnership and collaborative paradigms. The increased intensity of transactions between the sectors continues to create institutional pressure for more tsars and more task forces that can reduce uncertainties and generate more equitable dialogues between the sectors. But the tsars and task forces tend to focus almost exclusively on relations with a small subset of the nonprofit sector – human services nonprofits with government contracts. But what happens with the vast majority of nonprofit sector organizations? They are generally not involved in the current processes of deliberate relations but are still seeking to recalibrate their collaborative relations with governments.

Casey's research took the symposium full circle, touching on the development of standardized policy and behavioral guidelines, the creation of new task forces and advisory groups for nonprofits and government, and the changing contracting and grantmaking dynamics between government funders and nonprofit service delivery entities. The

symposium discussion examined whether compacts between governments and the nonprofit sector, such as those in the United Kingdom, Australia, and Canada, were worthwhile targets for nonprofit organizing and advocacy. Casey noted that the compacts from those three countries were “good examples of the vagueries of the documents,” that despite the attention given to the accords, they were altered by changes in government, notably the compact in Australia, one of the last efforts of the Labour government, Casey explained, was undone when the conservative government came into power and defunded the charities commission.

Although clearly nothing like the compacts ever emerged at the federal level in the U.S., Casey sees dynamics at the state level, such as the roles of Karen Baker in California and Fran Barrett in New York, while not exactly functioning as “ministers for civil society,” at least elevating the profile of the nonprofit sector with government officials and helping make progress on cross-sector issues such as contracting reform.

Participants in the symposium were somewhat jaundiced about the compacts overseas and the “tsars” in the U.S. One participant noted that his counter-parts in the U.K. were not “fans” of the compact there, indicating that Prime Minister Cameron “had breached the agreement and made it worthless.” In the U.S., as noted earlier, the commitment of the Obama Administration to carry out aspects of the McCollum bill ended up being “cannibalized” in the Administration’s shift to a community solutions council. The state level “tsars” or coordinators do not function like cabinet officers for the nonprofit sector, and some of the appointed nonprofit coordinators aren’t particularly powerful or influential or even valued by the governmental agencies where they are ensconced. In Michigan, for example, the nonprofit/philanthropic liaison in the governor’s office was a woman selected and paid for by the foundations there, not by the governor. A symposium participant even suggested that the contract reforms implemented by Mayor Bloomberg in New York were actually mechanisms by which the mayor was able to centralize and control agencies and their vendor relations. Returning to the observation about nonprofit and community participation in government advisory bodies and task forces, one symposium participant suggested that the state- or city-level nonprofit “tsars” are also mostly for political optics.

Casey summed up that “compacts as a fashion are over, but what isn’t over is the constant search to structure the relationship of the nonprofit sector with government.” The compacts, he said, turned out to be “all about optics”, but the issues that the compacts identified in the nonprofit-government dynamic can be reference points for nonprofit organizing and advocacy to strengthen the sector’s role in society.

Where to Go Next

The remarkably rich and surprisingly convergent findings from seven topically disparate research papers gives ARNOVA and its nonprofit practitioner partners specific options worth pursuing:

- Though the McCollum bill was ultimately derailed, the impetus it started is worth pursuing, one of generating better research and data on the nonprofit sector and deploying that information to better inform government decision makers and the public at large.
- Given the still vibrant debates about PILOTs and SILOTs around the nation, researchers and practitioners can join forces to provide more accurate data on what tax exempt property owners purportedly “cost” local governments, what they actually pay for that local governments and the public might not see or acknowledge, and how tax giveaways to for-profit developers and corporations might actually cost governments much more in lost revenues than they might ever imagine—and more than tax exempt institutions that provide services and employment to vast numbers of citizens.
- Notwithstanding pressures from public sector and philanthropic funders, the nonprofit sector can and should, in partnership with the research community, do a better job explaining the limitations in some of the evidence-based research dynamics that are so much in vogue at the moment and construct better mechanisms for listening to and understanding the concerns of the constituents, stakeholders, and beneficiaries of nonprofits.
- Re-educate government decision-makers and the public that nonprofits are and should continue to be much more than instruments for service delivery, but vital protectors of civic engagement, free speech, free assembly, and democratic practice.
- In light of the synoptically changing structures and functions of nonprofit human service providers, the task at hand is to reframe and rebrand what human service delivery means in an environment of reduced discretionary domestic spending and a shift to mandatory spending, much of it linked to health programs such as the Affordable Care Act, Medicaid, and Medicare.
- In the dynamic of working with government, nonprofits have to redesign the relationship so that they don’t devolve into participants in political optics, but use task forces, advisory boards, and to the extent that they ever re-emerge, “compacts” to give voice to marginalized communities and to hold government accountable.
- And in light of the huge number of Americans who volunteer their time and treasure for the nonprofit sector, ensuring that their interests are protected by investments in volunteer management capacity building and stronger legal protections for the interests of volunteers.

Ultimately, this ARNOVA policy seminar like its two predecessors demonstrates the importance of connecting researchers and practitioners to address the critical policy issues of our time that might help or sometimes hamper the work of tax exempt entities. The complexity of the policy challenge involves a mixture of multiple funding and regulatory

governmental jurisdictions and a burgeoning number and diversity of 501(c) ostensible nonprofit organizations. Add in the advent of hybrid entities and social enterprises that contend that they can deliver what nonprofits do in for-profit structures, and the result is a rapidly changing policy dynamic. For practitioners, research helps with the navigation of issues such as tax abatements and exemptions, the potential employee status of volunteers, the strengths and limitations of potential regimes for evaluating nonprofit activities, and decisions about participating in alternative forms of citizen and nonprofit advisory boards for governmental agencies. The potential benefits to the nonprofit sector should be obvious and promoted by the nonprofit sector's leadership organizations so that nonprofits anticipate, respond to, and shape the regulatory environment that should be a help rather than a hindrance to the tax exempt sector's contribution to American democracy.