

Part I

Introduction to Public Policy Analysis



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1 Preview

After earning your policy degree last May, you immediately went to work on Mary Smith's campaign for the U.S. Senate. She won!

Your enthusiastic efforts during the campaign earned you a position on her transition team, which the senator-elect created to identify policies for addressing problems she views as particularly important. Senator-elect Smith hopes to be appointed to the Senate Committee on Health, Education, Labor & Pensions because of her interest in health policy. One specific problem she hopes to address is the long and growing waiting list for kidney transplants. She asks the transition team to consider policies that might reduce the length of the transplant waiting list by facilitating, even encouraging, more people to make living donations of kidneys.

Neither you nor your colleague tasked with preparing the policy analysis addressing the kidney shortage have any background in health issues. Fortunately, you had a course on policy analysis as a student that gave you experience in gathering relevant information quickly from already-available research and organizing it effectively to provide useful advice. You work very hard on the report during the one week you have available, not only because you hope it will earn you a position on the senator-elect's legislative staff in Washington, but also because once you start learning about the topic you find it interesting and you realize that your advice might actually contribute to better public policy. Your report follows.

BOX 1.1 REDUCING THE U.S. KIDNEY TRANSPLANT SHORTAGE BY INCREASING THE NUMBER OF LIVE-DONOR KIDNEYS

To: Senator-elect Mary Smith
From: Transition staff
Date: November 30, 2016
Concerning: Reducing the U.S. Kidney Transplant Shortage by Increasing the
Number of Live-Donor Kidneys

Executive Summary

Kidney transplants generally improve both the quality of life and longevity of patients with end-stage renal disease (ESRD). By substituting for the costly alternative treatment, dialysis, they also reduce Medicare expenditures over the lifetime of

patients. However, a shortage of kidneys has resulted in a large and growing waiting list for kidney transplants. Potential increases in the number of deceased-donor kidneys are relatively small because the pool of feasible donors is small. Potential increases in the number of live-donor kidneys are large because the pool of feasible donors is very large. Financial incentives, ranging from greater compensation for non-medical expenses to removal of the current ban on sale and purchase, can increase the availability of live-donor kidneys. The transition team recommends that you introduce legislation to establish expanded reimbursement with relative listing, a policy that would increase federal reimbursement for non-medical expenses incurred in making a live donation to the transplant waiting list, allow nonprofit organizations to reimburse non-medical expenses incurred by any living donor, and create a priority on the transplant list for living donors and one relative of their choice.

The National Organ Transplant Act of 1984 currently bans commercial transactions in transplant organs. An unregulated market for live kidneys would eliminate the shortage of transplant kidneys. However, it would have inherent inefficiencies as well as raise ethical concerns about exploitation of the poor, undue advantage for the wealthy, and commodification of the human body. In light of these disadvantages, this analysis considers three other alternatives to current policy that would make live donation either more financially attractive or less financially prohibitive: (1) brokered auctions would impose an intermediary between sellers (vendors) and purchasers (patients); (2) expanded reimbursement with relative listing would offset more of the non-medical costs for living donors and give priority to deceased-donor kidneys to living donors and their designated relatives, if they become patients; and (3) purchase with demand-side chain auctions would allow purchase of vendor kidneys by a chartered entity at an administered price and allocation of kidneys to the transplant centers that can use them to initiate the largest number of transplants.

The transition team assesses these alternatives in terms of five policy goals: (1) protection of human dignity; (2) equity; (3) efficiency; (4) favorable fiscal impact; and (5) political feasibility. Although current policy protects the human dignity of U.S. residents, provides equity in access to transplantation, and is politically feasible, it inefficiently forgoes potential increases in the supply of kidneys and favorable fiscal impacts offered by the other alternatives.

Brokered auctions would substantially increase the availability of kidneys by thousands or even tens of thousands annually and generate very large savings for the federal government. However, these gains in efficiency and favorable fiscal impact come with an increased threat to human dignity through exploitation of the poor, greater inequity in access to transplant organs in terms of wealth, and very poor prospects for adoption.

Expanded reimbursement with relative listing would increase the availability of kidneys by hundreds or perhaps thousands annually and produce savings for the federal government. It would have small impacts on human dignity and equity, and would likely be politically feasible.

Purchase with demand-side auctions would likely increase the availability of kidneys by the tens of thousands, offering the potential for eventually effectively eliminating the kidney transplant waiting list. It would also have favorable fiscal impacts for the federal government and not increase inequity in allocation. However, it does

risk exploitation of the disadvantaged; moreover, as a radical departure from current policy, it would have poor prospects for adoption.

Considering these trade-offs, expanded reimbursement with relative listing offers the best prospects for a desirable and feasible improvement relative to current policy. The transition team recommends that you ask the Congressional Research Service to draft legislation for this alternative.

Policy Problem: Too Few Kidneys for Transplant

End-stage renal disease (ESRD) can currently be treated with either dialysis or transplantation of a replacement kidney. Most ESRD patients prefer a transplant because it generally provides a higher quality of life and greater longevity than dialysis. However, transplantation currently requires available human kidneys, which come from either deceased or living donors. In the United States, the demand for kidney transplants currently far exceeds the supply of donated kidneys. The waiting list for kidney transplants has over 100,000 patients.¹ In 2015, available kidneys allowed only 17,821 transplants, with 69 percent coming from deceased donors and 31 percent from live donors. That year, 35,037 new patients entered the waiting list and 4,295 left it because they died. Recent increases in rates of obesity suggest that the demand for kidney transplants will increase faster than population growth in the future, because obesity contributes to diabetes and hypertension which are risk factors for ESRD. Increased prevalence of obesity also reduces the pool of potential donors of healthy kidneys.

The shortage of kidneys has implications for federal expenditures as well as the lives of ESRD patients. Medicare covers much of the cost of dialysis and transplantation not covered by private insurers. Its expenditures pay over 80 percent of the costs of treating ESRD—\$30.9 billion in 2013, or about 7.1 percent of total Medicare paid claims.² Over the expected lives of patients, a transplant involves lower cost to Medicare than does dialysis. A recent study estimates that each kidney transplant saves taxpayers on average about \$146,000.³

Increasing the supply of deceased-donor kidneys could reduce, although not eliminate, the shortage. Organ procurement organizations (OPOs) receive authorizations for donations, either post-death from family members or pre-death from donors, for approximately 73 percent of eligible deaths (brain death in a hospital by someone 70 years old or younger and without exclusionary medical conditions).⁴ If authorizations were received for all the eligible deaths, then approximately another 4,500 kidney transplants could be done each year. Currently, about 15 percent of donations come from those suffering cardiac rather than brain death, although

- 1 Current waiting list and other transplant-related data are available from the Organ Procurement and Transplantation Network (<https://optn.transplant.hrsa.gov/>).
- 2 U.S. Renal Data System, *Annual Data Reports* (Bethesda, MD: National Institutes of Health, 2015).
- 3 Present value estimate, using 3 percent real discount rate. P. J. Held, F. McCormick, A. Ojo, and J. P. Roberts, "A Cost-Benefit Analysis of Government Compensation for Kidney Donors," *American Journal of Transplantation* 16(3) 2016, 877–85.
- 4 D. S. Goldberg, B. French, P. L. Abt, and R. K. Gilroy, "Increasing the Number of Organ Transplants in the United States by Optimizing Donor Authorization Rates," *American Journal of Transplantation* 15(8) 2015, 2117–25.

some transplant centers have increased their rate of use to approximately 30 percent.⁵ If all centers reached this level of use, then the total availability of kidneys could increase by almost 6,000. Although an increase of this magnitude would be extremely valuable if it actually could be obtained, it would be too small to slow the growth of the kidney transplant waiting list.

Changes in the allocation rules for deceased-donor kidneys implemented in December 2014 by the Organ Procurement and Transplantation Network (OPTN) include provisions that may affect future kidney availability.⁶ A new classification system for the quality of donated kidneys is likely to reduce refusals by patients to accept kidneys from older or sicker donors. Better matching of expected kidney graft life with expected patient life is likely to reduce the need for second transplants that would otherwise result when patients outlive their grafts. Nonetheless, the new rules are likely to have only a modest impact on the length of the waiting list.

Kidneys donated by living people could substantially reduce or even eliminate the kidney waiting list. Humans are born with two kidneys but only need one kidney to live a healthy life under normal circumstances. Live donation involves a small surgical risk: a 0.03 percent chance of death and less than 1 percent chance of a major complication.⁷ Although some questions about long-term impacts have been raised by a recent Norwegian study,⁸ long-term follow-up of living donors in the United States finds neither increased risk of renal disease nor reduced longevity.⁹ Although living kidney donation poses very small medical risk, it often involves travel and subsistence costs as well as potentially the loss of wages by donors and their caregivers. A recent study found that, although some donors received financial assistance from government or private sources, 89 percent suffered a net financial loss: average costs for donors included direct expenses of \$1,157 and lost wages of \$1,660, with their caregivers incurring an additional \$377 in lost wages.¹⁰

The number of living donors peaked at 6,647 in 2004.¹¹ Less than one-third of transplanted kidneys now come from living donors, a decline since the peak. Most

- 5 A. J. Matas, J. M. Smith, M. A. Skeans, K. E. Lamb, S. K. Gustafson, C. J. Samana, D. E. Stewart, J. J. Snyder, A. K. Israni, and B. L. Kasiske, "OPTN/SRTR 2011 Annual Data Report: Kidney," *American Journal of Transplantation* 13(s1) 2013, 11–46.
- 6 Ajay K. Israni, Nicholas Salkowski, Sally Gustafson, Jon J. Snyder, John J. Friedewald, Richard N. Formica, Xinyue Wang, et al. "New National Allocation Policy for Deceased Donor Kidneys in the United States and Possible Effect on Patient Outcomes," *Journal of the American Society of Nephrology* 25(8) 2014, 1842–48.
- 7 Robert S. Gaston, Vineeta Kumar, and Arthur J. Matas, "Reassessing Medical Risk in Living Kidney Donors," *Journal of the American Society of Nephrology* 26(5) 2015, 1017–19.
- 8 Anders Hartmann, Per Fauchald, Lars Westlie, Inge B. Brekke, and Hallvard Holdaas, "The Risk of Living Kidney Donation," *Nephrology Dialysis Transplantation* 18(5) 2003, 871–73.
- 9 Hassan N. Ibrahim, Robert Foley, LiPing Tan, Tyson Rogers, Robert F. Bailey, Hongfei Guo, Cynthia R. Gross, and Arthur J. Matas, "Long-term Consequences of Kidney Donation," *New England Journal of Medicine* 360(5) 2009, 459–69.
- 10 J. R. Rodrigue, J. D. Schold, P. Morrissey, J. Whiting, J. Vella, L. K. Kayler, D. Katz, J. Jones, B. Kaplan, A. Fleishman, M. Pavlakis, and D. A. Mandelbrot, "Direct and Indirect Costs Following Living Kidney Donation: Findings from the KDOC Study," *American Journal of Transplantation* 16(3) 2016, 869–76.
- 11 James R. Rodrigue, Jesse D. Schold, and Didier A. Mandelbrot, "The Decline in Living Kidney Donation in the United States: Random Variation or Cause for Concern?" *Transplantation* 96(9) 2013, 767–73.

of these donors are relatives or close friends of the ESRD patient. Often people who are willing to donate to a specific person cannot do so because of biological incompatibilities that would result in the patient's immune system rejecting the donated kidney. Although evidence is accumulating that patients can often be desensitized to increase the range of kidneys feasible for transplantation, outcomes appear less favorable than for compatible kidneys.¹² A more common approach to donor incompatibility is the arrangement of *paired donations*, which may enable incompatible donors to facilitate transplants for their intended patients by an exchange of donations across pairs: the donor in the first incompatible pair gives to the patient in the second incompatible pair, and the donor in the second incompatible pair donates to the patient in the first incompatible pair. Exchanges can also involve three or more pairs, though they are more difficult to arrange.

A *transplantation chain* begins with an altruistically motivated nondirected kidney donation—approximately 180 per year or about 3 percent of all kidney donations in the last five years were nondirected.¹³ The kidney is transplanted to the patient in an incompatible donor–patient pair. The donor in that pair donates a kidney to the patient in another incompatible pair. The process continues until no patient in an incompatible pair can be found to receive the donation. Instead, the donor in the last pair receiving a kidney donates a kidney to the compatible person on the waiting list with highest priority. By seeding a chain, a single nondirected donation can facilitate multiple transplants that would not otherwise occur. For example, a chain in 2015 involved 34 donors and patients.¹⁴

The National Organ Transplant Act of 1984 (PL 98–507) established the legal framework for the regulation of solid organ transplantation in the United States. Section 274c(a) strictly bans the sale of organs: “It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.” The provision has been interpreted to allow insurers, transplant recipients, states, or others to reimburse living kidney donors for their medical, travel, and subsistence costs. Further, the Organ Donation and Recovery Improvement Act of 2004 (PL 108–216) authorized the Secretary of Health and Human Services to make grants to public or private entities to reimburse live kidney donors and up to two caregivers for their travel, subsistence, and incidental expenses. It also allows reimbursement to those who incur these expenses in good faith but are actually unable to make donations. The grants may fund payments only for costs not covered by state programs, insurers, or organ recipients. Federal employees may take up to 30 days of paid leave to make organ donations. Many states have similar programs for their employees, and some allow their residents to deduct donation-related expenses from taxable income.

Senator Smith, at your request, this analysis proposes and analyzes changes in federal policy that could substantially reduce the kidney transplant waiting list by

12 Rob M. Higgins, Sunil Daga, and Dan A. Mitchell. “Antibody-Incompatible Kidney Transplantation in 2015 and Beyond,” *Nephrology Dialysis Transplantation* 30(12) 2015, 1972–78.

13 Organ Procurement and Transplantation Network, *Living Non-Directed Organ Donation* (<https://optn.transplant.hrsa.gov/resources/ethics/living-non-directed-organ-donation>).

14 Mark Johnson, “Longest Kidney Transplant Chain Shares Gift of Life 34 Times,” *Milwaukee Journal Sentinel*, April 14, 2015.

encouraging more live kidney donation. Where possible, it provides quantitative estimates of the impacts of the effects of alternatives to current policy on the increase in the number of kidneys available for transplantation. However, because of the deadline for preparing this report and the scarcity of available information, these estimates should be viewed only as indicating likely orders of magnitude.

Problem Framing: Unregulated Market Unacceptable, Market Ban Questionable

When goods are supplied in competitive markets with many buyers and sellers, shortages cannot occur: if demand exceeds supply, prices rise to clear the market by either eliciting greater supply, reducing the quantity demanded, or both. In the case of live-donor kidneys in the United States, law prohibits the operation of a market so that a shortage of kidneys for transplant persists. Those seeking a kidney transplant can wait for a deceased donation to become available, seek a live donation from a friend or relative, or engage in “transplant tourism” by buying a kidney in an illicit market in a country that does not enforce bans on kidney markets as vigorously as does the United States.

Three questions require answers to frame the kidney shortage as a public policy problem. First, in the absence of a ban on kidney markets, would a market for kidneys operate? Second, if an unregulated market did operate, would it efficiently allocate scarce kidneys in ways consistent with other important social values? Third, if not, could a regulated market provide greater efficiency, be more consistent with important social values, or both?

First, it is very likely that a market for live-donor kidneys would exist if it were not prohibited. The ban on commercial transactions was included in the 1984 law in response to the announced intentions of a physician to create an international kidney exchange.¹⁵ The existence of markets for human eggs, which imposes an irreplaceable loss on the donor, and surrogate motherhood, which involves risks to health, suggest that live-donor kidney markets would arise. So too does the existence of illicit markets enabling transplant tourism.

Second, would an unregulated market be efficient and desirable? There are at least two “market failure” reasons to believe it would not. One failure is seller–buyer information asymmetry. Live-donor kidneys are very heterogeneous in medically relevant qualities. Some of these qualities can be assessed through medical tests. Other qualities can be imperfectly imputed from medical histories, age, and perhaps reported or observed lifestyles. Nonetheless, it is likely that kidney sellers would enjoy an informational advantage relative to buyers about the quality of the kidneys they offer. This information asymmetry results in inefficiency if buyers purchase kidneys that they would otherwise not buy if they were fully informed about quality.

Additionally, buyers may enjoy an informational advantage (or asymmetry) about the quality of the medical services that will be provided to sellers before, during, and after the kidney is extracted and transplanted. This information asymmetry on the supply side of the market may also result in inefficiency if people sell kidneys that

15 Kieran Healy, *Last Best Gifts: Altruism and the Market for Human Blood and Organs* (Chicago: University of Chicago Press, 2010).

they would not have sold if they had been fully informed about the quality of the services they would receive—the “regretted sales” outcome that is reported to often occur in transplant tourism markets.¹⁶ Thus, an unregulated market would almost certainly suffer from dual-sided information asymmetry (this can occur whenever the good has more than one quality dimension that determines value).

The second market failure is closely related. Because of the heterogeneity of organs and their values, any market for kidneys that sought to match buyers and sellers would unfold using an intermediate or so-called platform organization. As seen in many information markets, the outcome of this market development process would almost certainly be a single intermediary platform with monopoly power or a few platform providers with market power. Platform concentration tends to occur because sellers naturally want access to the maximum number of buyers and buyers naturally want access to the maximum number of sellers. Ironically, the search by suppliers for many buyers and by buyers for many sellers (that is, competition) can result in a platform provider with monopoly power over both. It is hard for the market to solve this inefficient outcome via market forces because the platform has declining average cost that makes successful entry by other providers difficult.

In addition to inefficiencies resulting from information asymmetry and platform concentration, an unregulated market would pose a number of ethical concerns. These concerns often serve as a rationale to support market prohibition. First, an unregulated market poses a threat to human dignity because it would risk exploitation of the poor. Financial stress may economically coerce some people into selling kidneys that they would otherwise not sell.¹⁷ Second, an unregulated market would obviously favor those with the resources to purchase kidneys. Not only would they be able to outbid other patients for offered kidneys, but they would be better able to hire agents to search out potential sellers, further increasing the risk of exploitation of the poor or less informed. Third, many ethicists argue that allowing the commodification of kidneys in markets intrinsically violates human dignity by treating the human body as having instrumental value and undercutting the exercise of altruism.¹⁸ The first two ethical concerns are related to the outcomes of a market; the third to its very operation.

Third, the market failures, exploitation of the poor, and undue advantage for the wealthy could potentially be addressed, at least to some extent, through either a regulated market or market-like policy, but the objection to commodification would remain. However, the once-almost-universal rejection of commodification by ethicists has eroded somewhat in recent years.¹⁹ One counter argument recognizes

16 Trazeen H. Jafar, “Organ Trafficking: Global Solutions for a Global Problem,” *American Journal of Kidney Diseases* 54(6) 2009, 1145–57.

17 Samuel J. Kerstein, “Autonomy, Moral Constraints, and Markets for Kidneys,” *Journal of Medicine and Philosophy* 34(6), 573–85.

18 F. Daniel Davis and Samuel J. Crowe, “Organ Markets and the Ends of Medicine,” *Journal of Medical Philosophy* 34(6) 2009, 586–605.

19 Gerald Dworkin, “Markets and Morals,” in Gerald Dworkin, ed., *Morality, Harm, and the Law* (Boulder, CO: Westview Press, 1994), 155–61; Mark Cherry, *Kidney for Sale by Owner: Human Organs, Transplantation, and the Market* (Washington, DC: Georgetown University Press, 2005); James Taylor, *Stakes and Kidneys: Why Markets in Human Body Parts Are Morally Imperative* (Burlington, VT: Ashgate); Benjamin E. Hippen, “The Case for Kidney Markets,” *The New Atlantis: A Journal of Technology and Society* 14 (Fall) 2006, 47–61.

that the preservation of life is an important value that conflicts with a rejection of commodification. Another sees bans on commodification as reducing the autonomy of those who might want to sell kidneys for economic gain.

In summary: An unregulated live-donor kidney market could potentially eliminate the shortage of transplant kidneys. However, it would be subject to several market failures that would prevent it from efficiently allocating live-donor kidneys. Its operation and likely outcomes would also raise serious ethical concerns. However, in view of the large losses in quality of life and longevity of patients that result from the prohibition of commercial transactions, alternative policies involving commodification that substantially mitigate the disadvantages of an unregulated market deserve consideration.

Policy Goals

Policy alternatives that affect the availability of kidneys from live donors should be assessed in terms of several goals: impact on the preservation of human dignity, impact on equity, impact on efficiency, impact on the fiscal state of the federal government, and political feasibility.

Impact on preservation of human dignity

The ideal policy should ensure the dignity of potential and actual living donors. Potential living donors, including those who are financially or otherwise disadvantaged, should have autonomy over the decision to donate. The health of actual donors should be guarded. Although the primary impact of policies on human dignity will be on U.S. residents, the impacts of the policies on residents of countries who are exploited by transplant tourism should also be considered.

Impact on equity

The ideal policy should promote more-equal access to transplantation. Access to this valuable medical treatment should not depend primarily on wealth.

Impact on efficiency

The ideal policy should maximize the number of successful kidney transplants and more generally promote a socially efficient transplant system. Transplantation generally improves the quality of life and longevity of ESRD patients. A cost–benefit analysis estimated that each additional transplant produces an average time-discounted gain of about 4.7 quality-adjusted life years relative to dialysis.²⁰ The greater the availability of healthy kidneys for transplant, the greater is the efficiency gain as measured by the number of patients who can realize these benefits.

20 Quality-adjusted life years weight each additional year of life by a scale in which perfect health is given a weight of 1, death is given a weight of zero, and states of imperfect health a value between 0 and 1. The analysis assigns a weight of 0.52 for time on dialysis and 0.75 for time after transplant. Held et al., “A Cost–Benefit Analysis of Government Compensation of Kidney Donors.”

Favorable fiscal impact

The ideal policy should minimize the net fiscal cost to the federal government of the ESRD Program. Funds expended on this program are not available for other uses. Reducing the net costs of the ESRD Program allows for other uses of the freed-up funds.

Political feasibility

The policy should be sufficiently acceptable to be adopted into law. For a policy to produce its anticipated benefits, it must be adopted. Ideally, a recommended policy would be adopted soon with certainty. More realistically, political feasibility can be assessed in terms of the likelihood of adoption sometime in the future.

Policy Alternatives

This analysis considers four policy alternatives: (1) current policy; (2) brokered auctions, which would establish a regulated market; (3) expanded reimbursement with relative listing, which would encourage donation by reducing out-of-pocket costs borne by donors and allowing donors to place a relative at the top of the transplant waiting list; and (4) purchase with demand-side chain auctions, which would create an entity to purchase kidneys and distribute them to promote chain donations. A description of the key elements of each of the alternatives follows.

Current Policy

Under current policy, the sale or purchase of live-donor kidneys is strictly prohibited. Protocols in place require substantial efforts by transplant centers to ensure that those making live donations are fully informed and their donations freely made. To avoid relational coercion, centers report medical incompatibility for potential donors at their request, even if they are compatible.²¹

Those making altruistic directed or nondirected kidney donations may receive reimbursement for travel and subsistence costs related to the donation from insurers, state programs, transplant centers, or kidney recipients. Those not compensated fully from these sources may receive compensation from the National Living Donor Assistance Center if their annual income is less than 300 percent of the official poverty line or they can document extreme financial hardship from the donation. Payments from the center are limited to \$6,000 and the center is constrained by an annual operating budget of about \$3.5 million. Currently, the center does not provide compensation for lost wages by either donors or their caregivers.

21 “If a potential donor chooses to not proceed with the evaluation or donation process, the center may state that the donor did not meet the program’s criteria for donation to help avoid difficult social situations.” Organ Procurement and Transplantation Network, *Guidance for the Development of Program-Specific Living Kidney Donor Medical Evaluation Protocols* (Richmond, VA: United Network for Organ Sharing, 2008), 2.

Brokered Auctions²²

This alternative creates a regulated market that does not allow direct exchanges between buyers and sellers of kidneys. Patients would bid for kidneys offered by potential donors (called *vendors* in this and the other alternative involving sale of kidneys) through intermediary organizations. These intermediary organizations would serve as brokers, or platforms, with fiduciary duty to patients and vendors in terms of disclosure and confidentiality of information, liability for harm to patients or vendors, and transparency.

Brokers would have responsibility for fully disclosing the medically relevant characteristics of kidneys offered by vendors, and they would have responsibility for fully informing potential vendors of all the costs and risks that they would bear and the payments that they would receive. Brokers would be required to protect the anonymity of patients and vendors by restricting the release of information not needed specifically for medical purposes related to transplantation. To facilitate competition, brokers would be required to make public on a timely basis the prices paid to vendors and data on the kidneys supplied, such as the age and blood type of the vendor. Brokers would have to make public the screening rules they apply in determining how far to evaluate potential vendors. The broker organizations and their chief executive officers would have legal liability for failure to discharge these responsibilities and requirements.

Several additional features would help protect the interests of vendors. First, brokers would be prohibited from imposing any cost, such as charges for evaluation or pre-transplant preparation, on vendors who withdraw from the process, so that potential vendors who at some point agree to sell kidneys would have the right to decide not to do so at any later time without financial penalty—at no time would kidneys be removed without current consent. Second, the broker would have responsibility for arranging for annual medical examinations of vendors and for submitting data on the health of these vendors on a regular basis to the Scientific Registry of Transplant Recipients, which has begun to collect data on live donors. The broker would be required either to provide funds for these tasks in escrow or to arrange for these tasks to be carried out by a transplant center under a long-term contract. Third, vendors would be given the option of directing payments to charitable organizations. Thus a vendor could participate in the exchange on a purely altruistic basis, providing a kidney to a patient and a monetary payment to a charity.

Expanded Reimbursement with Relative Listing

The Save Lives, Save Money Now Act, which is currently being advocated by Stop Organ Trafficking Now!,²³ would provide financial support for those making non-directed kidney donations. The proposal has four key elements. First, the federal

22 This alternative and the purchase and chain auction alternative are adapted from Lara Rosen, Aidan R. Vining, and David L. Weimer, “Addressing the Shortage of Kidneys for Transplantation: Purchase and Allocation through Chain Auctions,” *Journal of Health Politics, Policy and Law* 36(4) 2011, 717–55

23 www.stoporgantraffickingnow.org

ESRD Program would pay up to \$10,000 of the non-medical costs incurred by those who donate kidneys for transplant to the compatible patient highest on the kidney transplant waiting list in the donor service area (DSA), or geographic locale, in which the donation is made. Second, the ESRD Program would provide \$20,000 per donated kidney to compensate local organ procurement organizations for the costs of testing potential donors and providing their relevant information to the allocation system. Third, the donor would be listed in a living-donor registry in the DSA in which the donation was made. At a future time, the donor could add the name of one relative to the list—defined in this analysis as a spouse, child, parent, or sibling. At any time, those on the living-donor list could elect to move to the front of the kidney transplant waiting list in the DSA. The opportunity to advance a relative to the top of the waiting list in the future creates an insurance benefit for donors.²⁴ Fourth, 501(c)(3) nonprofit charitable organizations would be allowed to reimburse non-medical donation expenses up to \$10,000 for any nondirected donation to a transplant center to facilitate the initiation or extension of a transplantation chain.

Purchase with Demand-Side Chain Auctions

Unlinking demand and supply requires methods for setting prices and allocating supply administratively. This alternative would create an organization to implement these tasks, the Kidney Exchange (KEX). It would have the following features. First, it would be a Congressionally chartered nonprofit organization with a legislated monopoly over the purchase of live-vendor kidneys. Second, like brokers in the brokered auction alternative, it would have responsibility for ensuring the anonymity and privacy of vendors, for specifying screening rules (the procedures, from initial screening to subsequent testing to possible donation, it would follow in securing kidneys), and for fully informing transplant centers about the characteristics of offered kidneys and vendors about costs, risks, and payments. Third, the purchase price would be determined primarily as a function of net expenditure savings to the federal government from a single additional transplant. The Centers for Medicare and Medicaid Services (CMS) would annually determine the financial breakeven price that Medicare could pay for a live-vendor kidney transplant for a patient who would otherwise remain on dialysis. The costs of screening potential vendors would be subtracted from this amount to set the price. Fourth, it would be funded through a start-up grant and then through a fee on facilitated transplantations. Fifth, it would be overseen by the Department of Health and Human Services or an organization that it designates, such as the OPTN.

Allocation of vendor kidneys would involve an “auction” among transplant centers—or more likely, associations of transplant centers like the currently operating New England Program for Kidney Exchange and the Alliance for Paired Donation—in which the bidding currency would be the number of transplants that would result if the kidney were used to seed a proposed chain. The process would operate as follows: First, the transplant center that identifies a potential vendor would submit the

24 A similar approach has been proposed for encouraging donations from the deceased. Richard Schwindt and Aidan R. Vining, “A Proposal for a Mutual Insurance Pool for Transplant Organs,” *Journal of Health Politics, Policy and Law* 23(5) 1998, 725–41.

kidney characteristics to the KEX. Second, the KEX would post information about the availability of the kidney to participating transplant centers and alliances. Third, transplant centers and networks with patients with willing but incompatible donors would bid for the kidney to create single or multiple paired exchanges that would be executed within a specified time period. Fourth, the KEX would allocate the kidney based on the length of the transplant chain the kidney could initiate. Fifth, the last donor in an incompatible dyad in the chain would donate to the cadaveric kidney waiting list—patients at the transplant center that originated the vendor who seeded the chain would receive first priority for this kidney. Sixth, if two transplant centers propose chains of equal length, then the KEX would break the tie based on the sum of sensitivity levels of the patients in the chains. Seventh, failure to implement fully the chain that was bid would result in a penalty for the bidder: reduction in bid lengths by the shortfall for the auctions during the next six months.

Assessment of Alternatives

This section draws on available research to assess the policy alternatives in terms of the policy goals.

Current Policy

Human Dignity

The prohibition of the market for live kidneys prevents exploitation of potential vendors in the United States. Additionally, the practices surrounding live donation reasonably protect potential donors from making uninformed or relationally coerced decisions about donation. However, the prohibition on sales denies vendors full autonomy over the use of their own bodies, a restriction not applied in a number of other medical areas, such as human egg donation or surrogate motherhood. Also, the prohibition on commodification in the United States has induced some U.S. residents to engage in transplant tourism, which, because it occurs in illicit or unregulated markets, poses a high risk of exploitation of vendors.²⁵ Despite almost universal prohibition against commodification, perhaps 5–10 percent of all kidney transplants worldwide involve a vendor.²⁶ Demand from U.S. residents almost certainly accounts for some of these transactions that are detrimental to human dignity of the poor in other countries.

Equity

Wealthier patients enjoy some advantage in the current system because they can more easily provide compensation to facilitate a directed donation. So too do younger patients, because they are more likely to have living relatives and perhaps because they elicit more sympathy, and to those with greater social capital, which may increase their chances of finding a willing donor. Those who secure live donations

25 Jafar, “Organ Trafficking: Global Solutions for a Global Problem.”

26 D. A. Budiani-Saberia and F. L. Delmonico, “Organ Trafficking and Transplant Tourism: A Commentary on the Global Realities,” *American Journal of Transplantation* 8(5) 2008, 925–29.

indirectly share their good fortune by taking themselves off the transplant waiting list, thereby increasing the chances that some other patients receive a kidney.

Efficiency

Current policy is inefficient in three ways. First, it precludes vendors and patients from making mutually beneficial exchanges that would increase the total number of transplants. Second, it prevents some otherwise willing donations from those who cannot afford the associated uncompensated non-medical costs. Third, despite efforts by transplant centers to facilitate paired and chain donations, many potential donors cannot make the directed donations they wish to make because of incompatibility with patients. The relatively small number of available nondirected donations limits the use of chain donations.

Favorable Fiscal Impact

The cost of the ESRD Program is large and likely to continue to grow under current policy with increasing demands for dialysis.

Political Feasibility

Although Congress has been sympathetic to facilitating improvements in the live-donation system, as evidenced by the Organ Donation and Recovery Improvement Act, further legislation is unlikely without political leadership. Maintaining current policy is highly feasible.

Brokered Auctions

Human Dignity

Even with the vendor protections in place concerning disclosure of information, the brokered auctions would pose some threat to human dignity through the risk of exploitation of the financially desperate. Brokers would have an incentive to purchase kidneys at the lowest possible price, which would tend to be relatively attractive to potential vendors of limited financial means. Brokers, especially for-profit entities, would also have a strong incentive to find vendors, perhaps adding to the risk of exploitation through aggressive recruitment. Also, the linking of specific buyers to sellers would create a strong incentive for brokers to press potential vendors with rare but demanded characteristics. Somewhat offsetting these concerns, potential vendors would gain the opportunity to choose to sell their kidneys if they so wished. Also, surveys generally do not find a strong link between income and stated willingness to donate for compensation, suggesting that vendors might be less concentrated among those with low income than commonly assumed.²⁷

27 Scott D. Halpern, Amelie Raz, Rachel Kohn, Michael Rey, David A. Asch, and Peter Reese, "Regulated Payments for Living Kidney Donation: An Empirical Assessment of the Ethical Concerns," *Annals of Internal Medicine* 152(6) 2010, 358–65; E. J. Gordon, C. H. Patel, M. W. Sohn, B. Hippen, and

The brokered auction would almost certainly reduce the number of U.S. residents who engage in transplant tourism. Obtaining a kidney in the domestic market would substantially reduce transaction costs in arranging for a kidney and verifying its quality. This is especially so as, currently, foreign transactions are often illegal or of questionable legality and therefore done *sub rosa*. The costs of finding and monitoring brokers would be much lower. Further, the brokered auction would eliminate the need for costly, and perhaps risky, foreign travel. It would also allow the patient to have the transplant done at a regulated center that would provide the full range of pre- and post-transplant services. As the interests of vendors—including protection against coercion—are likely to be stronger in the regulated domestic market than in the developing countries that now provide kidneys to transplant tourists, the net impact on vendors worldwide may be small.

Equity

Participating in the market as a patient would require wealth. The higher the equilibrium prices that result, the wealthier one would have to be to obtain a kidney from a vendor. Further, wealthier patients would be able to bid for higher-quality kidneys from younger vendors. This is precisely the sort of inappropriate advantage raised by opponents of commodification. However, someone who vacates the waiting list through purchase of a vendor kidney and would otherwise have received a deceased-donor kidney, enables another patient remaining on the waiting list to have a transplant.

Efficiency

The impact on the availability of kidneys for transplant is potentially very large. In a recent survey, 29 percent of respondents indicated that financial incentives would increase their likelihood of donating a kidney.²⁸ With respect to donations to strangers by those amenable to financial incentives, payments as low as \$10,000 would begin to induce some respondents to donate and payments of \$100,000 would be considered by most as undue influence to donate, suggesting that they would indeed do so. Survey evidence also suggests that payments would be unlikely to reduce altruistic donation to relatives and friends;²⁹ further, those who would otherwise make altruistic nondirected donations would have the option of becoming a vendor but directing their payment to a charity. Thus, the supply side of the market seems quite strong. With a pool of potential U.S. donors in the tens of millions, it is quite possible that prices below \$100,000 would supply a sufficient number of kidneys from vendors eventually to eliminate the waiting list for kidney transplants.

Is there sufficient wealth among patients on the waiting list to support demand for large numbers of kidneys from vendors? Median household wealth in the United

L. A. Sherman, "Does Financial Compensation for Living Kidney Donation Change Willingness to Donate?" *American Journal of Transplantation* 15(1), 2015, 265–73.

28 Gordon et al., "Does Financial Compensation for Living Kidney Donation Change Willingness to Donate?" p. 265.

29 Ibid. p. 269.

States was \$68,828 in 2011, rising with age from \$6,676 for householders younger than 35 years to \$170,516 for householders 65 years or older.³⁰ These figures are likely to overestimate the wealth of householders suffering from ESRD. Nonetheless, because 66 percent of patients on the kidney transplant waiting list are 50 years or older, it appears that household wealth would support substantial demand for vendor kidneys. Additionally, it is likely that in some cases friends and relatives would raise money to contribute to bids.

Based only on the fragmentary evidence about the potential supply of and demand for vendor kidneys, a confident prediction of the number of additional kidneys that would be made available to patients is not possible. Nonetheless, it is likely that thousands, and possibly tens of thousands, of additional kidneys would be added to supply each year. Brokered auctions would thus have potential for substantially reducing the length of the kidney transplant waiting list.

Favorable Fiscal Impact

Based on an analysis that takes account of the costs of dialysis and transplantation, each additional transplant facilitated by a purchase from a vendor would provide a fiscal benefit of \$146,000 to the ESRD Program.³¹ Consequently, the brokered auction would potentially generate hundreds of millions of dollars each year in savings for the federal government.

Political Feasibility

Despite the potential gains to patients and large fiscal savings, concerns about threats to human dignity, equity in access to transplants, and commodification itself would make brokered auctions politically unfeasible. Indeed, even proposing a brokered auction would likely be politically risky, especially for a first-term senator.

Expanded Reimbursement with Relative Listing

Human Dignity

Helping overcome financial barriers to donation would promote human dignity by enabling more potential donors to exercise choices to act altruistically. The federal support for donations to the waiting list would pose no risks of exploitation. The private support from charitable organizations would allow patients to reimburse directed donors for wage losses, raising some concern about increased relational coercion. A greater risk of relational coercion would arise from the opportunity for donors to place a relative at the top of the waiting list. Potential donors, who are able to claim incompatibility under the current system to avoid making a donation, would be vulnerable to pressure to make a nondirected donation to move a relative to the front of the waiting list. The narrow definition of “family member”

30 Marina Vornovitsky, Alfred Gottschalck, and Adam Smith, *Distribution of Household Wealth in the U.S.: 2000 to 2011*. Table A1. United States Census Bureau. www.census.gov/people/wealth

31 Held et al., “A Cost–Benefit Analysis of Government Compensation of Kidney Donors.”

limits those potentially vulnerable to relational coercion. Also, continued progress in desensitization will gradually make the marginal impact of this alternative on relational coercion less important. It would not have a direct effect on transplant tourism.

Equity

The opportunity for private charities to provide compensation would improve equity by increasing access to kidneys for lower-income patients. However, wealthier patients may be able to pass compensation to potential donors by making contributions to private charities. On net, there would likely be a small improvement in equity in terms of facilitating transplants for the less wealthy. Those with large immediate families would potentially have more access through nondirected donations by close relatives.

Efficiency

The number of kidneys available for transplant would increase through two mechanisms: financial incentives and gaining priority for deceased-donor kidneys for relatives. Survey evidence suggests that financial compensation would likely increase the likelihood of donating to a stranger but not to a friend or family member; specifically, compensation appeared to increase the percent of respondents with a willingness to donate to strangers from about 2 percent to about 37 percent.³² The median amount of compensation required to elicit consideration of such donation was \$10,000, suggesting that half of the 37 percent would not find the program limit adequate, reducing the percentage of willing donors from 37 percent to about 19 percent. Because only 29 percent of respondents listed paying for non-medical expenses as their intended use of the compensation, rather than using it for some other purpose such as to pay off debt (38 percent) or increase savings (14 percent), it is reasonable to assume that only 29 percent of the 19 percent expressing a willingness to donate to strangers would actually do so if payments were limited to compensation for non-medical expenses. This suggests that the upper bound on the percentage of respondents willing to make nondirected donations would be about 6 percent. Thus, compensation would potentially increase the willingness to donate from about 2 percent to about 6 percent.

Applying this threefold increase to the current annual number of nondirected donations of about 180, the compensation induces an additional 360 nondirected donations. The assumptions made in moving from the survey results to this number suggest that it should be treated as an upper bound. However, because nondirected donations induced by compensation provided by charities could be used to facilitate chain donations, it is possible that this number underestimates the increase in the number of transplants that would be induced by the compensation provisions.

32 Gordon et al., “Does Financial Compensation for Living Kidney Donation Change Willingness to Donate?” p. 269.

Researchers estimated that in 2005 there were 4,000 patients on the waiting list who had willing but incompatible donors, and 750 more join the list each year.³³ Scaling these estimates using the ratios of the 2015 to 2005 waiting list numbers and new additions to the list—1.2 and 1.7, respectively—leads to estimates of about 6,700 for the current number of patients with willing but incompatible donors and 900 for annual additions of such patients to the waiting list. In 2015, 578 of these patients were accommodated through paired donations and another 209 through anonymous donations. With some additional patients made compatible through desensitization, probably about 800 per year are being accommodated so that the stock of unaccommodated can be estimated to be growing at about 100 per year. If the listing of relatives were fully effective in converting willing to actual donors, it would eliminate the stock of such patients over several years then result in a steady-state addition of about 100 transplants per year.

Favorable Fiscal Impact

The fiscal impact would be substantial and reduce expenditures. Even if all of the additional compensation-induced donations were covered fully by the federal government, the savings for the ESRD Program would be more than \$100,000 per donated kidney. The listing-induced donations would save the full \$146,000 difference between the expected cost of dialysis and transplantation. The long-run annual savings would be on the order of approximately \$400 million.

Political Feasibility

Several features of this alternative make it politically attractive. It increases the number of transplants, reduces costs for the federal government, and incrementally extends the existing federal compensation program. It would likely draw some opposition from the transplant community because the priority given to patients on the living-donor list would override priorities that position patients on the deceased-donor waiting list.

Purchase with Demand-Side Chain Auction

Human Dignity

As with a market-determined price in brokered auctions, the administered price offered by the KEX would pose some threat to human dignity through the risk of exploitation of financially desperate vendors. However, this nonprofit intermediary would not have as strong an incentive to recruit vendors as would competitive brokers, so that the risks of exploitation would likely be lower than with brokered auctions. However, unlike the brokered auctions, this alternative would not have a direct effect on transplant tourism because it does not provide a domestic alternative for individuals to purchase kidneys.

33 Dorry L. Segev, Sommer E. Gentry, Daniel S. Warren, Brigitte Reeb, and Robert A. Montgomery, "Kidney Paired Donation and Optimizing the Use of Live Donor Organs," *Journal of the American Medical Association* 293(15) 2005, 1883–90.

Equity

This alternative does not involve inappropriate advantage beyond that under current policy. Each chain seeded by a purchased kidney would ultimately provide a kidney to the waiting list from the willing but incompatible donor for the last patient in the chain. However, as is currently the case, those who can find willing but inappropriate donors would enjoy increased access to transplantation because they would be more likely to be included in a chain.

Efficiency

The administered price paid to vendors would likely be between \$50,000 and \$100,000, based on savings of \$146,000 per transplant and the current reimbursement of \$50,000 for a delivered deceased-donor kidney paid to organ procurement organizations. Actual costs of procuring a kidney would likely be lower than this amount because vendor kidneys could be procured in more controlled circumstances. However, costs would likely be incurred by the KEX in screening potential vendors who do not progress all the way to delivery of kidneys.

Survey responses suggest that a price near \$100,000 would elicit substantial supply.³⁴ The cost–benefit analysis of payments for kidneys previously cited assumed that a payment of \$45,000 would elicit sufficient supply to double the number of transplants per year, so that after about five years the waiting list would disappear. As this alternative would pay a much higher price as well as likely multiply the number of transplants for each vendor kidney through its use in seeding chains, it is reasonable to predict that it would generate sufficient supply to eliminate the waiting list.

Box 1.1 page 18

Favorable Fiscal Impact

The vendor kidney itself would not produce a savings for the ESRD Program. However, each vendor kidney would likely result in one or more additional transplants. Consequently, a reasonable lower bound on annual federal savings in the steady state would be about half of the 18,000 additional transplants times \$146,000, or about \$1.3 billion.

Political Feasibility

The substantial increase in the number of transplants and the federal savings would make this alternative attractive for some stakeholders. Because it would not raise as serious concerns about equity as would brokered auctions, it would likely be somewhat more acceptable. However, as it involves commodification and concerns about exploitation of the disadvantaged, it would be viewed as a radical change in policy and therefore have little chance of immediate adoption.

34 Gordon et al., “Does Financial Compensation for Living Kidney Donation Change Willingness to Donate?”

Considering the Trade-offs

As summarized in Appendix A, none of the policies dominate in terms of all five policy goals. All three alternatives to current policy would increase efficiency by expanding the supply of live-donor kidneys and provide a fiscal advantage by reducing the costs of the ESRD Program. Purchase with demand-side chain auctions would have the best prospects for sufficiently increasing supply to eliminate eventually the kidney transplant waiting list. Brokered auctions would substantially increase supply, perhaps sufficiently to eliminate the waiting list. Expanded reimbursement with relative listing would likely increase the annual supply by hundreds per year through its financial provisions and possibly even more through its provision effectively allowing live donors to move a relative to the top of the deceased-donor waiting list.

The brokered auction would pose the greatest threat to human dignity. Purchase with demand-side chain auction would pose a similar if somewhat less severe threat; expanded reimbursement with relative listing would pose some threat by encouraging patients to pressure close relatives to donate so that those patients increase their chances of receiving a deceased-donor kidney.

Neither expanded reimbursement with relative listing nor purchase with demand-side chain auction would substantially change the level of equity in the current transplant system. However, brokered auctions would substantially advantage patients wealthy enough to bid successfully for vendor kidneys.

The brokered auction would have little prospect of being adopted by Congress because, in addition to eliciting objections to its commodification of kidneys, it would raise concerns about human dignity and equity. Although purchase with demand-side auctions would likely fare somewhat better, it is very unlikely that it could gain sufficient support for adoption, especially with a freshman senator as its sponsor. Expanded reimbursement of donation costs with relative listing would have much better prospects than either of the other two alternatives involving commodification of kidneys.

Recommendation

The transition team recommends that you support expanded reimbursement with relative listing. It would increase the supply of kidneys for transplant, reduce the costs of the ESRD Program, pose only small threats to the exploitation of potential donors, and have good prospects for garnering political support. Your first steps should be to request drafting assistance from the Congressional Research Service to craft legislation to authorize the elements of this alternative. You should also coordinate with Stop Organ Trafficking Now! to take advantage of its efforts to promote the similar Save Lives, Save Money Now Act. The process of building support for this alternative and your eventual success in achieving it, would enable you to determine if a more efficient alternative, like purchase with demand-side chain auction, could be designed to be ethically acceptable and politically feasible.

Appendix A

Summary Comparison of Policy Alternatives for Addressing Kidney Shortage

	Current Policy	Brokered Auction	Expanded Reimbursement with Relative Listing	Purchase with Demand-Side Chain Auctions
Human Dignity	Protects U.S. residents; encourages transplant tourism	Substantial threat of exploitation of disadvantaged; reduces transplant tourism	Some threat of relational coercion	Moderate threat of exploitation of disadvantaged
Equity	Small advantage to wealthy and those with social capital	Substantial inequality in terms of wealth	Increased equity in terms of wealth; decrease in terms of available relatives	Small decrease in terms of added advantage for those with willing donors
Efficiency	Inefficient: long waiting list for transplants	Annual increase in thousands or tens of thousands; possible elimination of waiting list	Annual increase in hundreds or thousands	Annual increase in tens of thousands; likely elimination of waiting list
Favorable Fiscal Impact	Cost of ESRD Program will continue to increase as more patients use dialysis	Large reductions in net costs for federal government	Moderate reductions in net costs for federal government	Large reductions in net costs for federal government
Political Feasibility	High	Very low	Moderate	Low

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Debriefing

Your decision to read this book suggests that you have not already had a course in policy analysis, so that you probably have not previously encountered a report like the one you just read—it almost certainly differs in format and content from undergraduate papers you wrote. This entire book provides you with the conceptual foundations and craft skills to enable you to produce policy analyses competently and quickly. If you work as a policy analyst, then the advice you provide will take many forms, ranging from brief discussions in the hallway to substantial reports prepared by large teams using original data and working over an extended period. Nonetheless, mastering the canonical template displayed in this chapter will help you give good advice when using these other formats as well.

Before we embark on a systematic treatment of the generic template in the chapters that follow, we briefly highlight some of its most important features, both to help you put your journey through the chapters into perspective and to provide you with some upfront help in case your instructor wants you to perform a trial policy analysis along the way.

Write to Your Client

Policy analysis as a professional activity is done for a client. Whether as employees or consultants, professional policy analysts earn their keep by giving reasoned advice to their clients. Typically, the client is a person, like Senator-elect Smith (hereafter, just “Senator”), who makes or influences public policy decisions. Many policy analysts have public administrators as their clients. Some have nongovernmental clients, such as the leaders of organizations that seek to improve public policy in specific substantive areas or promote particular policy approaches. Clients can also be governing organizations, such as legislatures, regulatory bodies, or international organizations, that seek advice about the decisions they must make. Although as a policy analyst you should always seek to make society better, as a professional you do so through service to a specific client with authority or influence. If you become an elected official or public administrator, then at times you may be your own client.

Senator Smith presented you with a specific policy problem, the long waiting list for kidney transplants, and asked you to consider a class of alternatives, policies that would increase the availability of kidneys for transplantation from living donors. She also gave you a deadline. In this case, the deadline was dictated by her convenience. However, if she were seeking advice in advance of an upcoming Senate committee or floor vote, then the deadline would be inflexible—your analysis would be much less valuable, perhaps worthless, and your tardiness possibly career ending, if you delivered it after the vote!

In addition to the two fundamental responsibilities to the client of answering the question posed and doing so on time, you also have to be concerned about effectively communicating your advice. Your report should be written so that your client, and those with whom she chooses to share your report, can easily understand its content. You had to work hard to convey simply the quite complicated substance of kidney transplantation and relevant economic concepts, such as information asymmetry, so that Senator Smith, an educated lay person, could follow your analysis without difficulty. However, even a relatively short policy analysis may be too long for a busy client to read in its entirety. That is why you include a brief executive summary, an essential component of any policy report more than a few pages in length.

Your executive summary has several important features in addition to brevity. Its first paragraph sets out the issue and ends with your recommendation. The subsequent paragraphs appropriately rehearse your complete analysis, including a statement of the relevant policy goals and assessed alternatives, and the reason for the recommendation. Many busy clients would know the basic approach of your analysis just from reading the executive summary. Once you have a track record for sound analysis and judgment, some clients may read only the first paragraph to see the recommendation. Write your executive summary as if that will be the case.

You divided the body of your report into clearly labeled sections. This aspect of templating helps your client follow the logic of your analysis and makes it easy for her to read selectively specific sections of interest. For example, Senator Smith may be inclined to accept your recommendation based on the executive summary alone, but she may want to read your description and follow your assessment of the recommended alternative before making a final decision. Adding a table that summarizes your assessment of alternatives in terms of the relevant policy goals also makes it easier for your client to understand how you reached your recommendation.

Understand the Policy Problem

Policy analyses often start with a client expressing concern about some undesirable condition. Senator Smith wants to do something about the long waiting list for kidney transplants. Sometimes you will be asked to assess a policy proposal rather than an undesirable condition. In the policy proposal case, your task usually involves stepping back to identify the undesirable condition the proposal intends to address, and then stepping forward with alternatives that might be even better than the proposed alternative that prompted the request for analysis. So, for example, imagine that one of Senator Smith's constituents had asked her to allow people to sell kidneys. You would still want to identify the undesirable condition that kidney sales are intended to address and what other policy alternatives deserve attention, as you actually do in responding to the senator.

Understanding the policy problem involves at least two tasks. The first task is to diagnose the undesirable condition and, if possible, put it into quantitative perspective. Your diagnosis usually requires you to learn quickly about the subject. If you have been working in a policy area for a long time, then doing so may be relatively easy, even for newly emerging issues, because you know a lot about the context and likely have a network of colleagues to consult. If instead of being new to transplantation policy you had previously analyzed alternatives for increasing the availability of deceased-donor kidneys, then you would likely already know a lot about transplantation. Starting from scratch is daunting, but if you build your skill in intelligently using electronic sources, you can often get started quickly. Once you establish that a condition is worthy of concern—people forgo quality of life and often die waiting for kidney transplants—it is usually useful to quantify the condition and put it into perspective. You were able to find data showing that the waiting list for kidneys is long and that it is growing—there is an undesirable condition and it is getting worse. It may be useful to put other conditions into perspective by making comparisons across policy jurisdictions. For instance, if you were advising a state legislature on policies to increase the availability of deceased-donor kidneys, then you might compare donation rates for your state with those of other states. If your state is lagging, then you might look at deceased-donor policies in the more successful states to begin to get ideas about policy alternatives. Such comparisons are important, because it is the possibility that your client could influence policies offering improvement that turns an undesirable condition into a policy problem.

The second task involves framing the policy problem as a market or government failure (or maybe both) or other circumstance in which individual choices lead to undesirable social outcomes. Conventionally defined, market failures are situations in which individual choices do not lead to an efficient allocation of resources. In considering the possibility of an unregulated market for kidneys, you identify several market failures. You argue that an unregulated market for living-donor kidneys would lead to inefficient transactions because of information asymmetry, one of the classic market failures. Government failures are the ways that collective action leads to inefficient allocations of resources. Your report identifies that current policy produces an inefficient allocation by not allowing a market in kidneys. However, the market ban reasonably reflects other important values and does not inherently result from a collective action problem, such as the disproportional weight representative government tends to place on organized (relative to unorganized) interests that often results in restrictions on competition or other questionable limits on individual choices.

Market failures produce inefficiency. However, even efficient markets can produce socially undesirable allocations of resources. We usually want floors on consumption,

ensuring that people have the basic necessities of life. We also usually want some minimum levels of participation in the political processes that choose levels of goods like environmental quality. We often want less unequal access to the consumption of goods, either generally through a more equal distribution of wealth, or more specifically through access to specific types of goods, such as schooling and medical care. You address concerns about exploitation of the poor and undo advantage for wealthy patients in your assessment of kidney commodification.

A benefit of framing a policy problem as a particular market failure is that it allows you to take advantage of the substantial theoretical and empirical knowledge available across many policy areas about its consequences and ways of mitigating these consequences. Framing as a market failure often provides an initial model for identifying and assessing policy alternatives. Your alternatives involving kidney vendors respond to information asymmetry by imposing an intermediary—brokers in one case and the KEX in the other. Often you will need other models as well. So, for example, analyses of alternatives for increasing kidneys from deceased donors might also usefully draw on models of altruistic behavior from psychology or sociology.

Another aspect of understanding the problem involves deciding on the type of alternatives that you will consider. Quite regularly, opinion pieces appear in major newspapers arguing that shortages of transplant organs could be substantially reduced by replacing our opt-in system (in which people explicitly commit to donating organs upon their death) to an opt-out system (in which it is assumed that people will donate unless they specifically object while living). Such recommendations usually ignore the possible magnitude of supply from deceased donors and their advocates often fail to take account of the importance of the effectiveness of the organizations that identify potential deceased donors and facilitate the removal of donated organs for achieving high donation rates. Even though you were asked to consider policies to increase the availability of kidneys from living donors, you make clear in your analysis why policies to increase deceased donation could not stop the kidney transplant waiting list from growing, an important point in light of the greater ethical concerns raised by the alternatives aimed at increasing live donations.

Be Explicit About Values

Public policy should promote outcomes that people value. We try to clarify these values by setting out and justifying goals relevant to the policy problem being addressed. As we want to get the most out of available resources, efficiency is almost always a relevant goal. In many policy areas, however, we also have goals involving the distribution of the goods produced by the available resources. These are substantive goals—things we want for their own sake. We may also have instrumental goals, such as sustainable public finance or political feasibility, that facilitate achievement of the substantive goals.

Your analysis identifies five goals: efficiency, human dignity (which could be treated as a universalistic version of the equity goal), equity, and two instrumental goals. You operationalize efficiency as the number of kidney transplants per year. With more information for making predictions, you might operationalize efficiency as the number of quality-adjusted life years gained, a potentially better measure of value. You also might add a second dimension for assessing the impact of alternative policies on efficiency: the resources expended in screening donors or vendors, including the value of their time. Choosing how to operationalize a goal often involves a trade-off between capturing the

relevant values and one's capacity for predicting impacts of policies on promotion of those values.

Your two distributional concerns, which you label protection of human dignity and equity, capture impacts of policies on both vendors and patients. Although you could have treated both as versions as equity, in this analysis that would only hide information. All the policy alternatives except the brokered auction have quite similar effects on equity. Had you not made brokered auctions one of your alternatives, you might not have included equity among your goals because it would not help in distinguishing much among the alternatives. Conversely, if you had included some other alternative that introduced yet another dimension of distribution, say an alternative that specifically affected some ethnic group, then you should add it as a new goal or a second dimension, or impact category, for equity. More generally, your set of goals should allow you to take account of all of the major consequences of your alternatives.

A favorable fiscal impact and political feasibility are your two instrumental goals. You include fiscal impact because spending on one public program involves higher taxes, less spending on other programs, or a bigger deficit. Note that fiscal impact differs from efficiency: cutting back on the maintenance of public infrastructure may be inefficient, even if its immediate fiscal impact is favorable. You also include political feasibility as a goal to indicate how likely it is that any of the policies would actually be adopted. Often fiscal impact directly affects political feasibility. In your analysis, however, the alternatives to current policy all have favorable fiscal impacts but two of them are unlikely to be politically acceptable. Keeping the two instrumental goals separate is appropriate in terms of choosing goals that help distinguish meaningfully among the particular policy alternatives being analyzed.

Specify Concrete Policy Alternatives

Policy alternatives must be specified in sufficient detail to allow you to predict their consequences. You appropriately include current policy as an alternative to avoid a bias toward change for its own sake. Your introduction of the problem sets out the key elements of current policy: a ban on commercial kidney transactions and incomplete compensation to living donors and their caregivers for non-medical expenses. You base your alternative policies on proposals made by academic policy researchers and an advocacy organization, focusing on those details most relevant to predicting the impacts of the alternatives relevant to the policy goals. Most of the details were specified in your sources. However, the original proposal for expanded reimbursement and relative listing did not define "relative." As you have some concerns about relational coercion, you limit the definition of relatives for purposes of this policy to include only immediate family members. In doing so, you were following a common procedure for developing policy alternatives—borrowing and tinkering. You first borrow a policy concept from some source, either a proposal or a working model, and then tinker with its details to make it more attractive for the circumstances of the policy problem you are addressing. In other situations, you might translate a generic policy instrument, such as an excise tax on a good whose full social cost is not captured in its price, into a specific alternative, or even design an alternative from scratch. In these cases, you must be especially careful to specify details needed for prediction.

Either more thorough analysis or transition from policy alternative to actual policy proposal can necessitate even greater specification of detail. For example, assessing the impacts of purchase with demand-side chain auctions on access to transplants by disadvantaged

ethnic minorities or highly sensitized patients would require you to be more specific about the outreach efforts of the KEX. If this alternative were to be accepted, then greater detail about the governance and funding of the KEX would have to be specified sufficiently for legislation to provide an adequate authorization for its implementation.

Predict and Value Impacts

Finding information relevant to prediction and valuation almost always poses a challenge to analysts. Short deadlines and limited availability of directly relevant data usually require that you draw on research that has already been done. You were able to find some survey evidence to help you predict the impact of financial payments on willingness to be a living kidney donor. However, the surveys did not ask the exact questions you would have asked had you designed your own survey. Consequently, you had to be creative in squeezing relevant information for purposes of prediction from the data. You were more fortunate with respect to valuation because you found a high-quality cost–benefit analysis of the financial and social benefits of live donation that was recently published in a peer-reviewed journal. You also tapped into a few sources of descriptive data, such as waiting list information from the Organ Procurement and Transplantation Network.

With more time and resources, you might be able to gather data and evidence that would enable you to make more confident predictions or valuations. For example, perhaps you could conduct a survey that would allow you to ask questions directly relevant to predicting the impact of financial incentives on willingness to donate. You might also be able to request specific data or relevant simulations from the Scientific Registry of Transplant Recipients, which collects comprehensive longitudinal data on patients, transplant recipients, and donors. Perhaps it would be possible to operate a pilot program within existing authority to gather evidence about impact. For instance, perhaps the Secretary of Health and Human Services could be convinced to direct the National Living Donor Assistance Center to fund fully the reimbursement of non-medical donation expenses in a particular jurisdiction. An evaluation of the impact of full reimbursement could then be used to predict the impact of expanded reimbursement nationwide.

Although cross-national comparisons may sometimes be helpful, differences in constitutions and cultures often make prediction based on evidence about the impact of a similar policy in another country tenuous. You are likely to have more success in drawing on subnational comparisons. For example, there may be dozens of evaluations of locally implemented programs, such as interventions aimed at reducing criminal recidivism. Indeed, some types of programs may have a sufficient number of evaluations so that you can use or even conduct a meta-analysis that combines their results to produce more confident assessments of impacts. In these cases, it may be possible to engage in highly touted evidence-based policy making. Of course, this avenue will not be open if you are analyzing a novel policy alternative. Unlike academic researchers, who rarely make out-of-sample predictions, your predictions of the impacts of a unique policy alternative must necessarily be guided by logic and theory, rather than systematic empirical evidence.

Consider the Trade-Offs

As in your analysis of the kidney shortage, you will almost always identify multiple values relevant to the policy problem, which in turn call for multiple goals. Your policy

alternatives will almost always involve trade-offs among the goals. All three of your alternatives to current policy offer increased efficiency. However, brokered auctions would also result in substantial inequality, and both it and purchase with demand-sided chain auctions would likely not be politically feasible. Expanded reimbursement with relative listing would provide the smallest increase in efficiency of the three alternatives to current policy, but it would be the most politically feasible. No alternative dominates the others in terms of all five goals—if one alternative did dominate, then you would be wise to ask yourself if you had constructed serious alternatives and had set out goals that captured their full ranges of consequences.

Certain types of trade-offs commonly arise. Market-like policies, such as brokered auctions, often involve a trade-off between efficiency and equity. More radical policies offering greater efficiency, such as purchase with demand-side chain actions, often have poorer prospects for political feasibility. More efficient programs sometimes require more public spending, although your alternatives to current policy do not. You should expect trade-offs. Most clients will expect you to acknowledge and analyze them. Nonetheless, sometimes you can find a policy that hits a sweet spot and advances most, if not all, of the relevant goals.

Although sometimes tedious for analyst and client alike, considering trade-offs requires each of the alternatives to be considered in terms of each of the goals. You do so by moving systematically through each of the five goals for each alternative, with headings and subheadings to make clear which assessment is being made in each subsection. Your table in the appendix summarizing your assessment of the alternatives in terms of the goals provides a useful discipline, because an empty cell would make clear that you had failed to assess one of the alternatives in terms of one of the goals.

Make a Recommendation

Unless your client asks you not to do so, you should explicitly recommend one policy, either current policy or one of the alternatives to it that you analyzed. You recommend expanded reimbursement with relative listing because it offers gains in terms of efficiency and fiscal impact without raising serious concerns in terms of human dignity, equity, and political feasibility. Your recommendation appropriately follows from your analysis, especially your discussion of trade-offs.

Was it a waste of your effort to consider the other alternatives to current policy? No—each of these alternatives was worth considering because each would provide substantial improvements in terms of efficiency and fiscal impact. If political feasibility were not one of the relevant goals, then your analysis might have led you to recommend purchase with demand-side chain auctions instead. Raising this alternative may be useful in alerting your client to an alternative that could eliminate the waiting list for kidney transplants. Further, circumstances can change to make an alternative more politically feasible: sometimes events temporarily open so-called policy windows through which well-developed policy alternatives can be pushed to adoption.

What if your client rejects your recommendation? Although you may be disappointed, your analysis may still contribute to a better decision by your client. If you applied your craft well, then your client will have been better informed about relevant goals, alternatives, and trade-offs. She may accept your predictions of the impacts of policies on achievement of the goals, but simply place different weights on the goals than do you in your assessment. Your analysis facilitates a more informed decision, albeit not the one that you would have made.

For Discussion

1. Think back to the research papers you have written for undergraduate courses. In what ways were your papers similar in content and structure to the kidney shortage report? In what ways did your papers differ?
2. Now think about articles you have read in scholarly journals. How does the sample policy analysis differ in content and structure from published academic research?

2 What is Policy Analysis?

The product of policy analysis may be advice as simple as a statement linking a proposed action to a likely result: passage of bill *A* will result in consequence *X*. It may also be more comprehensive and quite complex: passage of bill *A*, which can be achieved with the greatest certainty through legislative strategy *S*, will result in aggregate social costs of *C* and aggregate social benefits of *B*, but with disproportionate costs for group 1 and disproportionate benefits for group 2. At whatever extremes of depth and breadth, policy analysis is intended to inform some decision, either implicitly (*A* will result in *X*) or explicitly (support *A* because it will result in *X*, which is good for you, your constituency, or your country).

Obviously, not all advice is policy analysis, so to define it we must be more specific. We begin by requiring that the advice relate to public decisions and that it be informed by social values. That is not to say that policy analysts do not work in private organizations. Businesses and trade associations often seek advice about proposed legislation and regulations that might affect their private interests—when their employees or consultants consider the full range of social consequences in giving such advice they are providing policy analysis. Of course, the majority of policy analysts work in government and non-profit organizations where day-to-day operations inherently involve public decisions, as well as in consultancies that serve these public and private organizations. Because our interest centers on policy analysis as a professional activity, our definition requires that policy analysts, in either public or private settings, have clients for their advice who can participate in public decision making. With these considerations in mind we hazard the following simple definition: *policy analysis* is client-oriented advice relevant to public decisions and informed by social values.

One reason for introducing this definition is that it helps us keep our focus on the purpose of this book: developing the practical approaches and conceptual foundations that enable the reader to become an effective producer and consumer of policy analysis. We emphasize development of a professional mind-set rather than the mastering of technical skills. If we keep central the idea of providing useful advice to clients, then an awareness of the importance of learning the various techniques of policy analysis and of gaining understanding of political processes that produce policy will naturally follow.

Another reason is that this definition emphasizes the importance of social values in policy analysis. Social values can come into play even when advice seems purely predictive. By looking at consequences of policies beyond those that affect the client, the analyst implicitly places value on the welfare of others. Good policy analysis takes a comprehensive view of consequences and social values. As will become clear in subsequent chapters, we believe that economic efficiency deserves routine consideration as a social value, not only because it corresponds fairly well to aggregate welfare, but also because

it tends to receive inadequate weight in the deliberations of representative governments. However, other values related to the distribution of goods within society are also commonly important.

We begin this introduction to policy analysis by identifying its place within the creation and application of public policy knowledge. We then consider where policy analysts can be found and what sorts of things they do. Finally, we discuss the sorts of skills most essential for success.

Policy Analysis in Perspective

Two questions help us classify policy knowledge for the purpose of putting policy analysis into perspective. First, is the primary focus on the content of policy or the process that produces it? Content is the “what” of policy; process is the “how.” The former is about the knowledge that informs our understanding of the substance and implications of adopted or potentially adopted policies; the latter is knowledge that informs our understanding of the process through which public policies are adopted within any particular political system.¹ Second, who is the primary audience for the knowledge? We distinguish between clients, either individuals or organizations that play a part in the policymaking process, and epistemic communities defined as “network[s] of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area.”²

Table 2.1 divides policy knowledge by these two dimensions into four activities. The upper right cell defines *policy research* as having its primary focus on the “what” of policy and its primary audience is the community of researchers and others, such as policy analysts and advocates, interested in some substantive policy issue. Policy research often employs the methods of the social science disciplines. While academic research in these disciplines looks for relationships among the broad range of variables describing behavior, policy research focuses on relationships between variables that reflect social problems and other variables that can be manipulated by public policy. The desired product of policy research is a more-or-less verified hypothesis of the form: if the government does X, then Y will result.

For example, academic research into the causes of crime might identify moral education within the family as an important factor. Because our political system places much of family life outside the sphere of legitimate public intervention, however, there may be little that the government can do to foster this kind of learning within the home. The policy researcher, therefore, may take family values as a given and focus instead on factors at least partially under government control, such as the certainty, swiftness, and severity of punishment for those who commit crimes. The policy researcher may then be willing to make a prediction (a hypothesis to be tested by future events), say, that if the probability of arrest for a certain crime is increased by 10 percent, then the frequency of that crime will go down by 5 percent.

A fine line often separates policy research and policy analysis. The strength of client orientation distinguishes them in our scheme. Policy researchers are less closely tied to public decision makers. While decision makers may be interested in their work, policy researchers usually view themselves primarily as members of a network that consists

- 1 Lasswell makes the distinction between “knowledge in” and “knowledge of” the policy process. Harold D. Lasswell, *A Pre-View of the Policy Sciences* (New York: American Elsevier, 1971), 1.
- 2 Peter M. Haas, “Introduction: Epistemic Communities and International Policy Coordination,” *International Organization* 46(1), 1992: 1–35, at 3.

Table 2.1 Creation and Application of Public Policy Knowledge

		Primary Audience	
		Client	Epistemic Community
Primary Focus	What	Policy analysis (narrowly defined)	Policy research
	How	Stakeholder analysis	Policy process research

primarily of other researchers. Sometimes their primary motivation for doing policy research is personal financial gain or the excitement of seeing their work influence policy; perhaps more often they do it to gain resources or attention for their broader research programs. Because they place primary importance on having the respect of others in their network, policy researchers are often as concerned with the publication of their work in professional journals as they are with its use by decision makers. Thus, the pace of their work is more often dictated by the time needed to meet academic standards than by the opportunity to influence particular policy decisions.

The well-defined disciplinary orientation of most academic policy research tends to limit its direct applicability. The translation of research findings into implementable policies requires attention to practical considerations of little general interest to other disciplinary researchers. Returning to our example, a prediction that an increase in the probability of arrest will decrease the crime rate is only the first step in developing and predicting the consequences of a policy option. How can the arrest rate be increased? How much will it cost? What other impacts will result? How can it be determined if the predicted reduction in the crime rate has actually occurred? The answers to such questions require information of a specific nature, often of little general interest and even less disciplinary interest. Consequently, policy researchers often leave these sorts of questions to policy analysts, who will actually craft policy options for decision makers.

The lower right cell of Table 2.1 defines *policy process research* as having its primary focus on the how of policy making, and its primary audience consists largely of academics. While policy research draws most heavily from substantively oriented professional fields like public health and environmental science, and from the academic disciplines of economics and sociology, policy process research draws most heavily from political science. Its frameworks and theories explain why and how the content of public policy changes or remains the same. It identifies generic processes that operate across, or repeatedly within, particular policy areas.

Two features of policy process research distinguish it from other fields within political science. First, it emphasizes the relationship between the substance of policy and political processes. Although the direction of interest is usually from politics to substance, it has a long tradition of also considering how the substance of policy affects the nature of politics.³ For example, lobbying and other forms of active political participation are more likely when small numbers of individuals or organizations bear large shares of the costs or receive large shares of the benefits from policy change.⁴

Second, policy process research looks inclusively across political institutions. Rather than focusing on political behavior within particular institutions, such as the executive,

3 Theodore J. Lowi, "Four Systems of Policy, Politics, and Choice," *Public Administration Review* 32(4) 1972, 298–310.

4 James Q. Wilson, *The Politics of Regulation* (New York: Basic Books, 1980).

legislative, or judicial branches, it considers their collective effect on the substance of public policy. So, for example, while scholars of the U.S. Congress typically focus primarily on its processes and outputs, a policy process researcher is interested in the final policy that results after all other relevant political institutions have exerted their authorities and influences. Often this interest extends beyond adoption to the various processes through which policies are implemented. When attention to implementation includes assessment of the outcomes of policies, policy process research on the “how” merges into policy research concerned with the “what.” Policy process research can assist policy analysts in thinking about the bigger picture of policy adoption. It may also provide more directly useful resources for stakeholder analysis.

The lower left cell of Table 2.1 defines *stakeholder analysis* as being concerned with the “how” for a specific client. This is often called political and organizational analysis because it usually requires an understanding of the interests, beliefs, and resources of relevant social, political, and organizational actors, or stakeholders, and the arenas in which they influence, or potentially could influence, the adoption and implementation of policy.⁵ Various ways of systematically organizing and analyzing information about stakeholders have been developed.⁶ Although clients usually conduct their own informal stakeholder analyses, they often seek advice from those who either have knowledge about particular arenas where policy decisions are made or understanding of stakeholders relevant to the crafting of strategies for getting things done.

Stakeholder analysis as a distinct activity is instrumental rather than normative. That is, it is concerned with achieving adoption or implementation of some policy rather than with the social value outcomes the policy is intended to produce. As advice about strategy, it is most often provided confidentially to clients. However, rather than done as a distinct activity, it can also be integrated into policy analysis through consideration of instrumental goals like political feasibility or prospects for successful implementation.

The upper left cell of Table 2.1 brings us to *policy analysis*: a focus on the “what” of policy for a specific client. Within this narrow perspective of policy analysis, its focus is exclusively normative: what policies promote socially valuable outcomes? It typically requires the identification of relevant social values and the development of appropriate policy goals for promoting them. It also typically requires the development of policy alternatives, prediction of their impacts on policy goals, and consideration of trade-offs across policy alternatives. However, in practice policy analysis usually considers instrumental as well as substantive goals. Almost always, analysts must consider the prospects for successful implementation; they usually also consider political feasibility. In doing so, they incorporate stakeholder analysis in varying degrees, resulting in the more broadly defined policy analysis that we consider in this book.

Policy analysis has similarities to familiar professions like medicine, law, and journalism. Like medicine, it involves diagnosis of problems and prescription of solutions for a specific client, leading some to classify it as a “clinical” profession.⁷ Like both doctors and lawyers, policy analysts owe substantial responsibility to their clients. As we discuss in the

5 Ronald K. Mitchell, Bradley R. Agle, and Donna J. Wood, “Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts,” *Academy of Management Review* 22(4) 1997, 853–86.

6 John M. Bryson, Gary L. Cunningham, and Karen J. Lokkesmoe, “What to Do when Stakeholders Matter: The Case of Problem Formulation for the African American Men Project of Hennepin County, Minnesota,” *Public Administration Review* 62(5) 2002, 568–84.

7 Iris Geva-May, ed., *Thinking Like a Policy Analyst: Policy Analysis as a Clinical Profession* (New York: Palgrave Macmillan, 2005).

next chapter, however, policy analysts also have duties to adhere to analytical integrity and promote the good society. Unlike lawyers who need only to argue their clients' side of cases, policy analysts have a responsibility to present all sides. If they argue only for their clients, then they become advocates rather than analysts. Even as advocates, however, like good lawyers, their preparation for arguing for their clients should include a balanced assessment if for no other reason than anticipating counter-arguments.

The comparison of policy analysis with journalism may at first seem strange. Journalists typically concern themselves with recent events; they are rarely called upon to make predictions about the future. When they write about public policy, the need to attract a wide readership often leads them to focus on the unusual and the sensational rather than the routine and the mundane. Narratives with victims, heroes, and villains catch readers' interest more effectively than nuanced discussions of competing social values. Their contribution to the political process, therefore, is more often introducing policy problems to the public agenda than providing systematic comparisons of alternative solutions. Nevertheless, policy analysts and journalists share several goals and constraints.

Tight deadlines drive much of journalists' work, especially in this electronic age. Because news quickly becomes stale, journalists often face the prospect of not being able to publish unless they make the next edition. Similarly, the advice of policy analysts, no matter how sophisticated and convincing, will be useless if it is delivered to clients after they have had to vote, issue regulations, or otherwise make decisions. Rarely will it be the case of better late than never.

Tight deadlines lead both journalists and policy analysts to develop similar strategies for gathering information. Files of background information and networks of knowledgeable people are often extremely valuable resources because they enable journalists to put events quickly in context. These resources play a similar role for policy analysts, but may also provide information useful for assessing the technical, political, and administrative feasibility of policy alternatives when time does not permit systematic investigation. Policy analysts, like journalists, wisely cultivate their information sources.

Finally, communication is a primary concern. Journalists must be able to put their stories into words that will catch and keep the interest of their readers. Policy analysts must do the same for their clients. Effective communication requires clear writing—analysts must be able to explain their technical work in language that can be understood by their clients. Also, because the attention and time of clients are scarce resources, writing must be concise and convincing to be effective.

Policy Analysis as a Profession

Until the 1980s, few of those actually doing policy analysis would have identified themselves as members of such a profession; even fewer filled positions labeled “policy analyst.” Many employees who do policy analysis held, and continue to hold, positions as economists, planners, program evaluators, budget analysts, operations researchers, or statisticians. Over the past 30 years, however, policy analysis has emerged as an established profession.⁸ Positions called “policy analyst” are now more common in government agencies, and are often filled by people who have been trained in schools of policy analysis. Many practicing analysts trained in a variety of disciplines are members of the

8 For an excellent overview, see Beryl A. Radin, *Beyond Machiavelli: Policy Analysis Reaches Midlife*, 2nd ed. (Washington, DC: Georgetown University Press, 2013).

Association for Public Policy Analysis and Management.⁹ However, its members represent only a fraction of those actually practicing the craft of policy analysis.

Practicing policy analysts work in a variety of organizational settings, including federal, state, and local agencies and legislatures; consulting firms; research institutes and think tanks; trade associations and other organizations representing interest groups; and business and nonprofit corporations. Policy analysts can now be found in all the major industrialized countries, and schools of public policy can now be found in Europe and Asia as well as North America.¹⁰ The way analysts practice their craft is greatly influenced by the nature of their relationships with their clients and by the roles played by the clients in the political process. Because these relationships and roles vary greatly across organizations, we should expect to see a wide range of analytical styles. Let us look at a few examples of organizational settings in which policy analysts ply their craft.

First, consider the U.S. federal government. Where are the policy analysts? Beginning with the executive branch, there are small but influential groups of analysts in the National Security Council and Domestic Policy staffs within the White House. As presidential appointees in politically sensitive positions, they generally share closely the philosophy and goals of their administration. Their advice concerns the political, as well as the economic and social, consequences of policy options. They often coordinate the work of policy analysts in other parts of the executive branch.

The Office of Management and Budget (OMB) and, to a lesser extent, the Council of Economic Advisers (CEA), also play coordinating roles within the federal government. Analysts in OMB are responsible for predicting the costs to the federal government of changes in policy and overseeing the issuing of major rules by federal regulatory agencies. They also participate in the evaluation of particular programs. The major role that OMB plays in the preparation of the administration budget gives its analysts great leverage in disputes with the federal agencies; it also often leads the analysts to emphasize budgetary costs over social costs and benefits. Analysts on the CEA do not play as direct a role in the budgetary process and, therefore, retain greater freedom to adopt the broad perspective of social costs and benefits. Without direct leverage over the agencies, however, their influence derives largely from the perception that their advice is based on the technical expertise of the discipline of economics.¹¹

Policy analysts work throughout all federal agencies. In addition to small personal staffs, agency heads usually have analytical offices reporting directly to them.¹² These offices have a variety of names that usually include some combination of the words “policy,” “planning,” “administration,” “evaluation,” “economic,” and “budget.” For example, at various times the central analytical office in the Department of Energy has been called the Office of the Assistant Secretary for Policy and Evaluation and the Policy, Planning, and Analysis Office. Often, the heads of agency subunits have analytical staffs

9 Information about membership and annual conferences can be obtained at www.appam.org.

10 The Policy Press has launched a very informative series of edited volumes that describe and assess the practice of policy analysis in Australia, Brazil, Germany, Japan, Taiwan, and a growing number of other countries. For example, see F. K. M. van Nispen and Peter Scholten, eds., *Policy Analysis in the Netherlands* (Bristol UK: Policy Press, 2015).

11 Herbert Stein, “A Successful Accident: Recollections and Speculations about the CEA,” *Journal of Economic Perspectives*, 10(3) 1996, 3–21.

12 For example, on the role of analysis at the State Department, see Lucian Pugliese and Diane T. Berliner, “Policy Analysis at the Department of State: The Policy Planning Staff,” *Journal of Policy Analysis and Management* 8(3) 1989, 379–94. See also Robert H. Nelson, “The Office of Policy Analysis in the Department of the Interior,” 395–410 in the same issue.

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that provide advice and expertise relevant to their substantive responsibilities. Later in this chapter we briefly consider policy analysis in the Department of Health and Human Services (DHHS) to illustrate the sorts of functions analysts perform in federal agencies.

Policy analysts are also common in the legislative branch. Both Congress as a whole and its individual members serve as clients. Policy analysts work for Congress in the Government Accountability Office (GAO),¹³ the Congressional Budget Office (CBO), and the Congressional Research Service (CRS). The analytical agendas of these offices are set primarily by the congressional leadership but sometimes also by individual members of Congress. Of course, members have their own personal staffs, including legislative analysts. Most of the analysis and formulation of legislation, however, is done by committee staffs that report to committee chairs and ranking minority members.¹⁴ Committee staffers, often recruited from the campaign and personal staffs of members, must be politically sensitive if they are to maintain their positions and influence.

How influential is policy analysis in policy formation and choice in Congress? Based on his detailed study of communication surrounding four policy issues in the areas of health and transportation, David Whiteman concludes: “The results . . . indicate that policy analysis clearly does flow through congressional communication networks. In three of the four issues examined, analytic information played a significant role in congressional deliberations.”¹⁵ Much of the communication takes place through discussions between congressional staffers and analysts in government offices and think tanks rather than as formal written reports.

Turning to state governments, we find a similar pattern. Governors and agency heads usually have staffs of advisers who do policy analysis.¹⁶ Most states have budget offices that play roles similar to that of OMB at the federal level. Personal and committee staffs provide analysis in the state legislatures; in some states, such as California, the legislatures have offices much like the CBO to analyze budgetary and other impacts of proposed legislation. The Washington State Institute for Public Policy (WSIPP) is exemplary in providing the Washington State legislature with sophisticated analyses, often in the form of cost–benefit analyses.¹⁷ A number of other states have adopted the WSIPP cost–benefit analysis tool with the assistance of a program sponsored by private foundations.¹⁸

13 The General Accounting Office, the prior name of the GAO, and the Bureau of the Budget, the forerunner of OMB, were established in 1921 with the creation of an executive budget system. During much of its history, GAO devoted its efforts primarily to auditing government activities. In the late 1960s, however, GAO became a major producer of policy analysis in the form of program evaluations with recommendations for future actions. Because GAO must serve both parties and both legislative chambers, and because its reports are generally public, it faces stronger incentives to produce politically neutral analyses than OMB. For a comparative history of these “twins,” see Frederick C. Mosher, *A Tale of Two Agencies: A Comparative Analysis of the General Accounting Office and the Office of Management and Budget* (Baton Rouge: Louisiana State University Press, 1984).

14 See Carol H. Weiss, “Congressional Committees as Users of Analysis,” *Journal of Policy Analysis and Management* 8(3) 1989, 411–31. See also Nancy Shulock, “The Paradox of Policy Analysis: If It Is Not Used, Why Do We Produce So Much of It?” *Journal of Policy Analysis and Management* 18(2) 1999, 226–44.

15 David Whiteman, *Communication in Congress: Members, Staff, and the Search for Information* (Lawrence: University of Kansas Press, 1995), at 181.

16 For an excellent assessment of influence, see John A. Hird, *Power, Knowledge, and Politics: Policy Analysis in the States* (Washington, DC: Georgetown University Press, 2005).

17 See, for example, Steve Aos, Roxanne Lieb, Jim Mayfield, Marna Miller, and Annie Pennucci, *Benefits and Costs of Prevention and Early Intervention Programs* (Olympia: Washington State Institute for Public Policy, 2004).

18 Pew-MacArthurResultsFirstInitiative, www.pewtrusts.org/en/projects/pew-macarthur-results-first-initiative.

At the county and municipal levels, legislative bodies rarely employ persons who work exclusively as policy analysts. Executive agencies, including budget and planning offices, usually do have some personnel whose major responsibility is policy analysis. Except in the most populous jurisdictions, however, most analysis is performed by employees with line or managerial duties. Consequently, they often lack the time, expertise, and resources for conducting analyses of great technical sophistication. Nevertheless, because they often have direct access to decision makers, and because they can often observe the consequences of their recommendations firsthand, policy analysts at the local level can find their work professionally gratifying despite the resource constraints they face.

What do public agencies do if their own personnel cannot produce a desired or mandated analysis? If they have funds available, then the agencies can purchase analysis from consultants. Local and state agencies commonly turn to consultants for advice about special issues, such as the construction of new facilities or major reorganizations, or to meet evaluation requirements imposed by intergovernmental grant programs. Federal agencies not only use consultants for special studies, but also as routine supplements to their own staff resources. In extreme cases, consulting firms may serve as “body shops” for government offices, providing the services of analysts who cannot be hired directly because of civil service or other restrictions.

The importance of the relationship between client and analyst is extremely apparent to consultants. Usually, consultants are paid to produce specific products. If they wish to be hired again, then they must produce analyses that the clients perceive as useful. Consultants who pander to the prejudices of their clients at the expense of analytical honesty are sometimes described as “hired guns” or “beltway bandits.” Consultants best able to resist the temptation to pander are probably those who have a large clientele, provide very specialized skills, or enjoy a reputation for providing balanced analysis—they will not suffer greatly from the loss of any one client and they will be able to find replacement business elsewhere if necessary.

Researchers in academia, think tanks, and policy research institutes also provide consulting services. Although their work is usually not directly tied to specific policy decisions, researchers at places like the RAND Corporation, the Brookings Institution, the American Enterprise Institute for Public Policy Research, the Cato Institute, the Urban Institute, Resources for the Future, the Institute for Defense Analyses, and the Institute for Research on Public Policy (Canada) sometimes do produce analyses of narrow interest for specific clients. It is often difficult in practice to determine whether these researchers better fit the policy analysis or the policy research paradigms presented above. The last two decades have seen a substantial growth in the number of think tanks—there are more than 1,800 think tanks in the United States with almost 550 located in or near Washington.¹⁹ Many of the newer think tanks with strong ideological identifications, however, have predispositions toward particular policies that often interfere with the professional validity of the analyses they provide.

Finally, large numbers of analysts neither work for, nor sell their services to, governments. They often work in profit-seeking firms in industries heavily regulated by government, in trade associations and national labor unions concerned with particular areas of legislation, and in nonprofits that have public missions in their charters. For example, consider a proposal to make health insurance premiums paid by employers count as taxable income for employees. Private firms, trade associations, and labor unions would seek analysis to help determine the impact of the proposed change on the pattern and cost of

19 Think Tanks and Civil Society Program, *2013 Global Go To Think Tank Index Report*. (Philadelphia: University of Pennsylvania, 2014), 21–23.

employee benefits. The American Medical Association would seek analysis of the impact on the demand for physician services. Health insurance providers, such as Blue Cross and Blue Shield, commercial insurers, and managed care organizations, would want predictions of the effect of the change on the demand for their plans and the cost of medical care. These interests might also ask their analysts how to develop strategies for supporting, fighting, or modifying the proposal as it moves through the political process.

It should be obvious from our brief survey that policy analysts work in a variety of organizational settings on problems ranging in scope from municipal refuse collection to national defense. What sorts of functions do analysts actually perform in their organizations?

A Closer Look at Analytical Functions

We pointed out earlier that the nature of policy analysis varies widely. In subsequent chapters we set out a framework for doing comprehensive policy analysis—how an individual analyst should go about producing a structured analysis that assesses problems presented by clients and systematically compares alternatives for solving them. We think this is the best way to learn how to do policy analysis because it covers the range of functions that analysts commonly perform. By mastering it, analysts not only prepare themselves for performing the inclusive functions but also gain a useful framework for putting what they are doing into perspective.

As an example, we present a brief overview of some of the analytical functions identified by the U.S. Department of Health and Human Services (DHHS). We single out DHHS because it is a very large federal agency with responsibilities that demand the full range of analytical functions, and because DHHS has codified what it sees to be the important functions of its policy analysts.

DHHS is very large by any measure. It oversees many specialized agencies, such as the Food and Drug Administration, the National Institutes of Health, the Centers for Medicare & Medicaid Services, and Centers for Disease Control and Prevention, to name just a few. In fiscal year 2016, it administered spending of over \$1 trillion, issued more grants than any other federal agency, and employed more than 80,000 full-time equivalents nationwide in its constituent units. As such, it is one of the largest and most complex bureaus in the world. DHHS is of such size and scope that the Office of the Secretary (OS), the central coordinating office for DHHS, itself employs approximately 2,400 people. The purpose of the OS includes providing independent advice and analysis concerning program issues, analyzing trade-offs among programs, and developing common policies across agencies. While much of what the OS does involves administration and monitoring, there is no clear separation of these tasks from policy analysis.

Although policy analysts can be found throughout DHHS, we focus on the Office of the Assistant Secretary for Planning and Evaluation (ASPE), because it has the clearest and most direct mandate for doing policy analysis.²⁰ (The Office of the Assistant Secretary, Management and Budget has closely related policy analysis responsibilities but with greater emphasis on budgetary and cost issues; the two offices often work together on policy analysis projects.)

ASPE analysts perform a variety of functions. An ASPE orientation document specifically alerts new analysts to four major functions that they will be likely to perform.²¹

20 For a long-term view of analysis at ASPE, see George D. Greenberg, “Policy Analysis at the Department of Health and Human Services,” *Journal of Policy Analysis and Management* 22(2) 2003, 304–7.

21 Assistant Secretary, Policy and Evaluation, “All about ASPE: A Guide for ASPE Staff,” no date.

First, analysts play a “desk officer” function that involves coordinating policy relevant to specific program areas and serving as a contact for the line agencies within DHHS that have responsibilities in these areas. For example, a desk officer might cover biomedical research issues and work closely with analysts and other personnel at the National Institutes of Health. Desk officers serve as the eyes and ears of the department, “going out to the agency, talking with the staff about issues and options before they reach decision points, and knowing what issues are moving and what are not.”²² Desk officers are also expected to reach outside of DHHS to identify concerns and ideas from academics and those who deal with the programs in the field. By staying on top of issues, desk officers can provide quick assessments of proposed policy changes in their areas.

Second, analysts perform a policy development function. This is important to DHHS because ASPE resources “constitute some of the few flexible analytic resources in the Department.”²³ Policy development often involves special initiatives within DHHS but can also be done through task forces that include personnel from other departments. These initiatives often result in policy option papers or specific legislative proposals.

Third, analysts perform a policy research and oversight function. “ASPE spends approximately \$20 million a year in both policy research and evaluation funds” to carry out this core function.²⁴ It is important to emphasize that DHHS, like many other government agencies, contracts out a considerable amount of policy-relevant research. Therefore, analysts at ASPE are both consumers and producers of policy research and analysis. ASPE analysts also participate in reviews of the research plans of other agencies, help formulate and justify plans for allocating evaluation funds, and serve on agency panels that award research contracts and grants.

Fourth, analysts perform a “firefighting” function. Fires can be “anything from a request from the White House to review the statement of administration accomplishments on welfare reform . . . to preparing an instant briefing for congressional staff because a key committee is preparing to mark up a bill, to helping . . . [the] Office of the Secretary prepare for a meeting with a key outside group tomorrow.”²⁵ The term *firefighting* conveys the urgency of the task—analysts drop whatever else they are doing until the fire is put out!

These four categories of functions illustrate the great variety of tasks that analysts are routinely called upon to perform. Some of these tasks are ongoing, while others are more episodic; some have short deadlines, others extend for long periods. Some are internal to the analysts’ organization, others require interaction with external analysts and decision makers. Some involve topics of great familiarity, others present novel issues. What sorts of basic skills help analysts prepare for this diversity of tasks?

Basic Preparation for Policy Analysis

Policy analysis is as much art and craft as science.²⁶ Just as the successful portraitist must be able to apply the skills of the craft of painting within an aesthetic perspective, the successful policy analyst must be able to apply basic skills within a reasonably consistent and

22 Ibid. E-1.

23 Ibid. E-2.

24 Ibid.

25 Ibid.

26 For a strong statement of this viewpoint, see Aaron Wildavsky, *Speaking Truth to Power: The Art and Craft of Policy Analysis* (Boston: Little, Brown, 1979), 385–406.

realistic perspective on the role of government in society. In order to integrate effectively the art and craft of policy analysis, preparation in five areas is essential.

First, analysts must know how to gather, organize, and communicate information in situations in which deadlines are strict and access to relevant people is limited. They must be able to develop strategies for quickly understanding the nature of policy problems and the range of possible solutions. They must also be able to identify, at least qualitatively, the likely costs and benefits of alternative solutions and communicate these assessments to their clients. Chapter 1 previewed these basic informational skills; Chapters 14 and 15 develop them in depth.

Second, analysts need a perspective for putting perceived social problems in context. When is it legitimate for government to intervene in private affairs? In the United States, the most basic normative answer to this question has usually been based on the concept of efficiency and more specifically *market failure*—a circumstance in which the pursuit of private interest does not lead to an efficient use of society’s resources or a fair distribution of society’s goods. But market failures, or widely shared normative claims for the desirability of social goals other than efficiency, such as greater equity in the distributions of economic and political resources, should be viewed as the only necessary conditions for appropriate government intervention. Sufficiency requires that the form of the intervention not involve consequences that would inflict greater social costs than social benefits. Identification of these costs of intervention is facilitated by an understanding of the ways collective action can fail. In other words, the analyst needs a perspective that includes *government failure* as well as market failure. The chapters in Parts II and III provide such a perspective. Chapters 4–7 analyze the various market failures and other rationales that have been identified; Chapter 8 discusses the systematic ways that government interventions tend to lead to undesirable social outcomes; Chapter 9 considers the interaction between market and government failures; and Chapters 10–13 set out conceptual foundations for developing policies to correct market and government failures. These chapters provide a “capital stock” of ideas for categorizing and understanding social problems and proposing alternative policies for dealing with them.

Third, analysts need technical skills to enable them to predict better and to assess more confidently the consequences of alternative policies. The disciplines of economics and statistics serve as primary sources for these skills. Although we introduce some important concepts from microeconomics, public finance, and statistics in the following chapters, those readers who envision careers in policy analysis would be well advised to take courses devoted to these subjects.²⁷ Even an introduction to policy analysis, however, should introduce the basics of cost–benefit analysis, the subject of Chapter 17.

Fourth, analysts must have an understanding of political and organizational behavior in order to predict, and perhaps influence, the feasibility of adoption and the successful implementation of policies. Also, understanding the worldviews of clients and potential opponents enables the analyst to marshal evidence and arguments more effectively. We assume that readers have a basic familiarity with democratic political systems. Therefore, practical applications of theories of political and organizational behavior are integrated with subject matter throughout the text, but particularly in the context of thinking

27 There are three reasons why a solid grounding in economics and statistics is important for the professional policy analyst: (1) the techniques of these disciplines are often directly applicable to policy problems; (2) researchers who use economic models and statistical techniques are important sources of policy research—the ability to interpret their work is therefore valuable; and (3) analytical opponents may use or abuse these techniques—self-protection requires a basic awareness of the strengths and limitations of the techniques.

about policy adoption and implementation (Chapters 11 and 12), organizational design (Chapter 13), and government failure (Chapter 8).

Finally, analysts should have an ethical framework that explicitly takes account of their relationships to clients. Analysts often face dilemmas when the private preferences and interests of their clients diverge substantially from their own perceptions of the public interest. We consider approaches to professional ethics for policy analysts in the next chapter.

For Discussion

1. The Legislative Analyst's Office, which functions as the "eyes and ears" of the California legislature, was founded in 1941. It served as a model for the federal Congressional Budget Office. Visit its Website (www.lao.ca.gov) to view its history and samples of its products. Would you expect the analysis produced by the Legislative Analyst's Office to be more or less politically neutral than analytical offices within the California executive branch?
2. Think tanks differ in a variety of ways, including their areas of specialization and the degree to which they advocate specific policies. Characterize the following think tanks after visiting their Websites: Cato Institute (www.cato.org), Fraser Institute (www.fraserinstitute.ca), Progressive Policy Institute (www.ppionline.org), RAND Corporation (www.rand.org), and Resources for the Future (www.rff.org).

3 Toward Professional Ethics

The policy analyst with a philosopher king as a client would be fortunate in several ways. The analyst could prepare advice with the knowledge that it would be thoughtfully evaluated on its merits by a wise leader who placed the welfare of the kingdom above considerations of private or factional interest. Good advice would be adopted and implemented solely on the word of the king, without resort to complicated political or organizational strategies. Thus, as long as the king truly had wisdom, benevolence, and power, the analyst could expect that only reasoned and reasonable differences of opinion would come between recommendations and action. In other words, the analyst would not have to fear conflict between the professional ideal of promoting the common good and the practical necessity of serving a client.

Although we often discuss policy analysis as if all clients were philosopher kings, reality is never so kind. History offers many examples of despots and few examples of consistently benevolent autocrats. Representative government seeks to limit the damage that can be done by abusive leaders by providing opportunities to replace them without resort to revolution. Yet, in regimes of representative government, many cooks contribute to the policy broth. The distribution of authority by constitution or tradition among elected officials, bureaucrats, legislators, and magistrates guarantees many their place at the kettle. Prevailing norms of democratic participation ensure that they receive a variety of advice and demands from their fellow citizens to whom they are accountable, either directly or indirectly, at the ballot box. Presidents and prime ministers may enjoy more favored positions than other participants but, except for very mundane or exceptional circumstances, even they generally lack authority to select and to implement policies by simple directive.¹ Even in political systems where the authority of the chief executive verges on the dictatorial, the limits of time and attention imposed by nature necessitate the delegation of discretion over many routine decisions to other officials.

Analysts must expect their clients to be players in the game of politics—players who not only have their own personal conceptions of “the good society” but who also must acknowledge the often narrow interests of their constituencies if they hope to remain in the game. The reality that, outside the classroom, policy analysis cannot be separated from politics has important practical and ethical implications. Analysis that ignores the interests of the client may itself be ignored; recommendations that ignore the interests of other key players are unlikely to be adopted or successfully implemented. In the extreme, if efficacy were the only professional value, “good” analysts would be those who helped

1 Commenting on the U.S. executive, Richard E. Neustadt concludes, “Command is but a method of persuasion, not a substitute, and not a method suitable for everyday employment.” Richard E. Neustadt, *Presidential Power* (New York: John Wiley & Sons, 1980) at 25.

their clients become better players in the game of politics. But other values, not always explicitly stated, lead to broader ethical considerations. Analysts should not only care that they influence policy but also that they do so for the better.

Much of the literature on ethics and public policy concerns the values that we should consider in attempting to select better policies.² It reminds analysts that no single value, such as economic efficiency, can provide an adequate basis for all public decision making. We focus in this chapter on professional ethics rather than the comparative merits of substantive policies, which is the subject of the remainder of this book. Our objective in the following sections is to sketch a framework for thinking about the ethical responsibilities of the professional policy analyst. To do so, we must pay attention to the nature of the relationships between analysts and clients and the various contexts in which they evolve.³ Even absent explicit and universally accepted ethical guidelines, we will at least become acquainted with the most common analytical environments and the dilemmas they sometimes raise for practitioners.

Analytical Roles

Policy analysis, like life itself, forces us to confront conflicts among competing values. Often conflicts arise inherently in the substantive question being considered. For example, should a policy that would yield a great excess of benefits over costs for society as a whole be selected even if it would inflict severe costs on a small group of people? Our answers will depend on the relative weights we give to the values of efficiency (getting the greatest aggregate good from available resources) and equity (fairness in the way it is distributed). These values, along with others such as the protection of human life and dignity and the promotion of individual choice and responsibility, provide criteria for evaluating specific policy proposals.

Rather than focus on values from the unique perspectives of particular policy issues, here we consider values relevant to the general question of how analysts should conduct themselves as professional givers of advice. Three values seem paramount: *analytical integrity*, *responsibility to client*, and *adherence to one's personal conception of the good society*. Conflicts among these values raise important ethical issues for analysts.

To understand the nature of these values and the contexts in which they become important, we consider three conceptions of the appropriate role of the analyst.⁴ Each role gives priority to one of the three values, relegating the remaining two to secondary status.

- 2 See, for example: Charles W. Anderson, "The Place of Principles in Policy Analysis," *American Political Science Review* 74(3) 1979, 711–23; Robert E. Goodin, *Political Theory & Public Policy* (Chicago: University of Chicago Press, 1982); Peter G. Brown, "Ethics and Policy Research," *Policy Analysis* 2(2) 1976, 325–40; Joel L. Fleishman and Bruce L. Payne, *Ethical Dilemmas and the Education of Policymakers* (New York: Hastings Center, 1980); Douglas J. Amy, "Why Policy Analysis and Ethics Are Incompatible," *Journal of Policy Analysis and Management* 3(4) 1984, 573–91; and William T. Bluhm and Robert A. Heineman, *Ethics and Public Policy: Method and Cases* (Upper Saddle River, NJ: Prentice Hall, 2006).
- 3 For the contrast between a genuine discourse about values in a consensual environment and the potential manipulation of this discourse in adversarial processes, see Duncan MacRae, Jr., "Guidelines for Policy Discourse: Consensual versus Adversarial," in Frank Fischer and John Forester, eds., *The Argumentative Turn in Policy Analysis and Planning* (Durham, NC: Duke University Press, 1993), 291–318.
- 4 Our approach here benefits from Arnold J. Meltsner, *Policy Analysts in the Bureaucracy* (Berkeley: University of California Press, 1976), 18–49, who developed a classification of styles to understand better how analysis is actually practiced, and from Hank Jenkins-Smith, "Professional Roles for Policy Analysts: A Critical Assessment," *Journal of Policy Analysis and Management* 2(1) 1982, 88–100, who developed the three roles we use.

We can anticipate, therefore, that none of the three roles provides an adequate ethical standard in its pure form in all circumstances. Our task will be to search for appropriate balance.

Objective technicians hold analytical integrity as their fundamental value. They see their analytical skills as the source of their legitimacy. The proper role for the analyst, in their view, is to provide objective advice about the consequences of proposed policies. Objective technicians feel most comfortable applying skills within recognized standards of good practice. Therefore, they often prefer to draw their tools from the disciplines of economics, statistics, and operations research, all of which employ well-established methods. They realize that they must often work under severe time constraints and data limitations. Nevertheless, they want to believe that researchers in the disciplines would approve of their work as methodologically sound under the circumstances.

As asserted in Table 3.1, *objective technicians* view clients as necessary evils. Clients provide the resources that allow objective technicians to work on interesting questions. In return, clients deserve the most accurate predictions possible. The political fortunes of clients should take second place behind analytical integrity in the preparation, communication, and use of analyses. Analysts should try to protect themselves from interference by not becoming too closely associated with the personal interests of their clients. In general, they should select institutional clients, because such clients are likely to provide greater opportunities for preparing and disseminating objective analyses. For example, one is likely to face less interference with analytical integrity working for the Congressional Budget Office, which must be responsive to Congress as a whole as well as anticipate

Table 3.1 Three Views on the Appropriate Role of the Policy Analyst

	<i>Fundamental Values</i>		
	<i>Analytical Integrity</i>	<i>Responsibility to Clients</i>	<i>Adherence to One's Conception of Good</i>
<i>Objective Technician</i>	Let analysis speak for itself. Primary focus should be predicting consequences of alternative policies.	Clients are necessary evils; their political fortunes should be secondary considerations. Keep distance from clients; select institutional clients whenever possible.	Relevant values should be identified but trade-offs among them should be left to clients. Objective advice promotes good in the long run.
<i>Client's Advocate</i>	Analysis rarely produces definitive conclusions. Take advantage of ambiguity to advance clients' positions.	Clients provide analysts with legitimacy. Loyalty should be given in return for access to privileged information and to political processes.	Select clients with compatible value systems; use long-term relationships to change clients' conceptions of good.
<i>Issue Advocate</i>	Analysis rarely produces definitive conclusions. Emphasize ambiguity and excluded values when analysis does not support advocacy.	Clients provide an opportunity for advocacy. Select them opportunistically; change clients to further personal policy agenda.	Analysis should be an instrument for progress toward one's conception of the good society.

changes in partisan control, than working directly for a member of Congress who must run for reelection every two years.

The objective technician believes that values relevant to the choice of policies should be identified. When no policy appears superior in terms of all the relevant values, however, trade-offs among competing values should be left to the client rather than being implicitly imposed by the analyst. The analyst contributes to the good society, at least in the long run, by consistently providing unbiased advice, even when it does not lead to the selection of personally favored policies.

The *client's advocate* places primary emphasis on his or her responsibility to the client. He or she believes that analysts derive their legitimacy as participants in the formation of public policy from their clients, who hold elected or appointed office or who represent organized political interests. In return for access, clients deserve professional behavior that includes loyalty and confidentiality. Like physicians, analysts should “do no harm” to their clients; like attorneys, they should vigorously promote their clients’ interests.

To some extent the client’s advocate views analytical integrity in the same way attorneys view their responsibility in an adversarial system. Analysts have a primary responsibility never to mislead their clients through false statements or purposeful omissions. Once clients have been fully informed, however, analysts may publicly interpret their analyses in the best possible light for their clients. Because analysis rarely produces definitive conclusions, analysts can emphasize the possible rather than the most likely when doing so favors their clients. The client’s advocate believes that analytical integrity prohibits lying, but it requires neither full disclosure of information nor public correction of misstatements by clients.

Client advocates must relegate their policy preferences to a secondary position once they make commitments to clients. Therefore, their selection of clients matters greatly. When analysts and clients share similar worldviews, less potential exists for situations to arise that require analysts to help promote policies that are inconsistent with their own conceptions of the good society. Upon discovering that their clients hold very different worldviews, analysts may nevertheless continue such relationships if they believe that they will be able to make their clients’ outlooks more like their own over periods of extended service. Indeed, they may believe that they have a responsibility to try to change their client’s beliefs before switching to new clients.

Issue advocates believe that analysis should be an instrument for making progress toward their conception of the good society. They focus on values inherent in policy outcomes rather than on values, like analytical integrity and responsibility to the client, associated with the actual conduct of analysis. They see themselves as intrinsically legitimate players in the policy process. They may also see themselves as champions for groups or interests, such as the environment, the poor, or the victims of crime, that they believe suffer from underrepresentation in the political process.

Issue advocates select clients opportunistically. Clients unable or unwilling to promote the advocate’s personal policy agendas should be abandoned for clients who can and will. Analysts owe their clients only those duties spelled out in the contractual arrangements defining the relationships; loyalty to one’s conception of the good society should take priority over loyalty to any particular client.

Like the client’s advocate, the issue advocate believes in taking advantage of analytical uncertainty. When analysis does not support one’s policy preferences, the issue advocate questions the simplifying assumptions that must inevitably be employed in dealing with complex issues, or challenges the choice of criteria used to assess alternatives. (The latter will almost always be a possible strategy when one does not agree with conclusions.)

Though issue advocates desire the respect of other analysts, especially when it contributes to effectiveness, they may be willing to sacrifice respect to obtain important policy outcomes.

Value Conflicts

One can imagine each of these extreme roles being ethically acceptable in specific circumstances. For example, analysts on the White House staff enjoy privileged positions with respect to information and political access. An important factor in their selection was, undoubtedly, their perceived loyalty to the president. In accepting these positions, they were implicitly if not explicitly committing themselves to a high degree of discretion in confidential matters. Except in the most extreme cases where failure to act would lead with reasonable certainty to significant violations of human rights or constitutional trust, honoring confidentiality and otherwise behaving as a client advocate seem to be ethically defensible. In contrast, a consultant hired by the Nuclear Regulatory Commission to analyze the risks associated with alternative policies for nuclear waste disposal might appropriately act as an objective technician, placing analytical integrity above the political interests of the commission. One might even argue that the consultant has an ethical duty to speak out publicly if the commission were to misrepresent the study to obtain a political outcome radically different from that which would otherwise have resulted.

In general, however, the analyst need not adopt any of the three roles in its extreme form. Rather than select one of the three fundamental values as dominant and sacrifice the other two as circumstances demand, the analyst should attempt to keep all three under consideration. The ethical problem, then, involves deciding how much of each value can be sacrificed when conflicts arise.

In any situation, the range of ethical behavior will be bounded by the minimal duties the analyst owes to each of the values. The development of professional ethics, either collectively or individually, may be viewed as an attempt to discover these minimal duties. In the discussion that follows, we consider some of the common situations in which value conflicts arise and minimal duties must be determined. We begin by considering the range of actions the analyst has available for responding to severe conflicts in values.

Responses to Value Conflicts: Voice, Exit, and Disloyalty

The most serious ethical conflicts for policy analysts usually pit responsibility to the client against other values. A variety of factors complicate ethical judgment: continued access to the policy issue, the status of current and future employment, the personal trust of the client, and the analyst's reputation. Many of these factors involve implications that go well beyond the particular ethical issue being considered. For example, loss of employment directly affects the economic and psychological well-being of analysts and their families, as well as the sort of advice that will be heard on the issue at hand. It may also affect the advice about similar issues that will be offered in their organizations in the future. We must be careful, therefore, to look for consequences beyond the particular issue at stake.

So far we have spoken of the analyst as if he or she were the direct employee of the client. Some analysts, such as consultants reporting directly to project managers or political appointees on the personal staffs of administrators and legislators, have clearly defined persons as clients. Analysts usually have immediate supervisors who can generally be thought of as clients. These supervisors, however, often operate in organizational hierarchies and, therefore, often have their own clients, who will also be consumers of the

analysts' advice. Limiting the definition of the client to the immediate supervisor would unreasonably absolve analysts from responsibility for the ultimate use of their products. At the same time, we do not want to hold analysts accountable for misuse totally beyond their control. For our purposes, we consider the client to be the highest-ranking superior who receives predictions, evaluations, or recommendations attributable to the analyst. Thus, an analyst working in a bureau may have different persons as clients at different times. Sometimes the client will be the immediate supervisor; other times the client will be a higher-ranking official in the bureau.

Note that we have purposely adopted a narrow, instrumental conception of the client. There is some temptation to look for an ultimate client: analysts themselves as moral persons, the social contract as embodied in the constitution, or the public interest as reflected in national laws.⁵ To do so, however, would assume away the essence of the professional role. Instead, we see personal morality, the constitution, and laws as the sources of other values that often conflict with responsibility to the client.⁶

What are the possible courses of action for analysts when demands by their clients come in conflict with their sense of analytical integrity or their conception of the good society? We can begin to answer this question by considering the concepts of voice and exit developed by Albert O. Hirschman. In his book *Exit, Voice, and Loyalty*, Albert Hirschman explores how people can react when they are dissatisfied with the organizations in which they participate.⁷ They may exercise voice by working to change the organization from within, or they may simply exit, leaving the organization for another. For example, parents dissatisfied with the quality of education provided by their local school district might exercise voice by attending school board meetings or by standing for election to the board. Alternatively, they may put their children in private schools or move to another community with a better school district. In Hirschman's framework, loyalty helps determine how much voice is exercised before exit is chosen. Attachment to the community and commitment to public education, for example, will influence parents' choice between voice and exit.

We find it useful to use Hirschman's concepts of voice and exit and to add a third concept: disloyalty. An action is disloyal when it undercuts the political position or policy preferences of the client. Note that we thus abandon Hirschman's use of "loyalty." Rather than being a contributing factor to the choice between voice and exit, we specify loyalty as another dimension of action.

Analysts can exercise various combinations of voice, exit, and disloyalty when they confront value conflicts. The logical possibilities are presented in Figure 3.1, where voice, exit, and disloyalty are represented by circles. Actions involving more than one of the dimensions are represented by intersections of circles. For example, we label voice alone as "protest," while "leak" combines protest with disloyalty. We specify seven different actions for purposes of discussion.

Consider the following situation: You work in a government agency as a policy analyst. You have just been assigned the job of developing an implementation strategy for a policy

5 Many writers have chosen to approach professional ethics with the question: Who is the real client? See, for example, E. S. Quade, *Analysis for Public Decisions* (New York: American Elsevier, 1975), 273–75.

6 John A. Rohr argues that public officials have a responsibility to inform their actions by studying the constitutional aspects of their duties through relevant court opinions and the substantive aspects through legislative histories. John A. Rohr, "Ethics for the Senior Executive Service," *Administration and Society* 12(2) 1980, 203–16; and *Ethics for Bureaucrats: An Essay on Law and Values* (New York: Marcel Dekker, 1978).

7 Albert O. Hirschman, *Exit, Voice, and Loyalty* (Cambridge, MA: Harvard University Press, 1970).

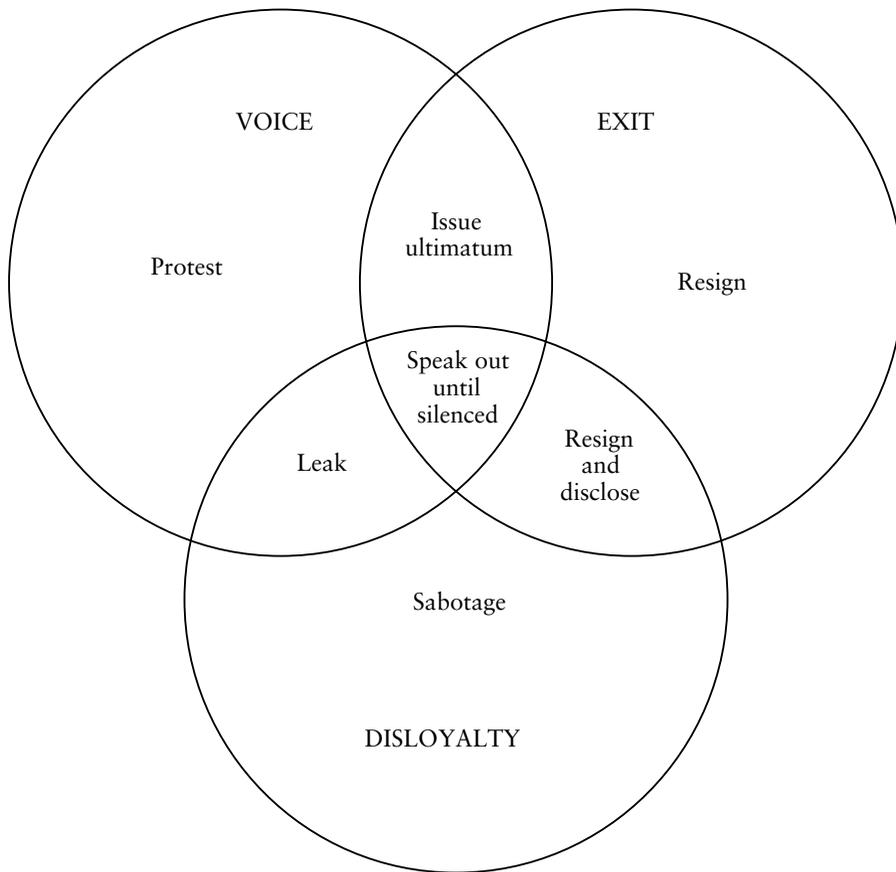


Figure 3.1 Alternative Responses to Value Conflicts

that you believe is bad. After careful deliberation, you decide that the policy is sufficiently bad that you believe it would be morally wrong for you simply to follow orders. Under what conditions might you feel ethically justified in choosing each of the actions listed in Figure 3.1?

You might try to change the policy through *protest* within the agency. You would probably begin by informally discussing your objections to the policy with your supervisor. If your supervisor lacks either the inclination or the authority to reverse the policy, then you might next make your objections formally through memoranda to your supervisor, your supervisor's supervisor, and so forth, until you reach the lowest-ranking official with authority to change the policy. At the same time, you might speak out against the policy at staff meetings whenever you have the opportunity. You might also request that the assignment be given to someone else, not only because you would feel morally absolved if someone else did it, but because the request helps to emphasize the intensity of your objections. At some point, however, you will have exhausted all the avenues of protest within the agency that are recognized as legitimate.

Although you remained loyal to the agency, your protest probably involved personal costs: the time and energy needed to express your opinions, the personal offense of your superiors, perhaps the loss of influence over the policy in dispute, and the potential loss

of influence over other issues in the future. If you were successful in reversing the policy, then at least you can take comfort in having disposed of your ethical problem. If you were unsuccessful, then you must make a further assessment by comparing the values you can achieve by remaining loyal to the agency with the values you give up by participating in the implementation of the bad policy.

A very different approach would be to *resign* when asked to prepare the implementation strategy.⁸ You decide that contributing to implementation would be so ethically objectionable that it justifies your leaving the agency. Your personal costs will depend largely on your employment opportunities outside the agency. If you are highly skilled and have a good reputation, then it may be possible for you to move directly to a comparable position. If you are less skilled and not well regarded in the professional network, then you may face unemployment or underemployment for a time.

But what are the ethical implications of your action? Only if your skills were essential to implementation would resigning stop the bad policy. If the policy goes forward, then the ethical value of your resignation is questionable. Although you were able simultaneously to remain loyal to the agency and to avoid contributing directly to the implementation, you forfeited whatever influence you might have had within the agency over the policy. You also may have betrayed the terms of your employment contract as well as some of the personal trust placed in you by your superiors and colleagues, and you may have jeopardized other worthy projects within the agency by withdrawing your contributions. If you believe either that the policy is very bad or you would have had a good prospect of overturning it from within the agency, then running away by resigning seems to lack fortitude.

Combining voice with the threat of exit by *issuing an ultimatum* is likely to be ethically superior to simply resigning. After employing the various avenues of protest within the agency, you would inform your superior that if the policy were not reversed you would resign. Of course, you must be willing to carry out your threat, as well as bear the costs of greater personal animosity than you would face from simple resignation. You gain greater leverage in your protest against the policy, but you lose influence over future decisions if you actually have to execute your threat.

Beyond your personal decision to resign, there may be a larger social issue at stake. Why do you find the policy so objectionable while others approve of it? Perhaps the answer is that you have a better developed ethical sense; you are more principled. Is it good for society in the long run to have people such as you leave important analytical positions?⁹ On the other hand, the reason for disagreement may be that both you and your superiors hold morally justifiable values that happen to conflict. Although we may have some concern about maintaining diversity within our public agencies, the danger of selective attrition seems less serious when it results from legitimate differences of moral opinion rather than from a clash between expediency, say, and basic principles.

Now consider actions that involve disloyalty to your client. You might *leak* your agency's plans to a journalist, congressman, interest group leader, or other person who can interfere with them.¹⁰ You are taking your protest outside the agency, and doing so

8 For an overview of the practical and ethical issues, see J. Patrick Dobel, "The Ethics of Resigning," *Journal of Policy Analysis and Management* 18(2) 1999, 245–63.

9 For an elaboration of this point, see Dennis F. Thompson, "The Possibility of Administrative Ethics," *Public Administration Review* 45(5) 1985, 555–61.

10 In our discussion, *leaking* refers to the sharing of confidential information with the intention of undermining the client's decision or political position. The sharing of confidential information can also be instrumental in good analysis and to furthering the client's interest in systems where information is decentralized. Analysts may be able to increase their efficacy by developing relationships with their counterparts in other

surprisingly. Even if you are not a pure Kantian, anytime you do not act openly and honestly you should scrutinize closely the morality of your actions. Further, an important moral tenet is that one take responsibility for one's actions.¹¹ By acting covertly, you hope to stop the bad policy without suffering any adverse personal consequences from your opposition beyond the moral harm you have done to yourself by betraying the trust of your client and by acting dishonestly.

You should not view the violation of confidentiality, by the way, solely as a betrayal of personal trust. Confidentiality often contributes to organizational effectiveness. The expectation of confidentiality encourages decision makers to seek advice beyond their closest and most trusted advisers and to consider potentially desirable alternatives that would attract political opposition if discussed publicly.¹² Your decision to violate confidentiality has implications not just for your client but also for the expectations others have about the confidentiality they will enjoy when considering good as well as bad policies.

You can at least avoid the dishonesty by speaking out publicly. One possibility is that you *resign and disclose* your former client's plans to potential opponents. Although you are being honest and taking responsibility for your actions, disclosure, by violating the confidentiality you owe to your client, is still disloyal. You also forfeit the opportunity of continuing your protest within the agency. Another possibility is that you *speak out until silenced*. Such whistle-blowing keeps you in your agency for at least a while. Your agency will probably move quickly to exclude you from access to additional information that might be politically damaging. You must expect that eventually you will be fired or, if you enjoy civil service protection, exiled to some less responsible assignment that you will ultimately wish to leave.¹³ Therefore, your approach combines voice and disloyalty with eventual exit.

When is whistle-blowing likely to be ethically justified? Peter French proposes four necessary conditions: First, you must exhaust all channels of protest within your agency before bringing your objections to the attention of the media, interest groups, or other units in the government. Second, you must determine that "procedural, policy, moral, or legal bounds have been violated." Third, you must be convinced that the violation will "have demonstrable harmful immediate effects upon the country, state, or citizens." Fourth, you must be able to support specific accusations with "unequivocal evidence."¹⁴

organizations—the exchange of information serves as the instrumental basis of the relationships. For a discussion of the importance of these professional relationships in the U.S. federal government, see William A. Niskanen, "Economists and Politicians," *Journal of Policy Analysis and Management* 5(2) 1986, 234–44. Even when the analyst believes that the revelation is instrumental to the client's interests, however, there remains the ethical issue of whether the analyst should take it upon his or her self to break the confidence.

- 11 We might think of leaking as a form of civil disobedience, a type of protest often considered ethically justified. The classification fails, however, because most definitions of civil disobedience include the requirement that the acts be public. See Amy Gutmann and Dennis F. Thompson, eds., *Ethics & Politics* (Chicago: Nelson-Hall, 1984), 79–80. For a thoughtful discussion of personal responsibility in the bureaucratic setting, see Dennis F. Thompson, "Moral Responsibility of Public Officials: The Problem of Many Hands," *American Political Science Review* 74(4) 1980, 905–16.
- 12 For a discussion of this point and whistle-blowing, see Sissila Bok, *Secrets: On the Ethics of Concealment and Revelation* (New York: Pantheon, 1982), 175, 210–29.
- 13 Whistle-blowing is likely to be personally and professionally costly. Federal programs intended to provide financial compensation to whistle-blowers may not fully compensate these costs and, further, may induce socially undesirable behaviors in the organizations covered. See Peter L. Cruise, "Are There Virtues in Whistleblowing? Perspectives from Health Care Organizations," *Public Administration Quarterly* 25(3/4) 2001/2002, 413–35.
- 14 Peter A. French, *Ethics in Government* (Englewood Cliffs, NJ: Prentice Hall, 1983), 134–37.

French's conditions limit justifiable whistle-blowing to fairly exceptional circumstances. We might question whether they should all be viewed as necessary. For example, if great harm were at stake, we might view whistle-blowing as ethical even if the evidence brought forward falls short of unequivocal. We should also recognize that the conditions call for great judgment on the part of the potential whistle-blower, especially with respect to anticipating the harmful effects of inaction, and therefore constitute only general guidelines. Nevertheless, they seem appropriately to demand a careful weighing of all values, including loyalty.

Consider again the appropriateness of leaking. In addition to whatever conditions you believe justify whistle-blowing, you must also have a moral reason for acting covertly. In some extreme situations, perhaps involving the reporting of criminal acts in democracies or the supporting of human rights in totalitarian states, you might feel justified in acting covertly because your life or that of your family would be jeopardized by open protest. You might also be justified acting covertly if you were convinced that you could prevent serious harm that might occur in the future by remaining in your position.

Finally, you might consider *sabotage*—disloyalty without voice or exit. In designing the implementation plan for the policy you abhor, you might be able to build in some subtle flaw that would likely force your agency to abandon implementation at some point. For example, you might select a pilot site in the district of a powerful congresswoman who will strongly oppose the policy once it becomes apparent.¹⁵ But such sabotage is morally suspect not only because it involves covert action but also because it operates through obstruction rather than persuasion. Only the most extreme conditions, including all those needed to justify leaking plus the absence of any reasonable avenues for protest, justify sabotage. It is hard to imagine situations in democratic regimes that produce these conditions.

Some Examples of Value Conflicts

Clients, because they have political interests related to their own policy preferences, the missions of their agencies, or their own personal advancement, may refuse to accept the truthful reports of their analysts. In some situations, clients may put pressure on analysts to “cook up” different conclusions or recommendations. In other situations, the clients may simply misrepresent their analysts' results to other participants in the decision-making process. What are the minimal duties of analysts in these situations?

Demands for Cooked Results

Most analysts desire at least the option to act as objective technicians. Faced with the task of evaluating alternative courses of action, they want the freedom to make reasonable assumptions, apply appropriate techniques, report their best estimates, and make logical recommendations. Unfortunately, clients sometimes hold strong beliefs that lead them to reject their analysts' findings, not on the basis of method but solely on the basis of conclusions. If the client simply ignores the analysis, then the analyst will undoubtedly be disappointed but generally faces no great ethical problem—the analyst is simply one source of advice and not the final arbiter of truth. The ethical problem arises when the client, perhaps feeling the need for analytical support in the political fray, demands that

15 See Rosemary O'Leary, “Guerrilla Employees: Should Managers Nurture, Tolerate, or Terminate Them?” *Public Administration Review* 70(1) 2010, 8–19; and Janet P. Near and Marcia P. Miceli, “After the Wrongdoing: What Managers Should Know about Whistleblowing,” *Business Horizons* 59(1) 2016, 105–14.

the analyst alter the work to reach a different conclusion. Should the analyst ever agree to “cook” the analysis so that it better supports the client’s position?

A purist would argue that analytical integrity requires refusal; issue an ultimatum and resign if necessary. Can less-than-complete refusal ever be ethical?

We should keep in mind that, because analysis involves prediction, analysts rarely enjoy complete confidence in their conclusions. Careful analysts check the sensitivity of their results to changes in critical assumptions and convey the level of confidence they have in their conclusions to their clients. We can imagine analysts developing plausible ranges of results. For example, although the analyst believes that the cost of some program is likely to be close to \$10 million, the most conservative assumptions might lead to an estimate of \$15 million and the most optimistic assumptions to an estimate of \$5 million. After making the range and best estimate clear to the client, would it be ethical for the analyst to prepare a version of the analysis for public distribution that used only the most optimistic assumptions?

Analysts who view themselves as a client’s advocate might feel comfortable preparing the optimistic analysis for public use; those who see themselves as issue advocates might also if they share their client’s policy preferences. After all, analysis is only one of many political resources and it rarely encompasses all the relevant values. For analysts viewing themselves as objective technicians, however, the question is more difficult. Limiting the analysis to optimistic assumptions violates their conception of analytical integrity: in honest analysis, the assumptions drive the results rather than vice versa. Nevertheless, objective technicians may feel justified in going along if they are confident that their client’s political opponents will draw attention to the slanted assumptions.¹⁶ When objective technicians believe that the aggregate of analysis reaching the political forum will be balanced, their acquiescence appears less serious in terms of ethics and more serious in terms of professional reputation.

Indeed, if we focus solely on consequences, might not analysts have a responsibility to slant their analysis to counter the slanted analyses of others? Imagine that the person making the final decision lacks either the time or the expertise to evaluate the technical validity of the analyses that are presented. Instead, the decision maker gives the results of each analysis equal weight. In our example, the final decision would be based on the average of the cost estimates presented by the various analysts. If one analyst gives a pessimistic estimate and another gives a realistic estimate, then the final decision will be biased toward the pessimistic. If the second analyst gives an optimistic estimate instead, then the final decision may be less biased. The broader consequences of compromising the procedural value of analytical integrity, however, may be to increase the professional acceptability of slanted analyses, and thus make it less likely that analysts will adopt the role of neutral technician in the future. Perhaps attacking the methodology of the slanted analysis directly rather than counter slanting, even if less effective for the issue at hand, would be better in the long run from the perspective of the social role of the professional policy analyst.

16 More generally, this example suggests that the appropriate role for the analyst will depend on the policy environment. In closed fora where the analysis is most likely to be decisive, the role of neutral technician seems most socially appropriate. In more open fora where all interests are analytically represented, advocacy may be the most socially appropriate role. For a development of this line of argument, see Hank C. Jenkins-Smith, *Democratic Politics and Policy Analysis* (Pacific Grove, CA: Brooks/Cole, 1990), 92–121.

Misrepresentation of Results

Analysts have less ethical room in which to maneuver when their clients try to force them out of the range of the plausible. Defense of analytical integrity would seem generally to require protest backed up with the threat of resignation. The analysts' predicament, however, becomes much more complicated when their clients do not actually try to force them to cook up results but, rather, misrepresent what they have already done.

An analyst facing such misrepresentation is in a position similar to that of the defense attorney in a criminal case in which the client insists on being given the opportunity to commit perjury as a witness. By actively participating in the perjury, the attorney would be clearly violating his or her responsibility as an officer of the court. A more interesting problem arises if the client switches attorneys, conceals the truth, and then commits the perjury. Hearing of the testimony, the first attorney knows that perjury has been committed. Must he or she inform the court? One value at stake is the integrity of judicial fact finding. Another is the confidentiality of the communication between defendant and attorney that encourages defendants to be truthful so that their attorneys can give them the most vigorous defense. Although there seems to be a consensus in the U.S. legal profession that actually participating in perjury is unethical, there does not appear to be a consensus about the responsibility of attorneys when they know that former clients are committing perjury.¹⁷

Confidentiality probably plays a more important social role in the relationship between defense attorney and defendant than between analyst and client. The former contributes to a system of justice that rarely convicts or punishes the innocent; the latter to more inquisitive and open public officials. Further, the public official's obligation to honesty arises from a public trust as well as private virtue so that public dishonesty, unjustified by other overriding values, lessens the force of confidentiality. Therefore, the analyst's ethical burden seems to go beyond refusal to participate actively in the misrepresentation of the analysis.

Before taking any action, however, the analyst should be certain that the misrepresentation is intentional. Usually this involves confronting the client privately. Upon hearing the analyst's concern, the client may voluntarily correct the misrepresentation through private communication with relevant political actors or other remedial action. The client might also convince the analyst that some other value, such as national security, justifies the misrepresentation. If the analyst becomes convinced, however, that the misrepresentation is both intentional and unjustified, then the next step (following the guidelines for whistle-blowing) should be to determine the amount of direct harm that will result if the misrepresentation is left unchallenged. If little direct harm is likely to result, then resignation alone may be ethically acceptable. If the direct harm appears substantial, then the analyst bears a responsibility to inform the relevant political actors as well.

Ethical Code or Ethos?

Professions often develop ethical codes to guide the behavior of their members. The codes typically provide guidelines for dealing with the most common ethical predicaments faced by practitioners. The guidelines usually reflect a consensus of beliefs held by members of professional organizations.¹⁸ Established and dominant professional

17 For general background, see Phillip E. Johnson, *Criminal Law* (St. Paul, MN: West, 1980), 119–32.

18 For empirical assessments of the degree of consensus over what constitutes ethical behavior within two policy-related professions, see Elizabeth Howe and Jerome Kaufman, "The Ethics of Contemporary American Planners," *Journal of the American Planning Association* 45(3) 1979, 243–55; and James S.

organizations with homogeneous memberships enjoy the best prospects for developing ethical codes that provide extensive and detailed guidance.¹⁹ Although a professional organization for policy analysts exists (the Association for Public Policy Analysis and Management), it is still relatively small and seeks to serve a very diverse membership with strong ties to other, more established, professions. Not surprisingly, it has not yet tried to develop an ethical code. Even when it becomes more established, the great diversity of its members and the organizational contexts in which they work suggest the difficulty of developing a code that directly addresses a wide range of circumstances.²⁰

Students of the policy sciences, however, have suggested some general guidelines that deserve consideration. For example, Yehezkel Dror proposes that policy scientists not work for clients who they believe have goals that contradict the basic values of democracy and human rights, and that they should resign rather than contribute to the realization of goals with which they fundamentally disagree.²¹ Obviously, the analyst who chooses only clients with similar worldviews and value systems is less likely to face conflicts between the values of responsibility to client and adherence to one's conception of good than the analyst who is less selective. Unfortunately, analysts often find themselves in situations where selectivity is impractical. All analysts face the problem of inferring the values and goals of potential clients from limited information; in addition, analysts employed in government agencies may find themselves working for new clients when administrations change. We have already discussed the reasons why resignation is not always the most ethical response to value conflicts between analysts and clients.

Most of Dror's other proposals seem relevant to policy analysis. For example, he proposes that clients deserve complete honesty, including explicated assumptions and uncensored alternatives, and that analysts should not use their access to information and influence with clients to further their own private interests. But these sorts of admonitions would follow from the moral system most of us would accept as private persons. In fact, some would argue that the moral obligations in most professions are not strongly differentiated from those of the nonprofessional.²² A reasonable approach to professional ethics for policy analysts, therefore, may be to recognize responsibility to the client and analytical integrity as values that belong in the general hierarchy of values governing moral behavior.

Rather than wait for a code of ethics, perhaps we should, as Mark Lilla argues, work toward an ethos for the policy analysis profession.²³ As teachers and practitioners of policy analysis, we should explicitly recognize our obligations to protect the basic rights of others, to support our democratic processes as expressed in our constitutions, and

Bowman, "Ethics in Government: A National Survey of Public Administrators," *Public Administration Review* 50(3) 1990, 345–53.

19 The American Society for Public Administration adopted a general set of moral principles that evolved into a code of ethics for members in 1984. The code, which was revised in 1994, can be found on the back cover of *Public Administration Review*. It provides specific admonitions relevant to policy analysts under five general headings: Serve the Public Interest, Respect the Constitution and the Law, Demonstrate Personal Integrity, Promote Ethical Organizations, and Strive for Professional Excellence.

20 For a discussion of some of the problems of developing an ethical code, see Guy Benveniste, "On a Code of Ethics for Policy Experts," *Journal of Policy Analysis and Management* 3(4) 1984, 561–72, which deals with the conduct of scientists and others who provide expert advice on policy questions.

21 Yehezkel Dror, *Designs of Policy Science* (New York: American Elsevier, 1971), 119.

22 See, for example, Alan H. Goldman, *The Moral Foundations of Professional Ethics* (Totowa, NJ: Rowman and Littlefield, 1980).

23 Mark T. Lilla, "Ethos, 'Ethics,' and Public Service," *Public Interest* (63) 1981, 3–17.

to promote analytical and personal integrity.²⁴ These values should generally dominate our responsibility to the client in our ethical evaluations. Nevertheless, we should show considerable tolerance for the ways our clients choose to resolve difficult value conflicts, and we should maintain a realistic modesty about the predictive power of our analyses.

For Discussion

1. Imagine that you are a policy analyst working as a budget analyst for your state's department of education. You have made what you believe to be a fairly accurate prediction of the cost of a statewide class-size reduction program for elementary schools. You just discovered that your supervisor is planning to testify before a committee of the state assembly that the cost would be less than half of what you predicted. What factors would you consider in deciding on an ethical course of action?
2. Imagine that you are an analyst in a public agency. Think of a scenario in which you would feel compelled to resign. Avoid extreme scenarios; instead, think of a situation that would just push you over the edge. (Thanks to Philip Ryan, "Ethics and Resignation: A Classroom Exercise," *Journal of Policy Analysis and Management* 22(2) 2003, 313–18.)

24 See J. Patrick Dobel, "Integrity in the Public Service," *Public Administration Review* 50(3) 1990, 354–66, for a discussion of commitments to regime accountability, personal responsibility, and prudence as moral resources for exercising discretion.



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