Chapter Seven

How Will You Shape Your Legacy?

One generation plants the trees; another gets the shade.

Anon.

Perry and Rod have guided affluent clients through the development of their estate planning documents for two decades. Wills and codicils. Living trusts, life insurance trusts and charitable trusts. Business succession agreements. Family limited partnerships and durable powers of attorney. They have prepared virtually every kind of traditional estate planning document, covering almost every conceivable contingency.

Their clients, who include some of the brightest, most successful and accomplished people in the country, often ask for special circumstance clauses to be included in their planning documents. They may have concerns about business transition structuring, asset liquidation to pay estate taxes, or the creation of trusts for children with special needs. In fact, over the years, clients have asked Perry and Rod to modify estate documents to deal with almost any financial or business situation or family circumstance you can imagine.

Except one.

"No one has come to my office," Rod begins, "and said, *'Rod, I really appreciate the way you've done my will and my other estate planning* *documents. Man! That grantor retained annuity trust is something–and the way you crafted the reversionary interests clause, sheer beauty. Love the CRT structures, too. I know we're almost done, and ready for signatures. But you know, there's one other clause I want inserted. And this is really important to me to get down on paper–especially in a legally binding document.*

You see, building my manufacturing business took up an awful lot of my time over the years; I didn't get that much time with my kids and grandkids. But, I want to make sure they grow up to be good people. Honest and decent. I want them to respect their spouses and their own kids, and I think they should do something for their communities, too. Plus, I want them to know the value and satisfaction of a good, hard day's work. What do you say? Could we squeeze those stipulations in somewhere between the asset distribution plan and the family limited partnership structure?' "

Rod smiles when he tells the story. He knows that on the face of it, a request like that might sound downright silly. Even so, he has had some clients come pretty close. One said, "Look, can't we structure my business succession plan somehow so that my son actually has to *show up* in person and do some *work*?"

Rod's answer: *estate planning isn't the place to do your parenting.*

It isn't the place to carve out your legacy, either. Estate planning has been–and always will be–a fixture of life in any society that permits the private ownership of property. There must always be formal mechanisms for the orderly transfer of property from one generation to the next. Private property is the proverbial glue that holds everything else together. What is worth considering, though, is the fact in the past several thousand years there have only been a few improvements made on the transfer process. From ancient Egypt to imperial China, from Victorian England to twenty-first century America, about the only thing that has changed is the terminology on the estate planning documents themselves. The intent of estate planning–to pass as many of the assets to the next generation as possible, and the mechanics by which it has been carried out–through a lawful, recognized process, have remained fairly static over millennia.

It is not as if every person who visited a lawyer in the past few centuries has been blind to the fact that their children would need more than money to lead fulfilling lives. What is fair to say is that for most of history, parents have assumed that what they left to their children in the way of material assets was the best, most important–and practical–legacy they could possibly leave.

For much of human history, that probably has been true. It has only been since the appearance of the modern welfare state in the past hundred years that most people were guaranteed, at minimum, an adequate amount of food, shelter and medical assistance to sustain life. Before the dawn of the twentieth century, there really wasn't much in the way of government assistance for the necessities of life. Personal responsibility was not a political catch-phrase–it was a fundamental requirement for survival. (We can cite any number of examples in history that show that for most people around the world, life was brutal, hard and short, until quite recently. It was only about one hundred fifty years ago, for example, that over a million people died in the Irish potato famine.)

So, the fact that the essence, the impetus, and the overriding purpose of estate planning has historically been to keep the money in the family not only made sense, it made perfect sense. A parent's first responsibility to his or her children is ingrained as deeply as any other moral imperative: for the protection, the provision and the maintenance of life.

There was no compelling reason to change the basic building blocks of the estate planning process as long as the purpose of that process was so pure and unconditional. It was enough that the legacy a parent aspired to leave was bread on the table and a moat around the manor house. You don't need a trial attorney, for example, to make the argument that a pioneer family on the Pennsylvania frontier in 1763 would benefit more from a keg of dry powder and a brace of good muskets than from a family roundtable discussion about philanthropy.

That is the historical context within which the American tradition and practice of estate planning emerged. The purpose of planning was to sustain the basic life necessities of the heirs after the death of the parents. Period. And the legal system delivered. State by state, a complex framework of estate planning law and practice evolved to codify the process by which estates would be transferred from one generation to the next. In doing so, the concept of legacy was tied indelibly to the ownership of private property.

The relationship between property and legacy has deep and highly visible roots. For thousands of years we have seen that when people of wealth and power wanted to be remembered, they usually set about to build something big, impressive and long-lasting the world would never forget. The legacies of Pharoahs were immortalized in pyramids and obelisks; that of the Renaissance Princes in marble palaces and commissioned art. These days, Hollywood producers vie for attention with their over-the-top monstrosity homes, and 'everyday' millionaires give a few million to get their name inscribed on the dining hall at their local state university. From Sumerian King to American robber-baron, the vehicle of choice for those wishing to leave a legacy has almost always had to do with property.

At the dawn of the twenty-first century, the cultural, economic and political landscape has changed to such an extent that the behemoth legal machine that powers the mechanisms of traditional estate planning is arguably out of step with the true needs of clients. Perhaps especially when it comes to the idea of leaving a legacy.

For those who haven't checked lately, it is probably not a bad idea to point out that homes no longer come with moats. Not many children have to chop kindling and stoke fires to heat bath water, not many armored knights pillage around local cities, and even the tabloid-crazed media would be hard pressed to find tens of thousands of people starving in American suburbs. The historical notion of *survival of the fittest* (despite its brief incarnation on bad prime time TV) seems archaic and a just a bit quaint in a world where food, shelter, medicine and education are cradle-to-grave entitlements.

The world has changed. In the past century the conditions of life for most people have improved dramatically and with blazing speed. Because of that, the ages-old social equation that said "*Legacy* equals *Property*" is simply no longer valid. It has not been true for some time. As proof, recall that ninety percent of all traditional estate plans, which hinge on the protection and transfer of property, will fail the inheritors. It is incomprehensible to think that the people who created the material legacies that eventually crashed down around their inheritor's heads wanted financial collapse and family chaos to be their lasting legacies.

In 2005, the Allianz Life Insurance Company surveyed baby boomers and their parents on a wide range of family and finance related issues. "Many people wrongly assume that the most important issue among families is money and wealth transfer–it's not," said Ken Dychtwald, the survey designer. "Non-financial items that parents leave behind–like ethics, morals, faith, and religion–are ten times more important to both boomers and their parents than the financial aspects of inheritance. In fact, seventy-seven percent of those surveyed (age forty plus) said the most important inheritance they could receive or pass on would be values and lessons about life." [1]

Despite that overwhelming sentiment, the survey also reported that fewer than one-third of those responding had actually done anything about translating those wishes into action. No conversations with parents or children, no family meetings, and no documents.

The old ways die hard; many people are still focused on digging a deeper moat around the castle, and filling the storehouse with grain as a means of providing a legacy for their children. The myth that the property you leave behind will be your ultimate legacy is a powerful one. It is easy to understand, particularly given the weight of history.

When we talk about your true legacy, your significant legacy, and how The Heritage Process helps you to formalize and communicate that legacy to your inheritors, we aren't suggesting that your property is 'off the table' in that process, or that you're going to disclose the entirety of your estate to your children or other inheritors. Your material wealth is still important, but primarily in its function as a tool to support the transmission of your real wealth–which are your values. Your personal legacy will be defined by the values you held in life, not by the value of your possessions.

Please think for a moment about any two people whom you admire greatly. One person who is living, and one who is not (this be can any person from history). When you think about them, what kind of thoughts come to mind? What are your memories of them, they were people you knew as children?

Perry describes a wonderful experience he sometimes has during the Guided Discovery Process with clients. If they spent much time with their grandmother as a youngster, Perry might say, "Describe your grandmother's kitchen." ("Kitchen," the person may think? "What does my grandmother's kitchen have to do with planning for my family?")

But when they begin to talk, wonderful memories surface. It might be the smell of home-baked bread, one loaf rising on the counter, the other ready to be pulled from the oven. Or early morning conversations seated at her simple Formica dining table. Perhaps even the day they realized that there was more to this woman than the quiet homebody their younger brothers and sisters knew. This was a woman who had lived a full life, with joys and heartaches that steeled her spirit, strengthened her faith, and infused her with an enormous reservoir of wisdom and grace.

Where, in the sea of memories you have of your own grandmother, do visions of her bank accounts come into play? Could you possibly attach a monetary value to the time you spent in her company? And if she were to appear to you right now, and tell you what it is she is most proud of about you, do you think it would have anything to do with your material wealth?

In Frank Capra's classic film, *It's A Wonderful Life,* Jimmy Stewart's character is given a tremendous gift. At the edge of despair, exhausted, discouraged and all but defeated at every turn in his life, Stewart decides to take his own life. He plunges from a bridge into an icy stream, only to be pulled to safety by Clarence, a bumbling angel (second class). Stewart is distraught that, like everything else in his life, even his attempt to kill himself has failed, and he wishes he had never been born.

His wish is granted, and for the rest of the movie we follow Stewart on a journey which most of us (at one time or another in our own lives) have secretly longed to take. What would the world be like had we never been born? How would the lives of those we loved (except the children we never had, of course!) have been different had we not been there to grow up with them, to work and play with them, to stand beside them in their difficulties, to share in their joys? And what about our accomplishments? The businesses we built, the lives we changed, the people we employed, the causes we supported?

For the purpose of a great story, Jimmy Stewart got to see that had he never been born, the lives of just about everyone he knew, and nearly everyone else in his home town of Bedford Falls, would have suffered his absence enormously. Lives would have been destroyed or lost, businesses ruined, hearts broken, a town ravaged–all because one good man was not there to make a difference.

The theme of *It's A Wonderful Life* has been a staple of literature through the ages, and for good reason. Unless people feel their lives have some meaning, some worth and some lasting significance, there isn't much cause not to take the leap off the bridge into the dark water below. So kings have erected their monuments, and composers written their great symphonies. Each of us, to the extent that we are able within our spheres of ability, endeavor to do or make or leave something from our lives that is significant. Frank Capra's film showed that even a common man could touch the world in ways that created a legacy of lasting value. That is why the movie touches people so deeply.

Sadly, none of us will have the full-blown dramatic opportunity that Jimmy Stewart enjoyed in the film. But each of us has known someone in our own lives who lit a candle and carried it through the darkness with every step they took. A grandparent perhaps or a youth pastor. A scout leader, a coach, a teacher, boss or mentor. Someone who personified values, exemplified good character, touched us, instructed us, and guided us.

These are people, from your own life or from history, who passed a living legacy directly to you. What has that legacy meant in your own life? Have you shared the importance of the values they taught you with your own children, grandchildren or other people around you?

Imagine, for a moment, that you have just stepped outside to collect your mail from the post-mounted mailbox across the street. Your mind is focused on things happening at the office, so as you walk into the street you don't notice the fully loaded eighteen-wheeler barreling down on you at sixty-five miles per hour. Whack! And that's it. Curtains.

Tomorrow morning's Daily Clarion newspaper prints a one-paragraph obituary article (next to a display ad for all-season radial truck tires, of course). Don't feel slighted by the brevity of the story. That's about as much room as the average 1950s B-movie star will get! Anyway, there it is, just four short sentences, in plain black 11 point Times New Roman type. Your life. Beginning, middle and slightly embarrassing end.

Unless you are a member of British royalty (or someone who insists on getting in the last word in any conversation), you probably haven't gone to the trouble of writing your own epitaph. It's not on the top of the chore list for most folks. We're going to change that right now. In fact, we'd like to give you an opportunity very few people ever get: the chance to write two versions of your life story.

Please take a clean sheet of paper, a pencil with a good eraser, and a deep breath. First, print your name, and under it your date of birth. Next to your date of birth, write the date of your fatal encounter with the chrome grill of the massive truck (how about tomorrow's date?). Then, compose no more than four or five obituary style sentences summing up your life. The who, what, where, when kinds of information you see in most obituaries. ("Phillip Jones was born in 1937 in St. Louis, Missouri, and graduated from high school in 1955. After a tour of duty in the US Navy, he attended UCLA, where he earned a BA in accounting. He started his own accounting firm in 1965, the same year he married Irene Martinez, with whom he had three children…..." That kind of information.)

When you are done, share it with a few people. Your spouse, a child or a close friend. Ask them if the obituary sounds accurate. Then, ask them if that's what they would have written if they had been the newspaper reporter assigned to write about your life. If they are willing, ask them to actually write their version down. Don't give them hints or direction. Don't tell them you're reading a book about how values can be used as the foundation for your planning. Just ask them to write about you.

What they bring back to you probably won't look much like the formal obituary you wrote, or what the newspaper may actually write about you some day. Those who know you, and who love you, are much more likely to focus on the deeds of your life, not on the details. Their writing will be infused with memory and meaning. When they hand the obituary to you, don't be surprised if they're a bit self-conscious, even embarrassed.

When you read their version of your life story, you'll see it wasn't the company you built that they care to recount; it was that Christmas Eve you went without sleep so you could put everybody's bikes together. That's what they will always remember. It will not be your net worth that your children and grandchildren will tell their own children about when they share stories about you. It will be your human worth.

It is that human worth, built with values, lived through values, and evidenced as values in action, that will ultimately comprise your true obituary.

The Heritage Process helps people identify that foundation, to shape that vision, and to share it with generations of their family. To get a feel for what that process is like, here is that second opportunity to tell your life story to generations of your own family. This is a powerful experience, one that is worth keeping….

We would like you to write a letter to your great-great-grandchildren.

The purpose of this letter is to *'pass a torch'* to them. That torch is you. Think about what was meaningful in your life. What you did that was good, what you wish you could have changed. What you hoped they might discover to be true in their own lives, just as you did in yours. Please speak personally as you tell them things like:

> *"This is who I was, this is what I believed in, this is what I stood up for, this is what I did, this is the difference I hope I made, this is how I want to be remembered, this is what I really left my children, my grandchildren, and you."*

We appreciate this will not be an easy task. Remember that few people get this kind of opportunity. Give it all you have. Don't rush. Don't feel constrained by the direction we have given....This is your opportunity to communicate the things that mean the most to you.

One final thing: when you have finished this letter, place a copy alongside your other important papers, so that it will become part of the 'official' documentation of your life. Include the instruction that it be distributed to your heirs, including the admonition that the letter be read aloud and passed on to each succeeding generation.

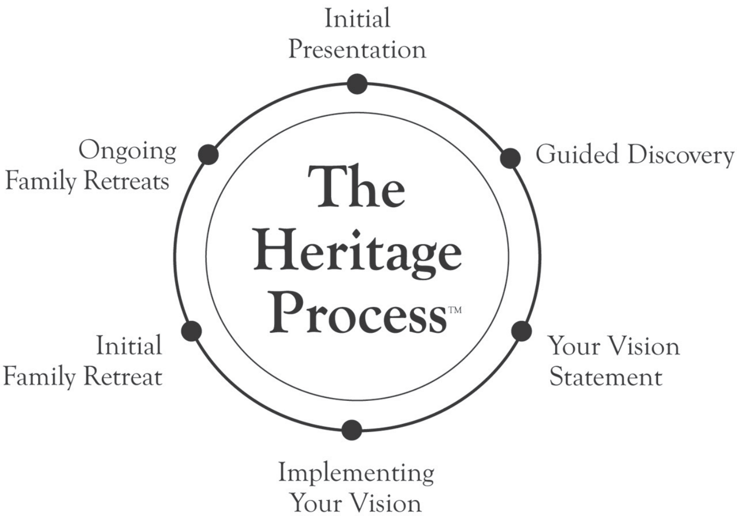
That letter can become the key to the most important legacy you will leave. That is a legacy defined not by what it was that you achieved, but by what it was that you believed.

You do not have to leave millions. Or build monuments.

Sometimes, to leave a legacy, all it takes is a trip to the kitchen.

Part III

THE HERITAGE PROCESS™



Chapter Eight

Introducing The Heritage Process–An Adventure in Discovery and Meaning

What you have been reading about the failure of the inheritance side of the estate planning equation may or may not seem applicable in your life right now. More than one person has taken a look at The Heritage Process and asked, "Why should I care about what my grandchildren make of themselves? It's their life. Their choice. Let them live with the consequences of the decisions they make. I did."

It's hard to argue with the basic premise of that sentiment. We would be the first to acknowledge that personal responsibility is one of the pillars of a productive life. Whether or not this process is right for you and your family, it is certainly fair to question the underlying philosophy.

But, there is no getting around this fact: whether by design or by default, you *will* leave a legacy. Some trace of you will remain after you pass. It may be as faint and short-lived as the last snowflake of spring, or as strong and enduring as a mountain of granite. With what degree of impact you bestow that personal legacy on future generations is one of your life's most important decisions.

Unfortunately, due to procrastination, lack of time or motivation, or countless other distractions, it is a decision often left up to family members or friends, usually about the time they are picking out a headstone. Take a walk through an old graveyard and look at the weathered basalt columns and ornate decorative stones that mark many of the graves of sturdy, solid citizens whose only enduring legacy resides in that ton or two of solid rock. (The poet Robert Frost once wondered about the "inverse relationship between the size of the headstone and the size of the legacy.")

If, like many people, you have asked the question at the head of this chapter, "Why shouldn't my children and grandchildren make something of themselves, just like I did?" we would answer, *they should.* The question then becomes, how did you actually achieve your success? What tools did you have? Who encouraged you, provided you with opportunity, stood beside you, gave you valuable advice? Did you run into any trouble along the way? It could not have been an easy journey. The road to success has more potholes than pots of gold. Was your patience strained, your faith tested? At the end of the day, what was it that sustained you? The answer to these questions contains the perfect description of the true legacy you will leave.

So, we say that if being a self-made, self-motivated, self-reliant individual is an important value to you, one that has been of great benefit to you in your life, then it is also one of the values that can sustain and strengthen your children and grandchildren, just as it did for you. Have you told them? Do they understand what it took for you to get where you are today, in spirit, mind and heart, as well as in bank account? If they don't know the story, how can they ever appreciate the common sense, practical lessons you learned along the road to self-reliance? What will they reach for in their own lives and experiences when they face tough times if they don't have your example upon which to draw?

This line of questions, in a nutshell, explains the thinking behind The Heritage Process. We developed it in part to help people find an answer to those questions. There was nothing like it available for people who sought a structured, effective process to help them craft a significant, lasting legacy. We did not do it to engineer a platform to sell products (we don't), with creative 'leave-a-legacy' twists like many of the huge financial houses. Nor to practice psychotherapy. And especially not to provide tools so people could control their heirs from the grave.

Our objective was simple: to assist people who wish to pass their values, with their valuables, to the people they love and the causes and organizations in which they believe. Traditional estate planning did not, and could not, achieve those aims. It never will because that is not what it is designed to accomplish.

As we began the long journey of research and development, some of our colleagues argued that our plan would never work. Too fuzzy, some said. Too touchy-feeley, another added. Many advisors had ideas, suggestions, reservations, and doubts.

But not one attorney, CPA, planner, or non-profit executive ever said such a process wasn't needed. Nobody took the position that, "The estate planning system ain't broke, so why fix it?"

On the contrary. The best, most successful and accomplished advisors in the nation, who between them represent many of the most affluent families in America, all agreed that the traditional system does a wonderful job of passing assets and minimizing taxes, and a terrible job of preparing heirs to receive their material inheritances.

Our task, therefore, was to develop and refine a process that could meet the 'show-me' test of the toughest advisors before it could ever be put to work for the clients they represented. It had to be based on solid scholarship, implemented by highly qualified and experienced advisors, and, most of all, it just had to make sense to the families who needed it.

There are more of those families every day. Within our lifetimes, the wealth of the United States has increased by a staggering amount - jumping from about six trillion fifty years ago to some thirty trillion today. According to Merrill Lynch & Co.'s *2004 World Wealth Report,* the number of millionaires in the United States (which the report defines as people with at least one million in financial or liquid assets) jumped by fourteen percent to over two and a quarter million people in 2003. In other words, one out of every one hundred twenty-five Americans is now a millionaire.

By way of comparison, back in 1900 there were fewer than five thousand millionaires in the United States–or only about one out of every fifteen thousand Americans at the time.

And it's not just the number of millionaires that has increased. Since the 1960s, median household wealth in America has nearly tripled, growing from $29,000 in 1965 to $86,100 in 2001 (the most recent year for which data is available)–meaning that while half the nation's households were worth

$29,000 or less back in the 1960s, today half are worth more than $86,000. [1]

The data, the research and our own experience clearly show that most inheritances fail. Gaining a consensus on that fact was never a challenge—there have never been any takers for the argument that traditional planning builds strong families across generations. But that fact alone wasn't enough to build a new kind of planning model; we had to *redefine* the traditional view of wealth to include more than money and assets. It had to consider the values, virtues and ethics that not only contributed to a client's material success, but also helped make his or her life meaningful and fulfilling. Next, we had to construct a practical, achievable framework that would promote family strength, unity, and community involvement, while encouraging individual excellence and achievement on the part of family members. Lastly, we had to make the process one which could be taught to, and repeated by, other professionals.

No small feat.

The greatest challenge of all? Learning how to foster an environment within which people would talk to their children about the most taboo, forbidden and mysterious subject in human experience. (No, not sex. That's actually the *second* most hush-hush topic.)

The great forbidden zone of family conversation is nearly always money. "There's a toxicity and secrecy around money in many families," says Charles Collier, senior philanthropic advisor at Harvard University and author of Wealth and Families (Harvard University, 2001). "As a result, parents fail to provide their kids with any type of financial education–how to invest, say, or how to use a credit card–or to prepare them for the decisions they may have to make about their fortunes. Plus, in many cases, parents are too busy making money and managing their assets to think much about the effect it all will have on the kids." [1]

As for the contention that ninety percent of all inheritance problems could be resolved if families talked about the money, that is true–sort of. Talking about the money in this context does not mean revealing the bottom line on the personal or business balance sheet. It's not about the size of the asset base—it's about what money represents.

Our goal in getting the family talking about money is for them to realize that money is a tool. Just a tool. A powerful tool, to be sure, but, one, like fire, that makes a better servant than master. Stripped of its aura of invincibility and curative powers (the 'money solves everything' syndrome), money may be seen for what it is: a resource to help strengthen your family through the values you recognize as your most important assets.

In the chapters that follow, you will see how our conclusions about the failure of traditional planning and inheritance and about money and values, have been forged into a dynamic process that is grounded on both solid academic research and real-world experience.

You will see:

- how the idea of focusing on things of value, rather than on the value of things, translates into multi-generational legacy plans designed to combat the 'ninety-percent world'

- how an active program of family philanthropy may be the most constructive means of building bridges between family members, and ensuring family unity, that has ever been envisioned

- the important role of traditional planning advisors, attorneys, charitable giving officers, CPAs–as active participants in the creation and implementation of your plans.