

*Please note: This is a transcription so there may be slight grammatical errors.*

Hello, and welcome to Mission and Markets, a podcast by CAPTRUST, where we explore trends and best practices for endowments and foundations related to mission engagement, fiduciary governance, and investment management, hosted by CAPTRUST. It's Heather Shanahan, director of the Endowments and Foundations Practice.

Each episode shares research, resources, and recommendations from industry insiders, so your nonprofit can focus on what's most important, the mission.

**Heather Shanahan:** Hello and welcome to our next episode of Mission and Markets. My name is Heather Shanahan. I'll be your host today, and today I am joined by Jade Bristol of Giving Docs. And Jade, if you wouldn't mind sharing a little background information about you and Giving Docs. A little context here before we dive in, that would be fantastic.

**Jade Bristol:** Thank you so much, Heather. I'm excited to join you. I am the chief development officer for a company called Giving Docs. Giving Docs is an online estate planning platform, which was purpose built to help nonprofits to really amplify, specifically, their planned giving efforts.

I started my career as a trust and estates attorney before finding my way into the world of planned giving fundraising for nonprofits.

I did that work for a couple of large national nonprofit organizations before I joined the Giving Docs team a couple of years ago. And so what we do is we partner with leading nonprofits to help them make our estate planning and asset giving tools available to their supporters.

And that's a way to give back to their supporters, something of value, and also to really encourage them to consider a legacy gift as part of their estate plan.

**Heather Shanahan:** Certainly, there is a significant number of people who don't have a will. The thing that I bumped into that you've worked on that I think is so important, the research that you've done and so valuable, is the survey that you conducted in 2022.

And it seems like there was nothing comparable before or probably since. So what can you tell us about the survey that your organization conducted and what you learned about donor diversity and estate planning and planned giving?

**Jade Bristol:** Giving Docs conducted a survey in 2022, which was sent out to planned giving professionals, and it was precisely because there was no comparable data at that time, specifically in the planned giving space in terms of DEI initiatives, around that data to figure out whether nonprofits were doing this at all in the world of planned giving and if they were, what were they doing, and our goal is to repeat this survey over time to hopefully see how things change and evolve within the planned giving space and to see what some of the impact of DEI initiatives are.

**Heather Shanahan:** Great. Thank you for the research, because I think it's, I think it's fascinating. And having been part of a nonprofit that was really not struggling, but contemplating, how do you engage a diverse database? Is it a different conversation? Are the thoughts different? And I think it'd be helpful.

Let's touch on historical context. And what can you tell us about how property's been passed down in the United States? You shared some information that I wasn't aware of about land speculators and challenges to wealth building across diverse groups. Let's set the stage from a historical perspective.

**Jade Bristol:** At the heart of, DEI and planned giving. And it's one of those things that I think surprises some people when they learn it for the first time, because at first it, it maybe doesn't seem to directly relate, but once you really understand the core of what has happened, then the relation becomes very obvious.

So what's happened is that this world of DEI and planned giving is very tied in. With the historical and the systemic barriers to estate planning that communities of color have faced, a donor can't leave you a planned gift in their will if they don't have a will. So that's step 1, and we know that people of color are far less likely to have a will in place than white people in America. In fact, depending on which communities you're looking at, people of color are up to two-thirds less likely to have a valid will in place, which is incredibly significant. What's happening in planned giving is that planned giving professionals are having to first overcome this documentation gap in communities of color before they can even start talking about, and how are you going to leave a legacy to the charities that you care about? In order to talk about diversity in the world of planned giving, we first really have to look at why. isn't estate planning more accessible to more people? Why isn't estate planning diverse? And what we found is that one of the reasons that people of color are less likely to have formal estate plans in place is that historically people in these communities have really been excluded from the legal system in a wide variety of ways.

And one of the most notable consequences of this exclusion from being able to access legal services is that when people of color have been able to acquire land, and they have acquired land, in fact, before sort of 1920, there was a lot of land acquired by, especially Black Americans in the South, following emancipation, there was a sizable amount of agricultural land that was held by the Black community, but when they've had to transfer that land to their heirs, they've had to rely on the laws of intestacy rather than a more formal estate planning process with a will or a trust or documents that we tend to think of. And in the Black community in particular in the South, the result of generations of this intestate land transfer has been this phenomenon, which is known as heirs' property. And that's heirs. H E. I. R. S. like the heir's estate. Now, I don't know if you've heard this term, but before I began my research on this topic, which was about three years ago now, I had never heard this phrase.

**Heather Shanahan:** Okay. Thank you.

**Jade Bristol:** Yeah, we didn't learn about this in property class

I was a trust and estates attorney for many years. I took lots of continuing ed. Never heard this phrase and I heard someone else refer to it once as the biggest problem you've never heard of. So I think that's right. I think a lot of us have never heard of it. And it is a huge problem. It's pretty technical, so I'm not going to get too far into the weeds with it, but basically heirs' property is a way that family members end up owning land together when it's been passed down generation after generation outside of the context of a will or other formal estate planning.

And the problem it causes is that the land then becomes very vulnerable to land speculators, as you mentioned at the beginning, because there's this sort of legal loophole that enables them to come in and they only have to buy one of the owner's

shares of that piece of land and then they get access to the courts because then they're a co-owner of this land and they're allowed to go into court and they can, through this legal process of partition, they can force. And the result, of course, is that the land speculator swoops in and buys the land at auction for pennies on the dollar, and the family who has owned this land for generations is left with basically nothing.

That has been a huge problem among many families, and tens of millions of acres of land have been legally stripped from these communities as a result of that. So why is this important to planned giving, right? How does this relate to fundraising and planned giving? There are some consequences to this legal structure that I think it's really important for fundraisers to understand.

And the first of those is that property ownership in this country has always been a key to building intergenerational wealth. When you're working with a donor who is part of one of the communities that's been affected by this kind of systemic land theft, it's really important to recognize that this may have affected the donor or their family at some point, and may have made it harder for them to build that type of intergenerational wealth.

**Heather Shanahan:** Using,

**Jade Bristol:** Second point here to remember is that this history has led to a real distrust of the legal system, because the legal system has really failed to protect the property transfer rights in communities of color. And we still see the effects of this very understandable distrust in those low rates of estate planning within communities of color that we touched on.

And then finally, when a fundraiser is working with a donor of color, who is high net worth, or maybe ultra-high net worth, it's really important to keep in mind that because of this system, those donors are almost always first-generation wealth creators, meaning they've built their wealth themselves within their own lifetimes.

They didn't usually inherit that wealth

**Heather Shanahan:** And how does that impact their attitudes?

**Jade Bristol:** Right. A lot.

Those wealth creators, regardless of how they came to have that status, have very different attitudes about how their wealth should be used than people who have inherited their wealth, from their parents or their grandparents. And

**Heather Shanahan:** Yeah, and it's a state-by-state issue, right? It's not a federal issue.

**Jade Bristol:** Yeah, it really is a state-by-state issue. And it's interesting because now there is a uniform law, which is proposed to all the states, that this law professor at Boston University has worked on, Thomas Mitchell. That's the Uniform Heirs Property Act, I think. And, so some states have passed it.

I think it's about 26, 24 states now have passed this uniform law that sort of helps remedy some of what's going on. But not all the states have passed it and not all the states have

passed all of it. And this is still very much an issue. In fact, it's interesting because, whenever I speak about this issue fairly regularly, and whenever I do, there's always at least one person in the audience who at some point raises their hand or comes up to me afterwards and says, this is going on in my family right now.

My, yeah, my grandmother left some property and my cousins and I are all owning it now together. We don't even all know each other and we don't know what to do. We can't do anything with it because we all can't agree on what to do with it. And now it looks like, somehow this land is going to be sold or lost because we can't agree on how to keep this land in our family.

So there are actually organizations now too, that will help families to sort out heirs' property issues, and their goal is to help communities of color specifically retain this land that has been passed down over generations.

**Heather Shanahan:** It's just unbelievable that these things are still happening and that it's not widely known. Again, the systemic issues within our legal system, that's a big one.

**Jade Bristol:** Yeah, absolutely. In fact, it's actually a very big problem in New York City right now. And specifically in the city of New York, there are some land speculators who have popped up and are specifically looking for properties that passed, in intestate ways, with maybe heirs who don't live in the city.

And they find ways to divest those people of their property.

**Heather Shanahan:** Wow. I appreciate the awareness that you and others are bringing to this topic, a bigger issue than just estate planning and planned giving, from a nonprofit development standpoint. It's a much larger issue. Let's shift gears a little bit and then talk about what you learned from your survey that planned giving professionals were doing to incorporate DEI principles into planned giving. And what would you suggest they do differently to impact change?

**Jade Bristol:** Sure. When we took a look at the survey results, this was in 2022, there weren't really any surprises. We asked very high-level questions because, like I said, we were really just trying to get a baseline of this data. This was our first effort. And what it showed was that the sector was just beginning to dip its toe in the water of how to incorporate DEI into their planned giving programs.

And what we saw was a really heavy emphasis on internal, individualized efforts to learn more about DEI. A lot of people, for example, I think 93 percent of the people who took our survey said that they had participated in some kind of DEI continuing education. So that means webinar or they'd read a book or they'd learned about this somehow.

And then about 75 percent of the organizations that they're working at had taken some steps to diversify the images that appeared on their planned giving marketing materials. So I think those were the two biggest chunks that we saw of what people were doing to try to incorporate initiatives into planned giving and in terms of what to do differently.

We offer some specific recommendations, in the DEI publications that we have on our website, which is [givingdocs.com/papers](https://givingdocs.com/papers). We have a DEI resources section available there, including some topics that people can read about and incorporate into their programs.

But I think one impactful thing to me that planned giving professionals can do when it comes to trying to diversify their legacy societies

**Heather Shanahan:** Huh.

**Jade Bristol:** is to first diversify their own networks of professional advisors, right?

So planned giving staff tend to be disproportionately white, which is another result of our survey findings, which we're not surprised about. And of course, we know that when we, as professionals, build our networks, we tend to network with other people who look like us. And guess which other profession is still overwhelmingly white?

Lawyers. So when we're in the position of referring donors to estate planning attorneys or wealth advisors or any other type of professional advisor, we really want to be conscious about making sure that we are connecting that donor with a professional advisor that they are going to be comfortable with, and there's a lot of new tools now. Like LinkedIn is a great resource for diversifying your professional network, because it's much easier now to connect with attorneys and other advisors who may be members of different communities than you are. So there is the Association of Black Estate Planning Professionals that you can connect with.

It's a little easier to find folks that are in your geographic area and just easier to broaden the reach of your own network in that way.

**Heather Shanahan:** Yeah.

**Jade Bristol:** And this goes also, I want to mention that this goes beyond race, right? This is not just a racial or ethnic issue, but this also applies to donors who may be members of the LGBTQ community or donors who have a disability.

You just want to make sure that whatever donor you're working with, you're not making any assumptions about the type of professional advisor that you're sending them to. You want to really make sure that you're talking to them actively about that and connecting them with someone that they're going to be comfortable with.

**Heather Shanahan:** Yeah, and I think it's okay to ask some questions too,

**Jade Bristol:** Absolutely,

**Heather Shanahan:** that guidance. Yeah.

**Jade Bristol:** Yeah, for sure. we see a lot of times donors would prefer to speak with a professional advisor who has some relation to their own community that they're from, and it's okay to ask donors about that. We've seen that, I think, especially women in fundraising.

I think we were used to seeing that when we talked to our donors who are women.

**Heather Shanahan:** Would you rather work with another woman? Yeah,

**Jade Bristol:** So we're already used to asking questions like that, and we need to just do it with more people now. And then I think the second strategy we would recommend to planned giving professionals is to consider adding a technology solution.

Here at Giving Docs, we offer that, and it's a way to make estate planning and planned giving more accessible to a wider range of people. One of the things I had to unlearn as a lawyer who became a fundraiser is that there are a lot of barriers to estate planning in our society, especially, excuse me, especially for people of color and there are a lot of really valid reasons why certain donors might not want to work with an attorney. Of course, we always think about the financial part of it, that people don't want to pay an attorney, but there are actually many other reasons as well. And as planned giving professionals, it's really in our best interests to help to provide alternative solutions for those donors so that we can increase the overall rates of estate planning in the U.S. because those rates have remained fairly low and have remained fairly stagnant. Surprisingly, even through COVID, we only saw about a 2-ish percent bump in the overall rates of estate planning that were needed during the pandemic. So it's not really growing as much as we need it to. We need more people to be writing their estate planning, and what we're seeing, some leading nonprofits start to do here is to take an online estate planning tool, like Giving Docs, and then to make it available as a membership benefit to their entire community of supporters as a way to give something back.

And also, as a way to help certain donors take this very sort of pro social step of creating their own estate plan and using that to then create a legacy gift for their favorite charities.

**Heather Shanahan:** Let me ask you this. I understand, in a situation where there may be significant complexity to an estate plan, maybe it's a blended family, or significant assets and trusts are involved. But I, I met with the CEO of a nonprofit yesterday who had looked at making some online tools accessible to their donors. And interestingly, two attorneys on his board said, we're not sure that would stand up in court. So I'm certain you have a response to that. What can you tell us about that?

**Jade Bristol:** We get asked that question every day.

**Heather Shanahan:** I bet.

**Jade Bristol:** To be fair, that was the same question I asked when I was a planned giving professional evaluating these types of tools in my last job. And I think it's a very valid question to ask, but I think it really shows how slowly the legal profession evolves.

**Heather Shanahan:** I'm going to miss this.

**Jade Bristol:** We don't tend as lawyers to think about the future of our practice area, and we get stuck a little bit inside our box of every person always has to use an attorney. We love attorneys here at Giving Docs. I'm an attorney, Brantley Boyette, who's one of our co-founders is one

**Heather Shanahan:** Okay. Huh.

**Jade Bristol:** and we want people to use attorneys when they are comfortable doing that and when that's accessible for them.

What our tools provide is an alternative. For folks that are never going to go use an attorney, no matter how loudly we beat that drum, or maybe they live in a rural area and don't have access to an attorney. Maybe there isn't an attorney in their community, and they don't feel comfortable going to the, the old white attorney at the big firm downtown, there have to be alternatives. And, this bell has been rung at this point. Online estate planning services really boomed during the pandemic when people couldn't get in to meet with an estate planning attorney. Everybody was so busy. It was really impossible to get an appointment.

So at this point it's out there and people are using them. They've developed a huge level of comfort during the pandemic and our shift to more technological solutions. And it's really working for a lot of people and for a lot of nonprofits who are offering this to their donors. But we hear that concern from boards and from attorneys who are trustees of nonprofits, and we acknowledge that is legitimate and we want to just help to educate people about what this tool does and what it doesn't do. We don't believe it's a silver bullet.

**Heather Shanahan:** Perfect. Okay. How do you find a lack of staff and or board diversity within an organization impacts discussions with diverse donors? Oh,

**Jade Bristol:** This is so important. And I'm really glad you asked. I think it would be a miss to skip a question like this in a discussion about DEI and diversity. I mentioned earlier that one of the findings of the survey was that most organizations had taken steps to diversify their marketing issues and that I think that really matters, right?

I really believe that representation is important. Donors and people need to see themselves in the organizations they support, but performative way, right? Donors aren't stupid. See a postcard that you're sending out or a newsletter that you're sending out that has donors or people that look like them.

But then they look at your board or your senior staff and there's no one who looks like them, what message are you sending? They're going to connect the dots there and realize that, maybe you're just paying lip service to diversity, and high-net-worth donors of color in particular, we know are very aware of whether or not the leadership of an organization they support is truly representative of their community.

There was a fantastic study, that I recommend very highly, of high-net-worth donors of color. This was published by the Donors of Color Network last year and is called Philanthropy Always Sounds Like Someone Else, A Portrait of High Net Worth Donors of Color. It's a fabulous read. And... What they found is that high-net-worth and ultra-high-net-worth donors of color are keenly aware of diversity among leadership of the organizations they support and it's something that nonprofits ignore at their own peril.

Yeah. But, with that being said, the focus of our research that we've done on the topic of DEI and the recommendations that we make about how to diversify your donor base have really focused on issues that planned giving professionals have control over. And I know that when I was a planned giving director, I had no control over the makeup of our board of directors.

Right? And most plan giving professionals don't have that level of impact in their organizations. Yes, it's incredibly important. And there are also things that are within the control of planned giving staff that they can do, on their, in their daily work, make sure that they're diversifying their own portfolios and their own staffing, and they have some

control over this. So I don't want them to feel like, oh, I can't affect our board makeup. So there's nothing I can do.

**Heather Shanahan:** Yeah, that makes sense. I think one simple way to affect board makeup would be, you know, asking for members of the community that you serve, in whatever capacity, if it's a scholarship recipient, if it is someone who's benefited from your services, from social services, who may not look like everybody on your board to participate on your board.

What a, what better way to have that voice represented in somebody who really understands firsthand the impact of what you're doing. And that just seems like such a simple thing and yet it's not done. And, why not? If it's you need to develop an advisory board before you put folks on your full board, or you need to have some sort of education capacity within your board structure and how you mentor people and bring people along, it's just an easy thing.

It shouldn't be this hard.

**Jade Bristol:** It really shouldn't. And I couldn't agree with you more that I think communities that are served by nonprofits need to have a voice in their leadership as well. And nonprofits that are, especially nonprofits that are serving communities directly, that are providing direct services, really do need to be incorporating the voices of those people.

**Heather Shanahan:** every word

**Jade Bristol:** organization, whether that's a staff or board members or advisory members.

It's really important that type of community led organization, have the voices of the community within it. And then, of course, that's a great way to provide more diversity for your board as well.

**Heather Shanahan:** let's talk about something a little bit different here. How do you find social mores regarding discussing death, which, ultimately that's what we're dealing with when we're doing estate planning. How does that potentially play into discussions with donors about estate planning and whether or not they're comfortable having that talk or whether or not they're, they aren't.

What do you find there?

**Jade Bristol:** No one wants to talk about death, right? Death

**Heather Shanahan:** there's that.

**Jade Bristol:** kind of cuts across cultures and communities. But we also know that different cultural communities have different traditions around when it's okay to talk about death, how to talk about death, and that includes how to talk about planning for the transfer of their assets after death.

And so one of the best speakers on this topic, and someone I've learned a lot from, is Dianne Nguyen at Daylight Advisors. And if folks haven't heard Dianne speak about this, I



really highly recommend jumping on one of her webinars. She's a prolific speaker on this topic, and she's worked extensively with the Chinese community, specifically in the Bay Area.

She talks a lot about the difficulty in overcoming some of the cultural taboos around talking about death in order to get high-net-worth donors to make planned gifts. And other communities, Black communities, Hispanic, Muslim, Indigenous communities. All have their own cultural traditions and sensitivities around this topic.

And I think the good news for fundraisers is you don't have to develop an expertise in every single culture and in how they talk about death. You just have to have awareness and sensitivity and empathy to the fact that you bring certain assumptions to the table based on your own cultural traditions that may not align with the cultural traditions of the donor you're talking to. They may be from a different cultural background. They may have different cultural traditions around talking about death. And if you can just at least develop some cultural dexterity so that you can have an authentic conversation in a way that is sensitive to those differences, that's really all you need to do. You don't have to be a cultural expert in this area. You just have to be aware.

**Heather Shanahan:** Yeah, do a little reading, a little research,

**Jade Bristol:** Exactly. Or talk to a person about this who's from that community.

**Heather Shanahan:** Yeah, that all makes sense. This has been super interesting. I want to make sure we've touched on everything. Is there anything I haven't? Asks that you think would be important for our listeners to know.

**Jade Bristol:** I think you've asked great questions and, I think overall, our research has really been guided by the idea that planned giving and don't always appear to go together to a lot of people there. It's something that people struggle with. It's something that I struggled with as a planned giving professional, and we're trying to break this down in a way that makes it just a little more accessible and understandable for folks so that, hopefully they can find ways to feel good about doing some of this work, even if it's in small pieces. You don't have to bite off a huge chunk and figure this whole thing out all at once; you can do little things over time and make progress in DEI and diversifying your donor base and working with donors of different cultures in ways that feel authentic to everyone involved.

And I just would hope that people feel a little less intimidated by this topic after they read some of our research.

**Heather Shanahan:** Yeah, that's fantastic. Thank you, Jade. And thank you, Giving Docs, for this important research. And, I'll say I'm grateful that you will continue it going forward, too. This wasn't just a one-time study. Thank you for that. As we close, we always ask our guests the question, since our topic is mission and markets: Mission impact, and what does that mean to you?

**Jade Bristol:** Wow. I have spent a lot of years working in jobs that feel like I'm having some kind of impact on an unimportant mission. So when I left the practice of law and got into the field of nonprofits, it was because I wanted to impact missions that mattered to me. And I think my professional experience and meeting people in the sector tells me that is absolutely the norm in the nonprofit sector.

Most of us have come to this work because we want to make a difference. We want to have an impact, and what's been really cool about my personal career journey is that I got to work for some nonprofits directly who had incredible missions that were very near and dear to my heart. And now at Giving Docs, I get to work with a wide range of nonprofits who are having this incredible mission impact within different segments of our country or our population or our planet.

And the best thing about my job is that I get to talk to all these different people every day who are at different nonprofits and hear not just about what they're doing in fundraising, but about what their missions are. What is the impact they're having? And I get to hear their own passion for what their organizations do.

And that's why all of us are in this field, right? Because it feels really good to be part of these larger missions that are literally saving the world in some cases. And it's just been an honor to be in this sector that is so mission driven.

**Heather Shanahan:** That's fantastic. I always say I have the coolest job ever, but I think your job is pretty cool, too.

**Jade Bristol:** I think my job is very cool.

**Heather Shanahan:** All right. thank you. Thank you. It's really been, It's been an honor and a pleasure to spend time with you today. I appreciate your wisdom and your insight. And thank you so much for being a guest with us today on Mission and Markets.

**Jade Bristol:** Oh, thank you, Heather. It was my pleasure to be here with you today.

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