

NATIONAL ETHICS BOWL 2009 CASES

1. Columbus Dispatch Rides Skybus

On April 4, 2008, Amy Saunders, a business reporter for the Columbus Dispatch (Ohio), received an unusual assignment. She was to fly from Columbus to Ft. Lauderdale on an 8:00 PM Skybus flight. Another Dispatch reporter had received a tip early that evening that Skybus, a ten-month-old low cost airline based in Columbus, would quit flying at midnight. The tipster required that no announcement of the impending bankruptcy could be made until 9:30 PM, after the last flights were in the air. Saunders was instructed to abide by the news embargo and to report on passenger reactions to the announcement once the flight landed in Florida. On landing, Ft. Lauderdale passengers heard the usual 'come back and fly Skybus soon' speech. When they deplaned, they discovered that the airline would cease operations at midnight and that any return legs of their tickets were useless. Saunders interviewed them and published her article on April 5.

Dispatch readers later criticized the paper for not telling the Ft. Lauderdale –bound passengers, *before* their flight, that Skybus would permanently cease operations that night. Matt Fisher, in a letter to the editor on April 22, condemned Skybus for deceiving passengers. He claims that the Dispatch, whose first function should be as a watchdog, "essentially made a deal with the burglar: 'We won't bark until you finish robbing Skybus customers.'"

Dispatch Editor Benjamin Marrison justified the paper's 'Silence on Skybus' in an April 13, 2008, editorial. He explained that the paper must uphold "two fundamental tenets of what we do. We don't violate agreements with sources or break news embargoes. We don't interfere with the course of news except in extreme circumstances, such as when our silence on an impending event would put someone in harm's way." Marrison explained, "The nature of what we do sometimes means that we have information that we can't report until a certain time. Typically, such restrictions involve the release of research. Organizations or institutions provide us their findings so that we can thoroughly analyze them. That way, we can have stories and explanatory graphics ready to go."

Skybus claimed it embargoed the news so that it could tell its 450 employees before they heard it elsewhere, and to avoid distressing airborne passengers.

2. Dangerous Ideas

The Code of Ethics of the American Library Association recognizes that controlling and disseminating information carries enormous responsibility and that intellectual freedom and freedom of access to information are fundamental to an informed citizenry. Although prisoners, whether US citizens or not, retain some rights, there are reasonable limitations to those rights that may include restrictions on fundamental freedoms.

Following 9/11, fear of terrorism led the federal Bureau of Prisons to restrict prisoner access to religious books. To counteract the threat of radical religious groups recruiting members, gaining influence, or promoting terrorist ideas in US prisons, the federal

Bureau of Prisons compiled a list of approximately 150 “noncontroversial” books and 150 multimedia materials (videos, audio books, CDs) for each of twenty major religions. The Standardized Chapel Library Project required chapel libraries in prisons to purge books that were not on the approved list. Enforcement of the policy resulted in both the removal of collections of religious writings acquired over decades and a prohibition against acquiring newly released unapproved materials. Some collections were comprised of thousands of books and other library materials, including thousand-year old classics of religious thought. Rather than identifying and removing—as has been done in the past—specific religious or secular library resources that incited hatred or violence or threatened security, the new policy limited prisoner access to a severely restricted number of pre-approved library materials. The list was to be updated occasionally, and prisoners could request that specific materials be reviewed for inclusion on future revisions of the list.

According to a September 10, 2007, New York Times article, Bureau of Prisons spokesperson Traci Billingsly stated: “We really wanted consistently available information for all religious groups to assure reliable teachings as determined by reliable subject experts.” However, The Bureau of Prisons declined to publish the list of approved titles, although it is available through the Freedom of Information Act. The Bureau also declined to release the names of the religious experts on staff at the Bureau of Prisons who determined, in consultation with unnamed external religious scholars, which materials were deemed acceptable. Despite concern that the list excluded significant works, included obscure and insignificant ones, and was strongly biased toward a particular perspective, the only information released about selection guidelines specified that materials could not be discriminatory or disparaging, or advocate violence or radicalization. These guidelines did not apply to nonreligious library materials. The Bureau of Prisons did not provide funds for libraries without the resources to replace their purged collections with acceptable materials.

The Standardized Chapel Library Project brought together outraged prisoners, conservative advocates of religious freedom, and liberal supporters of civil liberties who opposed the restrictions and who challenged the government’s right to determine what religious ideas are permissible.

3. Forbidden Pleasure

Kate and Frederick married and had their only child, Sophia, late in life. Frederick died when Sophia was eight. When Sophia was fourteen, Kate, who was in failing health, worried about what would happen to Sophia. Sophia was mentally handicapped. She had never been institutionalized but always lovingly cared for at home. Sophia began staying a couple of nights a week in a group home, in preparation for the future, as no family members were willing to take responsibility for Sophia when Kate could no longer care for her. Although it was difficult at first for Sophia to adjust to being away from home, she soon began to enjoy spending time with her housemates.

Kate was also concerned about Sophia’s sexual and reproductive autonomy. Sophia loved playing with her dolls and pretending to be a mommy, and said she wanted to be a real mommy with a real baby. However, Sophia was not able to care for herself and Kate was certain that she would be incapable of raising a child. Sophia, an affectionate young

woman, had a natural interest in sex. Kate was concerned that a pregnancy and termination or birth of a child, particularly if Sophia were not allowed to raise the child, would be extremely traumatic. Yet, she did not want Sophia to be denied sexual intimacy and pleasure. Kate believed that sterilization was in Sophia's best interests.

Forced sterilization has a shameful history in the United States. The 1927 Supreme Court decision, *Buck v. Bell* (274 U.S. 200), upheld the right of states to forcibly sterilize individuals determined to be unfit to reproduce. By 1930, over half of U. S. states had laws allowing forced sterilization of individuals identified as feeble-minded. These victims were in reality often intelligent but poor, uneducated, non-English speakers, or a financial burden on the state. One of the most notorious programs was Virginia's Lynchburg Colony for the Epileptic and Feebleminded, where over 8000 young people were sterilized between 1927 and 1972. U.S. law and eugenic sterilization programs inspired Hitler's social hygiene experiment that began as forced sterilization and ended with the Nazi death camps.

The United States Supreme Court declared reproduction to be a fundamental human right (*Skinner v. Oklahoma* 1942), and subsequent law upheld and strengthened this ruling. Federal guidelines forbid the use of federal funds for sterilizing incompetent or institutionalized women (42 CFR § 441: 201-206). These safeguards protect individuals with limited decisional capacity from forced sterilization, allowing sterilization only in strictly limited situations, usually for medical necessity. Kate understood that these laws were established to safeguard against the cruel and arbitrary practices of the past, and protect the reproductive rights of mentally challenged women. She recognized that sterilization would permanently deprive Sophia of these rights. She also believed the laws could be every bit as dehumanizing as the practices they prohibited, and that denying sterilization deprived Sophia of the right to exercise sexual autonomy and experience sexual intimacy without the continual threat of grievous emotional harm.

Dr. Burns was a family practitioner who had cared for Kate for many years and for Sophia all her life. On several occasions as Sophia approached puberty, Kate and Dr. Burns had discussed Kate's concerns about Sophia's sexual autonomy. Dr. Burns did not believe birth control devices or pills were appropriate for Sophia. She and Kate agreed that Sophia was not able to take responsibility for her own protection or for the consequences of her sexual actions. They were certain that Sophia was unlikely to be as closely supervised in the future as she had been while living at home.

Dr. Burns understood Kate's reasons for requesting that Sophia be sterilized, but was ambivalent about supporting her request. Sterilization would be permanent and would forever deprive Sophia of the right to reproduce. Dr. Burns did not believe that Sophia could give legitimate informed consent, either to agree to or refuse sterilization: as Sophia could not envision consequences, she was unable to understand and weigh the risks and benefits of various alternatives.

On the other hand, Dr. Burns believed that nobody was as capable of making decisions on Sophia's behalf as Kate. Having tended Sophia all her life, Dr. Burns knew that Sophia was not capable of caring for a child. Further, she knew that according to the National Resource Center on Child Sexual Abuse, Sophia was up to ten times more likely to be sexually abused than a child who was not mentally challenged, and that Chamberlain et al. in *Pediatrics* (73:445-450, 1984) reported that 50% of mentally challenged female adolescents have had sexual intercourse. Dr. Burns was absolutely

convinced that Kate was motivated only by what she believed was in Sophia's best interest and would contribute to the best possible quality of Sophia's life.

4. Google Health

A number of companies offer to store personal health records on the Web. Companies in this business hope to capitalize on the huge market of interested consumers seeking online health information and controlled health spending. The newest entry is Google Health with its technical know-how, deep pockets, and familiarity to consumers. A trial of Google's program with Cleveland Clinic patients was quickly oversubscribed, quelling fears that patients would worry about the security of their records.

Google Health users will create their own electronic medical record online, with the capability to enter and manage health information and access it online from anywhere. This portable medical record will be accessible regardless of doctor, moves, insurance changes, etc. The record can be set to send reminders to refill prescriptions and schedule return medical visits. Permission from the patient is required to access the patient's record; however, there are important exceptions noted in the Google Health Terms of Service and Sharing Authorization to which users must agree when they sign on for the service. Google Health is free to users.

Experts have long touted electronic medical records as a way to overcome the lack of coordination among health care providers. In addition, electronic records provide patients and providers with search capability linking information in the patient's records with information about health care alternatives, thereby giving patients more control over their health care choices. Access is available to patients, and to providers with patient consent.

Google Health allows the patient to determine what information is shared with medical providers and pharmacies. Currently it does not sell advertisements. A variety of health care institutions, pharmacies, and organizations have non-exclusive partnerships with Google, integrating their technologies to allow information to flow back and forth.

The fear of a loss of privacy tempers excitement about a Google-mediated record. Google vows that patients have complete control over their records. Patients decide who may see their records, and they have the option to delete their records completely. The Google Health Privacy Policy (available at its website) promises "Google will not sell, rent, or share your information (identified or de-identified) without your explicit consent, except in the limited situations described in the Google Privacy Policy, such as when Google believes it is required to do so by law." Critics point out that if medical records are not protected, others might use the information to harm the patient: employers to deny jobs, insurers to deny health coverage, financial institutions to deny, universities to deny admission, and so forth.

Fear of commercial exploitation also raises concerns, especially since Google Health skirts the issue on its FAQ's page about how it will make money on this free-to-consumer product. A program patent has been filed on behalf of Google Health allowing pharmaceutical, medical device, and service advertisements related to the patient's record to pop up when either the patient or a provider (permitted by the patient) views the medical record, much as ads related to email content show up on pages of Gmail. Visibility is a key factor in the influence of information on decisions and behaviors. The

positioning of information is not an accident, and it is likely that the assignment of premium web space will be determined not by the medical relevance of information, but by commercial interests. The patented program would allow this advertising feature to be disabled by the patient, but in the patent application, Google Health points out that insurance companies might raise premiums if people did this. The power of industry-supplied information from drug representatives to physicians has long been criticized. The broader influence of such information targeted at both the provider and the patient is hard to overestimate.

Google Health's privacy policy (to which users must agree) includes the following statement:

When you provide your information through Google Health, you give Google a license to use and distribute it in connection with Google Health and other Google services. However, Google may only use health information you provide as permitted by the Google Health Privacy Policy, your Sharing Authorization, and applicable law. Google is not a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"). As a result, HIPAA does not apply to the transmission of health information by Google to any third party.

When the user opts in to having information shared, Google says this:

We provide such information to our subsidiaries, affiliated companies or other trusted businesses or persons for the purpose of processing personal information on our behalf. We require that these parties agree to process such information based on our instructions and in compliance with this Policy and any other appropriate confidentiality and security measures.

Elsewhere in the Privacy Policy, Google specifies the following:

If Google becomes involved in a merger, acquisition, or any form of sale of some or all of its assets, we will provide notice before personal information is transferred and becomes subject to a different privacy policy.

5. Halliburton

Halliburton Company provides products and services for the oil and gas industry. It operates in at least seventy countries around the world. It has become the center of much negative media attention for a variety of reasons in the last few years.

Stockholder meetings of publicly held companies, such as Halliburton, are open to all owners of the stock on a first-come-first-served basis. The annual meetings involve the election of officers and usually a number of proposals that require the approval of a majority of stockholders. Each share of stock counts as one vote, so all stockholders have the right to "vote their shares." Most stockholders are unable to attend these meetings in person, so companies mail the proxy statement together with a ballot for all items to be voted at the meeting. The statement itself contains numerous reports and other important information relevant to the agenda. Sometimes management proposes items for voting, and sometimes one or more stockholders propose items. In the case of stockholder-initiated proposals, the proxy statement contains a statement by the proposer and a statement and recommendation by the Board of Directors. The management will

vote any shares not voted on by the stockholders. On April 7, 2008, Halliburton sent a proxy statement to all its shareholders announcing its annual stockholder meeting scheduled for May 21, 2008, at 9:00 a.m., in Houston Texas.

At the 2008 Annual Meeting of Stockholders of Halliburton Company, item four was a stockholder proposal "To Develop and Adopt a Human Rights Policy." The Sisters of Charity of the Blessed Virgin Mary were beneficial owners of 100 shares of Halliburton common stock. Their proposed resolution stated, "Shareholders request management to review its policies related to human rights to assess areas where the company needs to adopt and implement additional policies and to report its findings, omitting proprietary information and prepared at reasonable expense, by December 2008." Because Halliburton has operations in 70 countries, the Sisters stated that the company was vulnerable to a tarnished reputation, especially when operating in countries where there was "civil conflict, weak rule of law, endemic corruption, poor labor and environmental standards." They claimed that Halliburton's existing Code of Business Conduct "did not address major corporate responsibility issues, such as, human rights." They noted that KBR, a former subsidiary of Halliburton, "has been linked to trafficking-related concerns, including substandard living conditions, extremely low wages and confiscating employee passports." Accordingly, the Sisters recommended that Halliburton "base its human rights policies on the Universal Declaration of Human Rights, the International Labor Organization's Core Labor Standards, and the United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights." They also recommended that the report include (1) an assessment of the risk of human rights abuses in the countries where they operate, (2) a statement of the current system for verifying that their suppliers and contractors are in compliance with their human rights policies, and (3) a statement of strategy for engagement with all stakeholders. They claimed that, "Worldwide, 99 companies have adopted explicit human rights policies addressing a company's responsibility to the communities and societies where they operate."

Halliburton's Board of Directors recommended a vote against this proposal. They pointed out that they had at that time and had continually been addressing many human rights issues such as "employment practices, nondiscrimination in employment, health and safety, and security of employees and company facilities." They pointed to Halliburton's existing Code of Business Conduct and to its employee policies and guidelines, saying these documents "substantially incorporate laws and ethical principles including those pertaining to freedom of association, non-discrimination, privacy, collective bargaining, immigration and wages and hours. In some instances, our policies provide protections beyond what is required by law." The Board's comments about the proposal included a list of policies that covered many issues such as equal employment; internal accounting controls; antitrust and competition; harassment; health, safety, and the environment; and sensitive transactions. In partial elaboration of this last policy, they said, "Our employees are strictly prohibited from paying any bribe, kickback or other similar unlawful payment to, or otherwise entering into a sensitive transaction with, any public official, political party or official, candidate for public office or other individual, in any country, to secure any contract, concession or other favorable treatment." In addition to these policies, they pointed to a corporate policy (3-1573), on Minimum Employment Age Requirement, which, they said, "Establishes that we will not employ anyone, in any

capacity, who is under the age of 18 years, except where this minimum employment age requirement is superseded by local law. Where local law supersedes our policy, we will not assign employees under the age of 18 to dangerous or hazardous occupations." The Board of Directors felt that, given these existing policies, no explicit policy on human rights was necessary.

At the May 21 meeting, the stockholders voted against all stockholder-initiated proposals, including that of the Sisters of Charity of the Blessed Virgin Mary.

6. How Long Is Forever?

Residential development threatens thousands of scenic ranches in the least populated state of Wyoming. Paul Lowham owned a 1,000-acre ranch in Johnson County, a county of 7075 residents in the shadow of the Big Horn Mountains. He grew alfalfa and millet and irrigated with water from the Powder River.

According to National Public Radio's David Baron (March 11, 2008), in 1993, the Lowham family placed a conservation easement on their property and donated the easement to Johnson County. The easement granted the County the right to restrict the property to agriculture use and prohibit its subdivision. These restrictions bound all future landowners in perpetuity. The County became responsible for monitoring the use of the property and, if necessary, enforcing the terms of the easement. In consideration for the donation, the Lowhams received a federal income tax deduction of \$1 million, a figure that represents the amount by which the easement reduced the value of the property in prohibiting its use for residential development.

Six years later, Paul Lowham sold his ranch to Linda and Fred Dowd. The Dowds were farmers, not speculators, so the development restrictions were of no concern to them—until the energy company that owned the mineral rights to their land began drilling for natural gas. Soon, the Dowds' ranch was littered with fenced wells and the infrastructure required to make the wells profitable. The company laid pipelines and cut roads across the property. The degradation caused weeds to spread throughout the hay meadow.

The Dowds petitioned the Johnson County Commission to abandon the conservation easement on their land. They claimed that the fragmentation and contamination of their land compromised its viability for agriculture: without the ability to farm, their property was essentially worthless. They pleaded that the drilling activity effectively made the conservation easement meaningless, because the impact of the drilling on the ranch was no different than if it were to be developed for residential use—exactly what the Lowhams didn't want. In 2002, the County Commission agreed with the Dowds and voted unanimously not to sell the easement to the Dowds, but simply to abandon it.

Now, the Dowds say that they are sorry they ever bought the property. They accumulated nearly \$50,000 in litigation expenses and claimed they were demonized by the residents of Johnson County. The Dowds put part of the ranch up for sale at an asking price \$1.2 million. The ranch, for now, remains intact and the Dowds continue to farm it.

7. Killer Robots

The military is moving toward automated killing machines. The reasons for this move are numerous. Most obviously, any dangerous mission that could be carried out by an automated killing machine would reduce the risk to US soldiers. The so-called fog of war leads to poor decisions on the part of human soldiers. Fear, anger, resentment, exhaustion, and countless other physical and psychological factors may lead soldiers to make poor judgments or violate ethical standards and whatever established rules of engagement there may be.

One nagging concern, however, is the possibility that one of these machines may be captured and turned into a device of terrorism. Before active deployment, reasonable failsafe mechanisms must be in place. Here is a not-so-distant future scenario.

At the top level, a committee of military and civilian leaders agreed that the best defense against capture would be to design robots that would self-destruct in the event that they are disabled in a combat situation. Self-destruction would carry its own costs, as the robot could harm or kill US military personnel should it fall in combat near human soldiers. So, the instruction to self-destruct would not take effect if it recognized the near presence of friendly combatants. Details were left to the programmers. Military advisers recommended a delayed detonation strategy. They suggested that rather than immediately self-destruct, the disabled robot should be programmed to "play dead" until approached by enemy combatants, and only then explode with much damage to any nearby humans. In a close vote, the committee accepted the military recommendation. Details, again, would be left to the programmers.

During the analysis phase of development, the programmers isolated a number of perceptual cues that would allow the robot, even when severely damaged, to effectively distinguish between US soldiers, enemy combatants, and all others. The sequence leading to delayed detonation would only activate in the presence of enemy combatants. They also established a set of conditions that would determine if the robot had suffered damage in combat or as a result of an ambush. Self-detonation could only occur after combat or after an ambush.

The programmers did a thorough job of analysis lest an error in their AI (artificial intelligence) be responsible for the death of US soldiers or of innocent civilians. Nevertheless, the programmers were not soldiers themselves, and had never seen field combat at close range. Therefore, their analysis was based on imagination and interviews with combat soldiers. While they took great care in the analysis stage, they found themselves running behind schedule at the testing stage. Their managers began applying more and more pressure on them to meet the delivery deadline, and so the last line of test and bug fixes was rushed.

The robots proved highly effective in battle. After cautious and limited deployments, careful analysis of results, and subsequent adjustments to the AI, killer robots became less of a novelty to be treated warily, and more of an accepted tool for clearing out enemy nests embedded in urban settings. While there were occasional incidents of friendly fire or of minor collateral damage, the overall results were a clear improvement over similar errors in human judgment.

On March 12, 2015, Commander Ralph Calley sent his robot-assisted squad to clear out a nest of insurgents embedded in a neighborhood. The troops walked into an ambush.

All the human soldiers were killed and the robot was severely damaged. All but two of the insurgents were also killed, and those two were injured and fell unconscious nearby. As programmed, the robot fell to the ground and lapsed into the state its programmers had termed "lethal hibernation." Within an hour, a crowd of curious civilians and children gathered around the still scene. The resulting massacre claimed the lives of one hundred and thirty eight innocent people.

8. Low Cost Illegal Workers

Many people would agree that comprehensive immigration reform is needed in the US to solve issues of border enforcement, guest-worker status, and pathways to legal residency and citizenship for an estimated 12-million undocumented immigrants. Not everyone agrees on a solution.

Sen. Dianne Feinstein (D-California) has been a consistent supporter of immigration reform, especially in the form of guest-worker status. Sensing time running out for the Congressional session and for farmers approaching planting and harvest, she and Larry Craig (R-Idaho) sponsored the "Ag-Jobs amendment" intended for attachment to a giant Iraq spending bill (HR 2642). The amendment ultimately did not get attached to the Iraq bill, but illustrates the compelling issues inherent in immigration reform. Specifically this amendment would have given temporary legal status to 1.3 million undocumented farm workers over the next five years, without promise of citizenship or permanent residency. Workers applying for the program would have had to prove they had worked on U.S. farms for at least 150 days or 863 hours, or had earned at least \$17,000 during the last four years. They would have had to remain working in agriculture for the next five years, when the program would expire. Without the amendment, Feinstein warned Congress that the U.S. would lose \$5-9 billion to foreign competition, tens of thousands of farms would shut down and 80,000 jobs would move to Mexico.

The San Francisco Chronicle (May 16, 2008) reported Feinstein saying, "It's an emergency. If you can't get people to prune, to plant, to pick, to pack, you can't run a farm." Western Growers, representing California farmers, and the United Farm Workers of America backed Feinstein's bill. Increased pressure at the border and raids at work sites have diminished the flow of Mexican workers to California and a viable guest worker program does not exist. President of Western Growers, Tom Nassif, pointed out that large growers are moving their enterprises to Mexico because they cannot find enough workers in the US. Nassif notes that once growing operations move to Mexico they are unlikely to return to California. An impending Department of Homeland Security rule requiring employers to match workers with a valid Social Security number further threatens labor supply. United Farm Workers President Arturo Rodriguez supported Feinstein's bill as a "critical but temporary fix to a much larger problem" according to the San Francisco Chronicle.

New York Times journalist Joshua Brustein reported similar labor shortages in western New York state (May 27, 2008). He interviewed Jim Bittner who had just cut down healthy, bearing sweet cherry and peach trees for want of labor to prune and harvest. He will grow other fruits that can be harvested by machine. Dairy farmers who can afford to are installing very expensive robotic milking machines to replace humans, and other

farmers are switching to crops that do not require the careful handling by human pickers. Brustein also quotes Ben Frega, vice president of Great Lakes Kraut, who said, "It's been more difficult to secure our crops than any year I can remember." Brustein cites agricultural industry experts who expect continued moves away from labor-intensive crops if immigration policies are not resolved. As many as 800 farms are "highly vulnerable to going out of business or forced to severely cut back their farm operations," according to the Farm Credit Association of New York.

An article by Jennifer Moreno in the Houston Chronicle (May 25, 2008) reports findings of a study that "if the 8.1 million undocumented immigrants who cut lawns, bus tables and perform other jobs disappeared overnight, the nation's economy would lose nearly \$1.8 trillion in annual spending." Moreno also cites Charles Foster, immigration attorney and chair of Americans for Immigration Reform, citing the need employers have to hire immigrants legally. Foster claims eliminating undocumented immigrant workers would seriously harm the US economy.

Groups such as the Colorado Employers for Immigration Reform and the Arizona Employers for Immigration Reform have formed unusual political alliances with humanitarian and religious groups, immigrants' rights groups and labor unions to address the issue of immigration reform. They are looking for sensible solutions that solve the problems of illegal immigration while allowing the use of foreign workers.

The Federation for American Immigration Reform (FAIR), however, believes that undocumented workers take jobs from Americans and drive wages down. Moreno quotes Ira Mehlman, FAIR media director: "In many cases, there were people doing the jobs before the illegal immigrants showed up. In many cases, these are just subsidized jobs because the employer can get away with whatever he's paying. A lot of these studies begin with the presumption that the jobs would not be getting done if not for the illegal immigrants," Moreno cites a 2007 FAIR study showing that "education, health care and incarceration of undocumented immigrants in six states, including Texas, exceeds \$27 billion annually."

Critics question whether it is fair to give US farmers an advantage over foreign farmers, especially when employees may be exploited outside US labor laws. Critics who oppose amnesty for illegal immigrants called the 'AgJobs' amendment a backdoor path to amnesty. Comprehensive reform overtly leading to citizenship for the estimated 12 million illegal immigrants failed to pass Congress in 2007.

9. Military Anthropologists

Winning the hearts and minds of the Iraqi people proved to be more of a challenge than the U.S. military command had anticipated. In 2003, the military turned to social scientists for help in understanding the complexities of interwoven tribal values and of local socio-economic realities of Iraqi culture. For instance, when one consultant realized that men from a particular village joined the insurgency for the wages the men could give their impoverished widowed mothers, the military began a job-training program for village widows. Similar responses to local issues reduced the incidence of armed conflict by identifying and addressing the underlying social and economic problems that fed the insurgency. As a result of these successes, the Department of Defense established the

Human Terrain System, which embedded social scientists in military units in Iraq and Afghanistan and laid the foundation for the Minerva Consortia.

The Minerva Consortia were created to strengthen ties between the military and academe, with the Pentagon supporting and utilizing social science research. Priorities were established and included strengthening national security, addressing terrorism, understanding religious and ideological perspectives, assessing Chinese foreign military capacity and technological advances, and exploiting new disciplines that might emerge from current conflicts (as game theory emerged from Cold War technologies).

In an April 2008 speech to the Association of American Universities, Robert Gates, Secretary of Defense and former of Texas A & M University president, assured university officials that "...the key principle of all components of the Minerva Consortia will be complete openness and rigid adherence to academic freedom and integrity. There will be no room for 'sensitive but unclassified', or other such restrictions in this project. We are interested in furthering our knowledge of these issues and in soliciting diverse points of view – regardless of whether those views are critical of the Department's efforts. Too many mistakes have been made over the years because our government and military did not understand – or even seek to understand—the countries or cultures we were dealing with."

Social scientists were divided in their support of the Minerva Consortia. Proponents welcomed a closer collaboration between universities and the military. They applauded the Pentagon's commitment to understand diverse perspectives and values, claiming this had already helped reduce military conflicts. Establishing democracy and improving local governance in villages where armed conflict had occurred improved quality of life and safety in these communities by treating the disease rather than attacking the symptoms.

Opponents argued that academic and military values were so fundamentally different that this collaboration was faced with an inherent and irresolvable conflict between, on the one hand, the university's commitment to open discourse and continual challenging of ideas and, on the other hand, the military's strict hierarchy and unquestioned discipline. Opponents expressed fears that the military would exert undue influence on research programs and priorities; that researchers working in military zones could be perceived as spies, endangering themselves and future social scientists working on strictly academic research; and that military objectives violated professional ethics in the social sciences.

The American Anthropological Association, the world's largest professional anthropological organization with over 11,000 members, was among the most vocal critics of the Human Terrain System. The association affirmed the obligation of anthropologists to work with the government to enhance appreciation of differences of culture and value, and to help shape and implement policy. The organization's executive board, however, denounced the involvement of anthropologists in the Human Terrain System as a violation of the organization's Code of Ethics. "In both proposing and carrying out research, anthropological researchers must be open about the purpose(s), potential impacts, and source(s) of support for research projects" (Section III). It continues, "Anthropological researchers must do everything in their power to ensure that their research does not harm the safety, dignity, or privacy of the people with whom they work, conduct research, or perform other professional activities" (Section IIIA2). Additional concerns involved violations of the code's requirement to obtain informed

consent and identify the impact the study may have on subjects (IIIA4, 3), avoid exploiting subjects (IIIA6), maintain the integrity and dignity of the profession (IIIB2), and ensure that knowledge gained by research is used responsibly and not misused for social or political reasons (IIIC1).

10. Omission on Application

Despite having quite a few years' experience, coursework toward a doctorate in psychology, and a very good work record, James Williams had been unemployed for several months. He felt he would like to switch away from psychology. He had developed an interest in customer service, having majored in business in his undergraduate work. He applied for a variety of jobs but received feedback that he was "overqualified" for most of them or that employers assumed he was just filling in between "real" jobs.

He was beginning to feel desperate when a very attractive position came open with Bell and Bell Market Research – an ideal entry into his desired field. He completed the application and submitted a resume characterizing his previous job titles, as 'counselor' instead of 'psychologist' and did not mention his doctoral work.

He worried at having to sign a disclaimer at the end of the application vowing, "The information provided on this employment application is true, correct and complete. If employed, any misstatement or omission of fact on this application may result in my dismissal."

11. Pedophile Housing

Before 1994, few states had laws that even defined 'sex-offender', much less laws that regulated convicted sex offenders' movements and required their registration with local law enforcement. This state of affairs changed with passage of the Federal Violent Crime Control and Law Enforcement Act of 1994, which required each state to implement a sex-offender registration program or risk forfeiture of federal grants for law enforcement. The 1994 Act was amended in 1996 to oblige states to establish community notification programs to make sex-offender registry information readily available to those who seek it. The Act was subsequently amended in 1998 and 2000 to broaden its scope and heighten some of its registration requirements.

More recently, over one-half of the U.S. states proactively passed legislation to restrict the locations where sex-offenders may reside. These laws commonly restrict sex-offenders from living, and sometimes from working, within a given distance (ranging from 500 to 2,000 feet) of places where children gather: parks, schools, school bus stops, day care facilities, community centers, and churches.

Sex-offender laws enjoy widespread support in many quarters. From the beginning, only civil libertarians seem to have challenged some of these laws, usually on constitutional grounds. For example, laws that require some sex-offenders to remain in prison after their sentences have been completed have been challenged on due process grounds. Also, from a constitutional perspective, draconian public notification

requirements seem to place convicted sex-offenders who have paid their debt to society in double jeopardy.

On the other hand, sex-offender residency restrictions have lost support in recent years from constituencies that traditionally endorsed them. The most notable, perhaps, is the Iowa County Attorneys Association (ICAA), an organization of county prosecutors, which issued its Statement on Sex Offender Residency Restrictions in Iowa explaining that sex-offender residency restrictions do “not provide the protection that was originally intended and that the cost of [enforcement]...and the unintended effects on families of offenders warrant replacing the restriction[s] with more effective protective measure[s].” Among other things, the document contends that residency restrictions force offenders into homelessness and otherwise cause them to provide false or no information to state sex-offender registries. According to the Statement, the negative consequences of the lifetime residency restrictions also have caused a reduction in the number of confessions made by offenders in cases where defendants usually confess....”

12. Polygamy

With the victory of gay marriage advocates in Massachusetts, and now California, it seems one of the next great frontiers of social change is polygamy. To use the oft cited quote of Washington Post columnist Charles Krauthammer, “And now, polygamy” (17 Mar 2006).

In *Reynolds v. U.S.*, the Supreme Court held that federal legislation banning polygamy was constitutional and did not violate the First Amendment right to free exercise of religion. In recent years, the Utah Supreme Court has issued several opinions regarding the application of the State bigamy statute to criminalize the religiously motivated practice of plural marriage. Without exception, the courts upheld the constitutionality of laws banning polygamy.

According to ACLU of Utah Legal Director Stephen Clark, "Living arrangements are really the most intimate kinds of decisions people make." He contends that Utah's polygamists are just like gays and lesbians who "...want the right to live their lives, and not live in fear because of whom they love" (ACLU Release, 16 Jul 1999).

The protection of sexual privacy received a boost in 2003 when the U.S. Supreme Court in *Texas v. Lawrence* struck down the long-standing sodomy law in Texas that criminalized homosexual sex. The bigamy statute in Utah, argue many, is like the sodomy statutes—it is anachronistic and rides roughshod over what the Supreme Court identifies as important fundamental privacy rights.

The arguments against legalized polygamy seem ambiguous in contrast or, as Jonathan Rauch puts it in "One Man, Many Wives, Big Problems," "The broad public opposes polygamy, but is unsure why." Most commonly, detractors of polygamy, even the most temperate, rely on anecdotal evidence to suggest that polygamous marriages foster and condone statutory rape, lead to trafficking in underage girls, and increase instances of incest. Also circumstantially, but perhaps as convincingly, Jonathan Rauch points to research that shows no polygamous societies have ever been true democracies and crime rates tend to be higher in them (reasononline, 2006).

13. **Shock Marketing**

Schaqra Enterprises, a once failing clothier, had recently become profitable. The management attributed the company's success to its new marketing department. These "Young Turks," an energetic and aggressive group of recent grads, had convinced the management to take a gamble on shock advertising. The theory was simple: they needed to get everyone talking about their company—even if the talk was critical or outraged. Public outrage would generate protests, letters to editors, and news coverage, all of which was free publicity. But if enough people knew about them, it didn't matter how many people hated them. All it took was a small percentage of people interested enough to try out their products. The high quality of their products would then speak for itself.

Flush with the company's sudden profitability, Schaqra's management sought to expand the small, overworked marketing team by interviewing and hiring a new marketing MBA. Each interviewee learned that the new hire would be assigned to one of three ongoing projects.

The first project was a line of dress shirts, targeted at young men. The ads in this campaign featured tense dialogues between men and women. Their attitudes and postures ranged from sultry to ominous, their conversation vague or rambling. Their entire figures were never quite visible, the image being cropped so their torsos filled the screen. The men were never wearing Schaqra clothes. At the end of the ad, a male voice delivered the tag line: "Looking good sure beats rape."

The second project was a line of simple, feminine dresses, targeted at women in their twenties. These ads featured a painfully sharp image of a somewhat grimy, out-of-shape man slouched on a chair in the foreground and a slender woman out of focus in the background. Both figures faced toward the camera, but the image was cropped so neither person's head was visible. As the woman talked to the man, he distractedly agreed. She clearly wanted him to get up from his armchair and do something. The tag line was, "Wear it just for you: he's too stupid to notice."

The third project was a line of business suits, some for men, some for women, and was targeted at yuppies. This campaign had appeared only on billboards in urban business areas. Each billboard contained a giant, black-and-white photograph of some shocking or unnerving image: the face of a blind beggar, an extreme close-up of a pierced male nipple, a cow's eye in a martini glass, and so forth. The image was never in any way connected with clothing. The company logo was the only indication that this image was meant to be an ad. At first, the logo had been fairly visible, but as the campaign progressed, the logos became smaller and smaller. In fact, no one needed to see the logo to know that Schaqra was involved. The campaign was so successful that locals had started saying of any outrageous behavior or incident that it was "Schaqring, totally Schaqring." The current set of billboards featured a photograph of young boy with eight flippers instead of legs.

14. **Suicide Hacker**

Fred was a promising computer science major at a prestigious school, so his death, an apparent suicide, came as a shock to everyone. He had driven home after a party, closed the garage door, and sat in his car without turning off the engine. The autopsy showed

he died of carbon monoxide poisoning. The insurance company refused to pay on his life insurance because his policy excluded death from suicide.

Sally, Fred's older sister, asked her boyfriend, Hal, if he could gain access to whatever information Fred may have left behind. Hal was a computer science major and far more familiar with computers than any of Fred's surviving family, but was not a "hacker." Sally, acting as executor, wanted to know if there was any sort of evidence that his death may have been accidental. But more importantly, they wanted to know, if Fred had indeed killed himself, what could have possibly driven him to do it.

Hal posed the question anonymously to an online community of computer nerds, asking (1) what was the right thing to do, and (2) if cracking into Fred's accounts was ethical, how would he go about doing it? Specifically, he wanted to know how to crack the root password on Fred's Linux laptop, how to get into his Gmail and Hotmail accounts, and how to access a secondary MySpace account tagged "private." He explained the circumstances and emphasized that he wouldn't crack into the accounts of anyone who was alive, but wasn't sure what to think about privacy of a dead person.

The original post generated nearly 800 replies, almost all of which were serious attempts to answer the numerous questions that Hal raised explicitly or implicitly. Gradually, a consensus emerged that Fred's accounts were his property and, as such, ownership passed to the executor of the estate, such as it was. At the request of the executor, Hal would be acting with complete propriety if he recovered any data from those accounts. For several posts, the conversation dealt with how to bypass the passwords of Linux systems and gain access to passwords to other accounts that may be stored in Firefox or other programs. Then, one person mentioned, almost in passing, that for the sake of the family, Fred should take a moment to "accidentally" delete any porn and such that Fred may have collected, just as a matter of common courtesy. Another poster added that there was a military tradition of cleaning up the locker of a dead companion by taking out any men's magazines, letters to local girlfriends, or anything that would make the soldier's family and friends think less of him or cause pain to survivors. Another pointed out that there was a problem with picking and choosing what to edit--what if there were some nasty things that Fred had been involved in that actually led him to commit suicide, or worse yet, what if it was something the family had done?

15. Blood Pressure

State University's commitment to fostering an environment of mutual respect and tolerance, and recognizing and valuing the inherent worth and dignity of every person is articulated in its non-discrimination policy. The policy states:

The University prohibits and will not support discrimination or harassment on the basis of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or status as a disabled veteran or a veteran of the Vietnam War or Gulf Wars by university employees, faculty, students, residents, volunteers, agents, groups, and internal and external organizations that use University facilities. The University will not discriminate or tolerate discrimination in admissions, employment, or

access to and treatment in University programs, activities, services, aids, or benefits. This policy specifically excludes, but only to the extent of the law, university relations with the federal government, the military, ROTC, and private employers.

The policy statement appears on all University publications, and each University-sponsored organization is required to sign a statement agreeing to abide by the school's non-discrimination policy. Now President Portia faces a dilemma that is dividing the University community as individuals and organizations that promote worthy causes appear to be in conflict.

Like many communities across the country, the town where State University is located is experiencing a blood shortage. In response to the crisis, the Student Nurses Honor Society, the Student Veterans Association, the Medical Technology Student Association, the Pathology Club, and the Red Cross are organizing a campus blood drive. Other students and faculty, however, are challenging President Portia to uphold the University's non-discrimination policy that prohibits activities on campus that arbitrarily discriminate against a particular class of individuals.

Five safety checks protect the country's blood supply: screening, testing, deferral registries, blood quarantine, and the manufacturing process. Currently, the safety of any donation can be assured after 11 days – safe from all but human error. Human errors in labeling and using blood before the 11-day testing and treatment processes are completed are responsible for almost all the tainted blood that is used. Despite opposition from local governments, educational institutions, civil rights groups, blood banks, the AMA, and most recently the Red Cross (who reversed its similar policy two years ago), the Food and Drug Administration (FDA) permanently bans blood donations from men who have had even one male-on-male (MOM) sexual encounter since 1977. Every male donor is asked, "From 1977 to the present, have you had sexual contact with another male, even once?" If the answer is yes, the man is prohibited from donating blood – forever - and this information is stored permanently. The FDA is required to make recommendations based solely on scientific evidence, even to the extent of disregarding ethics and economics to present unbiased, hard scientific evidence. Although the FDA states that the zero tolerance policy for blood from MOM donors is not judgmental with regard to the donor's sexual orientation, it has failed to provide either scientific or ethical justification for permanently deferring MOM donors. Further, it does not impose the same restrictions on either the female partners of MOM donors, who are deferred from donating blood for only 12 months, or on transgendered individuals (who are not acknowledged by the FDA).

President Portia discussed with city officials the possibility of holding the drive at city hall, but was informed that the city discontinued blood drives because the practice conflicted with city's non-discrimination policy.

