

CASES

For the

INTERCOLLEGIATE ETHICS BOWL

NATIONAL CHAMPIONSHIP COMPETITION

TAKING PLACE AT

THE ANNUAL MEETING OF THE

**ASSOCIATION FOR PRACTICAL AND
PROFESSIONAL ETHICS**

IN

CINCINNATI, OHIO

ON THURSDAY FEBRUARY 22, 2007

Prepared by:

Peggy Connolly: Chair, Case Preparation Committee

Ruth Ann Althaus

Christina Bellon

Anthony Brinkman

Martin Leever

Robert Skipper

Case 1.

Ryoei Saito, former chairperson of Daishowa Paper, paid a record price for two art masterpieces: Van Gogh's Portrait of Dr. Gachet (\$82.5 million), and Renoir's Le Moulin de la Galette (\$78.1 million). The Van Gogh, which hung in Frankfurt's Städtische Galerie, had previously been hidden from the public for several years when, in 1933, the museum's director correctly anticipated the destruction of "degenerate" Expressionist art that would occur under Nazi rule. Hermann Goering tracked down the work in 1937 and sold it for \$53,000. The Kramarsky family later purchased the painting, and brought it with them to New York when they fled Nazi Germany. The Kramarsky family frequently loaned the work for display at the Metropolitan Museum.

After purchasing the paintings in 1990, Saito had them shipped to a secret climate-controlled storeroom in the Tokyo area, where he viewed the paintings for a few hours, then had them packed and locked securely away. Saito would not even allow his family to see the paintings. Over the next seven years, the paintings were taken out of storage only once, for a dinner at a restaurant where Saito entertained a guest from Sotheby's Auction House.

The sale of such significant works to a private individual and their removal from public access caused controversy. However, this controversy was minor compared to the uproar that ensued when Saito declared his intention to have the paintings cremated with him when he died. The paintings were saved from destruction only when they were used as collateral against Saito's loans from Fuji Bank.

Case 2.

Computers fail for many reasons; most commonly, because of a hard drive crash. Computers may also be rendered unusable by fire, flood, mistreatment, sabotage, rust, viruses, overheating, static electric shock, and other mishaps. Users sometimes lose data by forgetting a password, deleting data accidentally, or making other mistakes. Even the savviest user will sometimes neglect to back up important data. When catastrophe occurs, the data stored on the hard drive, though often still there, cannot be retrieved by normal means.

Properly trained technicians often can recover data. The process can be painstaking and delicate, and only a few are qualified to recover data. Those who are qualified usually charge high prices for their service, which customers are willing to pay.

Fred earns a comfortable living as president of his own small data recovery company, Recoupabyte Confidential, Inc. Starting five years ago from a one-person operation, he now employs a team of six: three technicians for the service side, and three staff members for the business side. The corporate website advertises comprehensive data recovery from most mishaps, free estimates, and complete confidentiality. Their tagline is “Your reputation is safe with us.” Fred had often thought about that line, thinking that, “Your data is safe with us” might be more accurate.

Fred assigned Arnie, a new technician, to the case of a new customer, Mr. Bowen. In a rage, Mr. Bowen had hurled his laptop through a window of his house. After calming down, he realized that all his tax records were on the computer and he had no backup. He gathered up the pieces of the laptop and brought them to Recoupabyte. During the interview, with Fred and Arnie both present, Bowen nervously inquired about the confidentiality promise. He wanted to make sure that Recoupabyte would treat all data in the strictest confidence, no matter what it might be. Fred assured him that anything on the computer, unless it involved plans for future criminal activity, would be completely safe with Recoupabyte. “We are all professionals here!” he said.

Since the hard drive had been damaged, Arnie had to extract and examine one file at a time. Many files were lost or hopelessly corrupted. In examining files, Arnie noticed some poor-quality photographs of what looked like a badly injured person. He continued the retrieval process and found a folder called “diary” that contained files named by month and year. He examined one of these files and found it to be a first-person account of daily activities. His curiosity getting the better of him, he found the diary file with the same date as one of the photographs. To his amazement, the diary contained a brief, perfunctory account of a murder.

Shocked by what he had seen, Arnie went home early. In the middle of the night, unable to sleep, he got on the Internet and started searching for information about a local murder

committed about that time. He found nothing about a murder, but a month after the date on the file, there had been an unresolved missing person report.

The following morning, Arnie went in early and read the entire diary. By his own account, Mr. Bowen was an extremely volatile person, who frequently flew into uncontrollable rages. His diary recounted numerous times he had destroyed property or ruined friendships in his rage, only to come to his senses later and indulge in bouts of self loathing and remorse. Remorse quickly passed until the next incident.

According to the diary, Bowen had struck a drinking buddy during an argument, knocking him out. The sight of him lying unconscious on the floor had only enraged Bowen all the more. He continued hitting and kicking him until his fury was spent. When Bowen came to his senses and checked for a pulse, he realized his friend was dead. The diary went on to describe how he disposed of the body, but did not give a location.

Arnie called Fred into the lab, showed him the files and poured out the whole story. “So what do we do?” he asked.

Fred replied, “We recover his data and give it back to him.”

“And then what?”

“Send him a bill.”

Arnie turned red and spluttered in disbelief, until Fred finally explained. “Look, kid. This company is built on confidentiality. People need to know that we will not turn them in, no matter who they are. Otherwise, if we start picking and choosing what dirt we turn over and what we sweep under the rug, we’ll lose all trust. We’re not a jury. We’re not even consultants or advisors, we’re just housecleaners. Not noticing anything in the house we’re cleaning is just good business practice. And what if it’s not a real diary, but notes for a novel? So, finish your work and stop snooping through Bowen’s files, O.K.?”

Case 3.

After the Spotsylvania, Virginia, Sheriff's Department noticed that men frequented the Moon Spa late at night, the spa was put under investigation. Undercover officers, posing as customers, paid for and received sexual services.

Many law enforcement departments specifically prohibit officers from engaging in sex to aid in conviction. However, in Spotsylvania, as in some other jurisdictions, prostitutes cannot be convicted of a criminal offense without evidence that sexual acts were performed. Receiving money for sex without performing sexual acts is not sufficient for conviction, nor is a verbal promise of sex grounds for prosecution.

Supporters, such as Spotsylvania County Sheriff Howard Smith, defend the practice as the only way to gain convictions and rid the county of prostitution. Without proof of sexual activity, the charges are misdemeanors. Once sexual activity is initiated, the crime becomes a felony, allowing seizure of assets, which, Smith says, is the only way to discourage prostitution from becoming establishing in the area.

Opponents argue that this practice poses a serious risk to officers' health, as well as to their current or future partners. Many sex workers are illegal aliens, coerced into the sex trade through a network of human traffickers: victims too ashamed or fearful of prosecution or deportation to escape or seek help. Further, they contend that the credibility of law enforcement agencies is compromised when officers engage in the criminal activity they are prosecuting, thus breaking the law in order to uphold it. Attorney Irv Maze of Jefferson County, Kentucky (where the practice was supported until recently) said, "We in law enforcement have a higher standard than to act like that. Otherwise, we're no better..."

Similarly, in many jurisdictions, law enforcement officers buy drugs with public funds as part of their investigations. Some see a difference in buying drugs and buying sex. They argue that buying drugs gets them off the street and prevents their further distribution and use. Others see no difference, and contend that buying drugs increases demand, and therefore, supply.

Case 4.

Onewang Rebecca Kasienyane, South African National Assembly Chairperson of the Portfolio Committee on Labour, announced last year that Parliament would soon consider a proposal to limit affirmative action to those born before 2 February 1990 – the day bans on the African National Congress (ANC), the Pan African Congress (PAC) and other liberation organizations were lifted. The announcement by Ms. Kasienyane, an ANC Member of Parliament from North West Province, followed public hearings by her Committee on Youth Unemployment. In committee meetings, affirmative action and Black Economic Empowerment (BEE) policies came under fire from some youth organizations that complained about their perceived unfairness.

The request to ban affirmative action for “born frees” (i.e., South Africans born after 2 February 1990) came from the University of Pretoria’s Tuks Afrikaanse Studente (TAS), an Afrikaner youth organization. The membership argued that most young white people born after that date knew nothing about the apartheid dispensation and, as such, should not be penalized when trying to find work. At the public hearing, Cornelius Jansen van Rensburg of TAS went further. He presented statistics showing that the number of matriculating black students had grown by 100 percent under affirmative action, while the number of white students had decreased by 20 percent. Jansen van Rensburg asserted that, whether the difference can be ascribed to large-scale emigration or the government quota system for specialized courses, white students were being disadvantaged twice: in university admissions, and in the job market. “We had nothing to do with the previous regime, and now we are the ones bearing the brunt of a policy that is in fact not serving the academic aim, but is used to oppress us,” said Jansen van Rensburg.

The National Union of Metalworkers of South Africa (NUMSA) later came out most strongly against the proposal of dispensation for born frees. “The country should deal with the enormous inequalities created under apartheid for the past three centuries, rather than worrying about who gets the meat and how the affirmative action is poison for others,” said the union. “A black child born in 2006 in a squatter camp still does not enjoy the same privileges and opportunities as white children.”

Reacting to The Federation of Unions of South Africa (FEDUSA), which welcomed the proposal, NUMSA stated, “We will vigorously frustrate attempts by the Federation and opposition parties in Parliament to limit affirmative action. Affirmative action was put on the agenda for social and economic change and it was all about scrapping and burying apartheid.”

FUDUSA spokesperson Kim Mapley said the federation had always believed that affirmative action should be implemented for a defined period only and that those who grew up with equal opportunities should be excluded from the process.

Case 5.

Egged on by screaming fans, Cage Fighting is a bloody contest with one cage, two men, three rounds, and four rules (no eye gouging, no fishhooks to the mouth, no fingers in orifices, no groin attacks). The cage, about the size of a king-size bed, is made of chain link with a padded floor.

Although some states now ban boxing because of its violence, most allow Cage Fighting, which is less regulated and more brutal. In response to municipalities' bans on cage fighting, organizers have instituted changes such as weight classes and shorter matches, and outlawed some practices such as stomping and biting. Yet, while some organizations travel a circuit with trained fighters, others solicit inebriated participants from the audience and nearby bars.

To some, a Cage Fight is a test between modern-day gladiators demonstrating their athletic prowess. To others, it is cockfighting with humans that sometimes leaves participant crippled. Supporters of Cage Fighting argue that it is a legitimate sport, and while it does pose a danger to participants, so do many other contact sports that are not restricted. Competitors want to fight, and fans (sometimes thousands at a time) want to watch them. Fights are refereed, and a fighter can stop the action anytime by tapping on the cage or the opponent's thigh, or telling the referee. Opponents agree that while other contact sports pose the threat of harm to participants, the goal of Cage Fighting is to annihilate the opponent. A contestant may become too debilitated to signal the fight to stop. In addition to the violence of the fights and the danger to participants, opponents raise concerns that the atmosphere surrounding the matches encourages irresponsible alcohol consumption and fan violence. Often matches are held in portable cages in parking lots next to a bar. Others suggest a middle ground, calling for regulation and oversight, codified procedural rules, standardized safety rules, and trained referees. Still others who personally disapprove of Cage Fighting believe fighters have a right to get pummeled if they so choose. They fear even more brutal fights if Cage Fighting is forced underground.

Dr. Rosi Sexton, a mathematician at Manchester University, is a cage fighter. She says Cage Fighting, like mathematics is a challenge. She loves the mental challenge of mathematics, and the combined physical and mental challenge of Cage Fighting.

Despite an increasing number of cities banning Cage Fighting, its popularity continues to grow.

Case 6.

Several cell phone companies now offer a service that allows parents to track their children's whereabouts using their cell phones. Sprint, for example, has its Family Locator Service. Whoever pays for the phone is provided the ability to track it with GPS. (Global Positioning System, a satellite based navigation technology) In Finland permission is needed for tracking anyone over fifteen. The United States has no such law.

Parents who favor tracking are looking for security in light of child abductions, terrorist warnings, and online predators. C.T. O'Donnell, president of KidsPeace, tell his two teens, "It's my job as a parent to protect you." Robert Butterworth, a Los Angeles therapist, points out, "When I was growing up, neighbors were always watching us, and we didn't want to mess up because somebody might tell [our parents]. That sense of community no longer exists because no one wants to get involved, so parents are forced to use technology." In agreement with child therapists, O'Donnell agrees that kids should be told they are being tracked and why.

Critics warn that tracking children, with or without their permission, can erode trust and create anxiety about a "dangerous world." They worry that kids will become resentful and look for ways to avoid tracking. Some suggest that unless a child has violated trust, such devices do more harm than good.

Case 7.

Imaging technologies, such as magnetic resonance imaging (MRI), have proven to be powerful diagnostic tools in clinical medicine, allowing physicians to identify the presence and course of many diseases and conditions that may otherwise go undetected or be misdiagnosed. This same technology also has provided biomedical researchers with a detailed map of a wide range of physiological processes, especially those related to the human brain. A recent innovation, *functional* magnetic resonance imaging (fMRI), permits neuroscientists to track the flow of blood through the brain, allowing them to correlate various mental states and processes with neuronal activity in certain areas of the brain. Researchers have found that some parts of the brain are specifically associated with language use and development, while others correlate more closely with particular cognitive and emotional states. Neuronal patterns associated with complicated processes, such as decision-making and memory retrieval, and with personality traits, such as empathy and extraversion appear to be identifiable through fMRI.

While the commercial use of brain scans to test for personality traits is only hypothetical at this time, another kind of practical application of the fMRI is already available to consumers. Last year, San Diego-based No Lie MRI, opened its doors for business. No Lie MRI offers lie-detection services using the fMRI, and has since expanded its operations to the Philadelphia area. Likewise, Cephos Corp. of Pepperell, MA offers the same services at the Medical University of South Carolina. Both boast an accuracy rate of 90-93 per cent, slightly higher than that boasted by polygraph makers of (85-90 per cent). Polygraphs sense, among other things, perspiration, heart rate, and respiratory activity. Subtle increases in heart rate or perspiration are associated with the nervousness people typically experience when lying. These signs can be suppressed, however, so fMRIs may enjoy an advantage. According to Dr. Ferdinand B. Mohammed, director of Temple University's Functional Brain Imaging Center, "Since brain activation is arguably less susceptible to being controlled by an individual, our research will hopefully eliminate the shortcomings of the conventional polygraph test and produce a new method of objective lie detection that can be used reliably in the court room and other settings." However, using fMRIs to detect deception is both complicated and cumbersome. A subject lies down with his head inside an MRI machine. Then "yes or no" questions are presented on a small screen directly in front of the subject's face, and subjects respond by pushing buttons. By tracking neuronal activity associated with lying, an examiner can identify the veracity of statements with a high rate of accuracy.

The fMRI has found practical applications unrelated to medicine, lie-detection, or pure research. One proposed use relates to the possibility of detecting personality traits and mental capacities. Employers, insurers, and schools are interested in the character tendencies and capacities of applicants. Applicants for sales positions might be screened for extroversion or persistence. Others might be screened for the capacity to multi-task. Health insurers might screen for personality traits associated with high-risk behaviors. Credit card, mortgage, and other financial institutions might screen applicants against specific character traits.

Not everyone shares the enthusiasm surrounding the use of fMRIs for lie-detection and characterization of personality traits. Civil libertarians worry that it is one more threat to individual privacy. Says Barry Steinhardt, director of the American Civil Liberties Union's Technology and Liberty Project, "They are going to be deployed to read people's thoughts... (And) little, if any, attention has been paid to potential misuses and the devastating impact it would have on our civil liberties." Information that is usually legally off-limits could be gathered through an fMRI. There may be temptation for employers and schools to use this technology to screen applicants for desirable traits and to weed out candidates whose tests suggest undesirable characteristics.

Another concern relates to the storage of personal information gathered through the use of fMRIs. How will confidentiality be maintained? Some worry that brain scans have not proven themselves in the real world. That is, they may work reliably with test subjects when little is at stake, but may provide inaccurate results when there are serious real-life consequences. Stronger critics reject the claims of an exceptionally high accuracy rate for fMRI as no better than similar claims for the polygraph, a device denounced by one critic as "a ruse, carefully constructed as a tool of intimidation, and used as an excuse to conduct an illegal inquisition under psychologically and physically unpleasant circumstances." <http://www.csicop.org/si/2001-07/polygraph.html>

"Nonetheless, entrepreneurs of fMRI technology remain unconvinced that any serious irresolvable ethical challenges loom on the horizon. "We understand that there are further ethics conversations needed when science pushes the envelope," says Steven Laken of Cephos Corp, "but we don't see these tests being set up in dressing rooms and shopping malls. That's not going to happen."

Case 8.

A growing number of universities have recently started offering courses in the study of pornography. A few such courses are “Cyberporn and Society,” at the State University of New York at Buffalo; “Cinema and the Sex Act,” at the University of California, Berkeley; “Pornography in Popular Culture,” at the University of Iowa; and “Sex and the Law,” at UCLA.

Academic discussion of pornography has been around for a long time, usually in the context of first-amendment issues, gender and society, or feminist studies. But some professors say that merely studying pornography without watching it is ineffective, and they advocate in-class screening or display of pornographic material. Time Magazine quotes a Northwestern University professor of communication studies as saying, “University students are often too cool, too hip to understand why other people get perturbed [at pornography]. Showing a film like this allows them to react and then take a step back and analyze their reaction with the critical reflective tools you give them.” The film she was referring to was “Salò, or 120 days of Sodom,” which, she says, disgusted and horrified students who had previously expressed staunchly liberal views about freedom of expression.

Promoting pornography is not the goal expressed by teachers of these courses. Those who teach pornography typically do so to warn of its psychological dangers, expose its corrosive impact on culture, and alert the audience to the harm it does to the understanding of what it is to be human. For instance, according to Anna Reading, a Reader in Arts and Media at London (UK) South Bank University, Andrea Dworkin, an outspoken opponent of pornography, toured England and America promoting her book, “Pornography: Men Possessing Women” (1989). On this tour she gave lectures in which she read passages that depicted women as sexual slaves. According to Reading, “Her lectures shocked, disgusted, and dismayed student audiences, generating a new wave of women and some men to become involved in questioning the ideology of pornography.”

However, many people think the college classroom is not an appropriate venue for such materials. Wendy Wright, director of Communications for Concerned Women for America, asserts that studying it in the classroom “lends legitimacy to pornography.” She says, “One thing that we can do is let it be known that this is happening, and to let parents know that the education they are helping to fund is being spent not on education, but rather promoting pornography.”

Even some professors who teach courses on pornography have reservations. According to Paul Abramsom, a professor of psychology at UCLA, pornography is “so pervasive in our culture, most students have already seen it,” so, actually showing it in class seems unnecessary.

Case 9.

Early in the spring of 2006, self-professed Earth Liberation Front activist Eric Taylor McDavid was arrested and charged with conspiracy to blow up the Nimbus Dam and the nearby fish hatchery in Rancho Cordova, California, as well as a U.S. Forest Service genetics lab in Placerville, California. While awaiting trial, McDavid was held in the Sacramento County prison.

For the three years prior to his arrest, McDavid maintained a vegan diet. Early in March, McDavid embarked on a hunger strike and his attorney filed a federal lawsuit charging that the prison's refusal to provide McDavid with vegan meals constituted a violation of his civil rights. According to the lawsuit, "His (McDavid's) vegan diet is based upon his strongly, sincerely and firmly held beliefs, which are the same as a religious belief."

According to the Sacramento County Sheriff's department, a vegan diet is considered to be a lifestyle choice rather than a matter of religious belief or conscience. Even if these were on a par, the department makes dietary accommodations only for medical reasons, not for religious reasons, and makes additional food items available in the prison commissary for inmates to purchase to supplement their meals. Some of the trouble lies in determining what constitutes a religious belief for legal purposes. A Buddhist inmate seeking the provision of soy milk to supplement his meatless diet on the grounds that vegetarian meals are necessary to Buddhist religious practice won his case despite the fact that his beliefs were not shared nor considered essential by others in the Buddhist religion.

Even if it could be determined what constitutes a religious belief under federal law, there is disagreement over whether the prison system has responsibility for providing special meals at all. While denying three New York inmates their appeal for vegan meals on the grounds that vegan meals are central to their orthodox Jewish beliefs, the presiding judge said she did not question the sincerity of the inmates' religious beliefs, but agreed with the city's claim that a blanket policy of not providing vegan or vegetarian meals to any inmates was important to an efficient, cost-effective food program. The judge also noted that the inmates were managing on their current food availability, saying, "I am not saying it's been pleasant. I'm not saying it's been easy. I'm not saying it's been without effect, but they have tolerated it."

Similarly, Sacramento sheriff's officials said McDavid is free to discard what he finds inedible, and still get a diet that meets nutritional standards. Lt. Scott Jones said a dietitian has met with McDavid and determined that even if McDavid discards animal products from his daily meals, his diet meets his nutritional needs.

Mark Reichel, McDavid's attorney said, "This really is beneath the dignity of a society that calls itself civilized."

After over 100 days of incarceration Eric McDavid finally received his first vegan meal, which consisted of two peanut butter sandwiches, cooked vegetables, plain rice, fruit, carrot sticks, and salad.

Case 10.

Sharon Duchesneau and Candace McCullough are both deaf, and are the parents of a deaf child, Jehanne. To increase the chances of having a second deaf child, they selected a sperm donor with a family history of several generations of deafness. Their son, Gauvin, was born with a complete hearing loss in one ear and a serious hearing loss in the other. Although a hearing aid would allow Gauvin some level of hearing in the one ear, his parents refuse any treatment that allows even residual hearing, saying they will allow him to choose hearing or deafness when he is older.

The use of reproductive technologies to select for desired traits has long raised ethical concerns about using technologies to give children a disproportionate advantage. The decisions of Gauvin's parents to ensure he would be born deaf, and remain deaf, have raised the issue of defining "handicap" and "enhancement". While many believe deafness to be a disability – it is listed as such in the Individuals With Disabilities Education Act, and many sperm banks will not accept sperm from donors who have congenital deafness – others, such as Gauvin's parents, believe deafness to be a benefit.

Critics of genetic selection for deafness or failure to remediate hearing loss consider deafness to be a disability that limits a child's potential. They believe deafness limits pleasure and safety, creates difficulty in acquiring language, impedes communication, and may cause a child to be ostracized. Children's rights advocates strongly oppose selecting for deafness, as inability to hear limits language development and career options, and eliminates the ability to hear the sounds of music, nature, or human speech. Children who grow up with hearing playmates often find these friendships diminish as talking in adolescence becomes as important as the physical play of childhood. Others fear that selecting deafness for a child may lead to more restrictive use of reproductive technologies for parents at risk of conceiving a child with genetic maladies such as Cystic Fibrosis or Tay Sachs. If parents are allowed to select for deafness, some ask if parents may also select for blindness.

Proponents argue that the deaf community experiences a degree of emotional intimacy not achieved in the hearing world, and these bonds of community outweigh the benefits of hearing. Deaf people often have a heightened sense of smell, touch and vision. In an interview in the Washington Post, Candace McCullough called deafness a cultural identity, not a handicap. Supporters say that McCullough and Duchesneau did not create a handicapped child: they allowed a handicapped child to be born. Jim Roots, of the Canadian Association for the Deaf, sees no difference in deaf parents who wish to have a deaf child like themselves, and hearing parents who fit a child with hearing aids, use cochlear implants, or resort to surgery to allow their children to hear. Clients of sperm banks are able to choose characteristics they want in a donor, such as height, hair color, race, and other traits, and are able to choose a donor without evidence of disease or disability who matches themselves as closely as possible. Why should deaf parents not be allowed to select traits that reflect themselves in their children?

Case 11.

The Pentagon has contracted with BeNow, a commercial direct marketing firm, to collect and analyze wide-ranging data on 30 million US youth aged 16-25. According to the *Washington Post*, information includes names and addresses, gender, Social Security numbers, email addresses, grade point averages, ethnicity, subjects of study, and interest in college. Added to that will be information BeNow compiles from such sources as commercial databases, state drivers' license records, and other government databases - but usually not directly from the individuals listed. The Pentagon has spent \$500,000 each year since 2002 on the database, in addition to millions on polling and market research.

The Pentagon believes this database will provide an efficient central recruiting file for all branches of the service and will help recruiters target their approaches to individuals. David Chu, top advisor to former Secretary of Defense Donald Rumsfeld, said, "If you don't want conscription, you have to give the Department of Defense an avenue to contact people." High schools, as required by a little-known provision of the 2002 No Child Left Behind legislation, must supply recruiters with their students' contact information, or risk losing federal funding. Ironically, the No Child Left Behind provision allows parents to opt their children out of providing information to recruiters. But exercising that option automatically puts the individuals' information into a "suppression" file in the Pentagon's database, assuring that they are still in the list.

Critics claim development of the database is in direct violation of the 1974 Privacy Act that specifies that when the government collects data on individuals, the individual must supply that data or be notified that it is being compiled. The Pentagon database is being compiled by a private sector company from secondary sources and, in fact, was several years along in development before its existence was revealed. The *Washington Post* reports "privacy advocates said the plan appeared to be an effort to circumvent laws that restrict the government's right to collect or hold citizen information by turning to private firms to do the work." Barry Steinhardt, speaking for the American Civil Liberties Union (ACLU), agrees: "The government should not be able to evade the law and core American values by outsourcing the work to the private sector." He calls the effort, "...especially disturbing when it's targeted at kids as young as 16."

The ACLU is also concerned that the Pentagon has reserved the right to disclose database information to any of fourteen entities in the "blanket routine uses" provision. These include tax authorities, law enforcement, and Congress, among others. Other critics fear for the security of such extensive and personal data held by either government or private sources. The threat of identity theft if the files are compromised seems quite high. Barbara Boxer, US Senator from California, said that the program "puts millions of teenagers unnecessarily at risk."

Felicity Crush, speaking for the organization Leave My Child Alone, fears the level of profiling and targeting the database allows in recruiting efforts. She reports that students with low grades were told, "This is your one shot out of here," while better students would hear, "You are a smart person, you belong in the military." Other critics fear coercion, and targeting youth from poorer economic backgrounds or particular ethnic groups.

A national coalition of advocacy groups petitioned the Pentagon to abandon the database and related targeted marketing efforts. They contend that the database "represents an unprecedented foray of the government into direct marketing techniques previously only performed by the private sector."

On the other side of the issue, however, few would disagree that, despite the increasing sophistication of recent weapons technology, the legitimate defense interests of the United States require large numbers of trained, combat-ready personnel, and, for this reason, without a military draft, the armed forces must be able to utilize highly effective recruitment methods.

Case 12.

After Hurricane Katrina struck New Orleans in 2005, resulting in the breach of the complex levee system, Sacramento residents began to worry that the same fate might await them. Sacramento, situated at the confluence of the Sacramento and American Rivers, is nationally rated as the city at greatest risk of major flooding. Farmers and private developers built many of the levees in northern California. In agricultural areas, levees were designed to protect fields, as well as permit periodic flooding. In several areas, these levees are little more than soil and peat mounds pushed against the riverbank and raised over the years by the addition of more material. Despite this complex history of private levee construction, a 1986 court ruling affirmed the state's liability for flood damages caused by levee failures.

At several locations in and around the metropolitan area, land elevation is lower than the elevation of nearby rivers. All areas of the metropolitan region are vulnerable to catastrophic flooding, in some areas to an estimated water depth of 20 feet. The Natomas neighborhood is particularly vulnerable as it was built in a natural flood basin in what was recently agricultural land. Including the tributaries flowing into the Sacramento River, Natomas is surrounded on three sides by major waterways.

In 1998, Sacramento lifted an eight-year building moratorium in the Natomas area, in response to the Army Core of Engineers' certification of the levees and a real estate market demanding ever-greater expansion into ever-riskier locations. Since then, the area has grown by 47,000 new residents. However, in July 2006, the ACE reversed its previous certification. According to Thomas E. Trainer, chief of the engineering division, "We can no longer support our original position regarding certification of the levees system," at the FEMA minimum of 100 year flood protection.

The city planned to build another 10,000 homes in the basin. In November 2006, the California Department of Water Resources, which is legally liable for maintaining the flood control system, requested that the city consider reinstating the building moratorium until the levees can be repaired.

According to Lester Snow, Director of DWR, "the area is at high risk and will continue to be at high risk for several years... It is imperative that additional measures be taken to reduce the threat to public safety and property." This risk is significant. Governor Schwarzenegger recently said, "We are literally one storm or one big earthquake away from a major disaster." Current estimates indicate it would take more than \$68 billion and 4 years to conclude the necessary repairs.

According to Graham Brownstein, director of the Environmental Council of Sacramento, "It just does not make any sense from a fiscal, environmental, or moral perspective to continue to plan and approve more housing in deep flood basins until we have real protection."

In response to the state agency's request, Sacramento city mayor Heather Fargo said, "We're not in denial over this... we're just trying to make sure that we make a wise decision."

Case 13.

In the not so distant past, travelers relied mainly on guidebooks and/or seasoned travel agents to help them select the most appropriate accommodations when staying in unfamiliar locales. This was rarely problematic because guidebooks are written by professional writers and edited for accuracy, and agents usually provide candid recommendations even when commissions paid to them by hotels vary considerably. (The long-term financial success of travel agencies depends more on cultivating long-term relationships with clients than focusing on strategies that maximize commissions.)

Because of the expanding reach of the Internet, however, today's travelers are likely to eschew guidebooks, viewing them as limited and dated. Even the less tech-savvy find it easier than ever to locate a guest review of any particular hotel online—sometimes within only a few days of the reviewer's checkout date. The Internet puts consumers in control of their travel plans, and travelers increasingly turn to online travel websites as an alternative to travel agencies, whether virtual or brick and mortar. Online, consumers are able to gather all the facts they need and compare prices and options to find the best deal. This can be done at travelers' convenience, 24 hours a day, seven days a week.

As websites that publish guest hotel reviews become more influential, some hotels go to great lengths to ensure that their properties are rated highly. Some hoteliers claim that investing in their properties and focusing greater attention on customer service – the traditional course for improving the profile of their establishments – is an inefficient, if not entirely ineffective, counterweight to out-of-context rants posted by disgruntled guests. Analysts say that hotels now rely on a number of strategies to raise their online ratings, from encouraging guests to write flattering reviews, to offering future discounts for positive comments online, and sometimes even submitting bogus recommendations to websites. While most hotel operators publicly claim they do not attempt to influence reviews, publishers of online travel websites profess to be inundated by fraudulent posts, which force them to develop numerous measures to protect travelers. Stanley Roberts, CEO of the dining and review site We8there.com, evaluates every review submitted to his site, relying on “instinct and experience” to ferret out reviews of doubtful authenticity. Even so, Mr. Roberts concedes that he is never sure if he catches all the fakes or retains every legitimate post. Indeed, sites such as We8there have come under heavy criticism by hotel executives who claim that subjective filtering is now preventing the posting of positive guest comments.

In the absence of an accurate means to gauge the influence of self-selected reviewer comments, the consequences of this dispute remain unknown. Yet, for the parties involved, the stakes are high. Whatever the case, resolution seems far away when even the most temperate encouragement by hoteliers to encourage posting feedback pushes website publishers to summarily delete every review of the offenders' property.

Case14.

The term "urban university" has many meanings, and varies depending on context. In the academy, broadly, urban universities are institutions of higher education located in socially and economically diverse communities of more than one-quarter-million. An important mission of these schools is to serve their communities by raising the level of educational attainment within them, especially for traditionally underserved populations. To do this, most urban universities include graduate and professional schools, some of which grant a terminal degree and adopt lower admission standards to increase access and opportunity.

At a large urban Midwestern university, the faculty of the Master of Urban Planning Program (MUP) long ago adopted a 2.50 grade point average (GPA) as a minimum admission standard. The Department of Urban Planning frequently admits students with lower GPAs who otherwise demonstrate potential for success in the graduate program, on the condition that they achieve at least a "B" average in their prescribed classes during the first semester of the program. By rule, failure to meet this conditional standard precludes students from further pursuing a MUP degree at the institution.

In recent years, the department chair refused to dismiss students who did not achieve the grade point upon which their continuation in the MUP program hinged. The chair also routinely made exceptions for students who were admitted without conditions to continue their studies indefinitely when their academic record fell below the standards set by the graduate school. When challenged by colleagues and university administrators, the chair defended the actions as necessary to advance the institution's urban mission by providing disadvantaged students with every chance to realize their academic goals. "This is especially important," the chair argued, "since the state is experiencing its most dramatic economic downturn in more than 50 years."

Quietly, other faculty in the department raised concerns about the chair's practice of retaining unqualified students. They contended that the students in question are unlikely ever to graduate from the program, even with the remedial help provided by professors. Students commonly repeat classes without appreciably improving their grade. Furthermore, a significant number of students who are failing in the program cannot be considered disadvantaged.

"It is particularly troubling," offered a junior faculty member, "to continue to accept tuition from students who have little chance to succeed in the program. The Department is not providing opportunity: it is acting opportunistically. This is especially disturbing because many of the under-performing MUP students are considerably older and the opportunity cost for them to remain in the program is likely very steep. "

As the State continues to cut direct aid for higher education, the university finds itself hemorrhaging financially. Increases in tuition are only likely to help the university reduce its budget deficit as long as enrollment remains steady or increases. In response to

continuing cuts, the administration has gradually begun to adjust its system of incentives to reward matriculation and retention numbers rather than graduation rates. As long as enrollment in the MUP program continues to grow steadily, the administration seems willing to accept the chair's rationale concerning retention of under-performing students. Following such a path has allowed the administration to spare the MUP program from funding cuts and improve the university's bottom line. "After all", the Provost commented, "there would be no urban mission without a financially healthy University to promote it."

Case 15.

For nearly 40 years, the young residents of Don Jean Bay have performed as members of a water-ski team. The Lauderdale Aqua Skiers practice their jumps, spins, pyramids, and other maneuvers 4 –7pm Wednesdays and Fridays, with 3pm practice before the 6pm Saturday show. During the show, and at some practices, music blares over the lake.

Until 1999, the team launched from land owned by a private individual. When the land was sold, the team moved its practice site to nearby Elkhorn Lake, but continued to use Don Jean Bay for practices and performances on a more limited basis. The following year, the Lauderdale Lakes Lake Management District Board purchased the old launch site, and the team continued to split its practices and performances between the two lakes. In 2003, Elkhorn Lake Council decided to forbid powerboats on the lake, and the team began to use Don Jean Bay exclusively once again.

Long-time residents value the team as a healthy tradition involving generations of family members. The approximately 80 skiers represent about 55 families, some of whom are fourth generation ski-team members. Ski team is not just a summer sport, but a year-round activity, with the winter months devoted to making costumes and raising money, and the summer to practice and performance. Said Louise Meike, whose grandchildren are part of the fourth generation of Meike ski-team members "This is family."

To some homeowners the Lauderdale Aqua Skiers are an impediment to quiet weekends they envisioned when they purchased their lake homes. About 20 families, mostly newcomers, signed a petition spelling out their concerns about safety, noise, and erosion. They claim the team limits others' access to the lake, and that they venture into the no-wake zone – a claim the skiers dispute. The petition states that the jump is unsafe and that the powerful boats churn up the lake bottom, causing shoreline erosion. Petitioners object to the noise of practice sessions.

William Kochlefl, a Winnetka lawyer, and his wife Rhonda bought Don Jean Bay lake property in 1998. When the team resumed heavier use of the lake in 2004, the Kochlefls were upset with the increased noise and use. Kochlefl accused the team of violating environmental laws by launching from a site designated as a conservation area, and demanded the team's permit be withdrawn. The Lake Management District, who owns the land, told Mr. Kochlefl that the team's use of the land was appropriate within the intent of zoning laws. The LaGrange Town Board also disregarded Mr. Kochlefl's concerns, telling him that team supporters outnumbered opponents. Mrs. Kochlefl responded, "I want to know why the ski team is above the law." Walworth County, however, agrees with Mr. Kochlefl that the team's use of the land violates zoning ordinances, and the Wisconsin Department of Natural Resources is investigating to see if the team needs additional permits, is operating legally, or must find a new launch site.

Scott Mason, chairman of the Lauderdale Lakes Lake Management District board, voiced the opinion of long-term residents who believe newcomers are trying to change a

way of life and a community value that has existed for decades. "The ski team has been there 30 years and these folks are relatively new." But Mrs. Kochlefl disagrees, believing all property owners should have the same rights. Meanwhile, team supporters are lobbying government officials and the legislature, and the Lakes Lake Management District Board is considering rezoning to allow the team to stay on Don Jean Bay.

