CASES

FOR THE

EIGHTH INTERCOLLEGIATE ETHICS BOWL

TAKING PLACE AT

THE ANNUAL MEETING OF THE

ASSOCIATION FOR PRACTICAL AND PROFESSIONAL ETHICS

IN

CINCINNATI, OHIO

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Case 1

At 156 pounds and just under 4 feet and seven inches tall, first grader Taylor Bibian found himself in the middle of a dispute between the Florida Department of Children and Families (FDCF) and his own family. The FDCF believes that Taylor's obesity poses significant health risks to the seven year old, and four times sought the approval of juvenile courts to intervene. The FDCF is legally sanctioned to investigate allegations of child abuse and neglect, and may take protective custody of a child if a harm (or risk of harm) to a child is significant enough, and is due to some action or inaction of a parent/guardian. According to the FDCF, harm may be categorized as abuse or neglect. The FDCF defines "abuse" as "non-accidental infliction of physical or psychological injury or sexual abuse by a parent, adult household member or other person responsible for care of the child," and "neglect" as "failure/omission by a caretaker to provide the care, supervision, services or protection necessary to maintain physical and mental health." On some occasions the FDCF will allow a child to remain in the care of a neglectful or abusive parent, if there is a court approved safety plan in place.

Taylor, whose parents are divorced, now lives with his father and grandmother. Taylor's family said that they do not understand the State's concern. "He's just going to be a big kid," his father said, "I was the same way." "He's been overweight his whole life," added Taylor's grandmother, Darlene Bibian. "If weight is such a worry," she said, they should monitor every fat kid." "This is Big Brother telling you how to raise your kids. They want to control his diet, his exercise .. This is ridiculous. This is supposed to be America?"

The FDCF offered to drop charges if the family would agree to State oversight of Taylor's health, but the family declined. The Bibian's claim that they are taking steps to control Taylor's weight, putting him on a strict diet. They reported to the judge that Taylor likes raw vegetables and fruit, and that Taylor also swims and takes tae kwon do. Taylor's father Tony, 24, added that he was planning to have Taylor checked by a pediatrician since he now has medical insurance through a new job.

At a recent court proceeding, the State of Florida called as a witness a doctor who examined Taylor. Although the doctor said that he was troubled by Taylor's weight and the risk of future complications, he concluded that the problem was not life threatening.

Based on the evidence presented, Polk County Judge James Yancey concluded that there was insufficient justification to allow the FDCF to intervene and oversee the health and nutrition of Taylor Bibian.

Case 2

There is growing consensus in the scientific community that increasing carbon dioxide (CO_2) emissions since the advent of the Industrial Revolution is causing global climate change - specifically, global warming or the "greenhouse effect." The United State is currently responsible for a quarter of global CO_2 emissions. Not surprisingly, withering U.S. commitment to reducing greenhouse gas emissions has sparked heated debate.

The 1992 United Nations Framework Convention on Global Warming, signed by then President George Bush, came to fruition in 1997 in the form of the Kyoto Protocol, which represents the most comprehensive effort to reduce CO_2 emissions to date. Under Kyoto guidelines, President Clinton agreed to reduce U.S. greenhouse gasses by 40 percent (or 7% below 1990 levels) between 2008 and 2012. Environmentalists and world leaders heralded the treaty as a crucial step towards heading off potentially catastrophic global climate change. During the latest summit held in Morocco in 2001, over 160 countries came to a ground breaking new agreement requiring 40 industrialized countries to reduce gas emissions.

Despite these efforts, the accords recently were rejected by the Bush Administration on the grounds that adherence to them would have grave consequences for the U.S. economy and that global warming is still a scientific uncertainty. The Bush administration has estimated that the required U.S. reduction in CO_2 emissions would result in massive unemployment, steep price increases (52% for gasoline and 86% for electricity), and a sharp decrease in gross national product. Moreover, the Bush administration argues, "big league" polluters, like China and India, are exempt from the restrictions that the U.S. is bound to, even though estimates indicate that by 2025 China will emit more CO_2 than the current combined total of the U.S., Japan, and Canada.

Critics of the Bush administration policy point to the crippling effect the lack of U.S. support will have on the strength of the accords themselves. The rejection has also been a black eye to Bush administration foreign policy, with world leaders and others characterizing the U.S. as self-absorbed and a poor global citizen. Presidents and Prime Ministers of Germany, France, Thailand, Venezuela, Mexico, and dozens of other countries have severely criticized the Bush administration reversal. The Bush administration has also been criticized by scientists for ignoring evident facts in an over-zealous obsession with economic expansion. In the words of one Dupont official, "We saw sufficient science emerging to warrant what in our judgment was prudent action [to reduce CO_2 emissions] back in 1991."

The Bush administration has made it clear, however, that it has no intention of reconsidering its position at the present time.

Case 3

Wanda runs a small day care facility out of her home. Her initial motivation was to be able to stay home with her new baby, but at the same time bring in some extra income. However, she found that she genuinely enjoyed day care and has received training beyond what is required by the State. Wanda's husband Jack was recently laid off and forced to accept a lower paying job. Wanda and her husband now depend more on the day care home income than they did in the past. Because of this, Wanda's husband complains that she spends too much money on day care supplies and that her day care business could be much more profitable if she would buy fewer or less expensive materials. Wanda can only care for eight or nine children at a time, and once or twice has had to turn away parents when she was at capacity. Lately, she has had a problem with parents canceling at the last minute, leaving Wanda with unfilled "slots." She now makes sure that the money is paid before she reserves a day care slot for a child.

Wanda recently received a call from an old friend, Sheila, asking for a favor. Sheila had heard that Wanda ran a day care facility and was wondering if she had room for her daughter Karen. Sheila's in-laws normally took care of Karen during the week, but were moving to a retirement community in Arizona. Wanda agreed to take Karen. In fact, she was happy to get the business, since two of the children she had been caring for were starting kindergarten this year, and would no longer need day care. Sheila asked if she could pay her in a week or two because her husband just started a new job and it would be a couple of weeks until his first paycheck.

Karen fit in well with the other children and was very well behaved. The children often brought toys for "show and tell" and enjoyed playing with each other's toys. Especially popular toys with the girls were Karen's "American Girl" dolls and outfits. Wanda was a bit concerned when Karen brought them to day care, since she knew how expensive they are (with the accessories the two dolls were worth about $300) and feared that they might get damaged. Karen and the three other girls Wanda cared for would spend hours dressing up the dolls in the different "American Girl" outfits. Though Wanda discouraged the children from leaving their toys at day care overnight, toys were left frequently, even Karen's dolls.

One morning, after Karen had missed two days of day care, Wanda received a phone message from Sheila indicating that she was going to have to withdraw Karen. In her message, Sheila explained that she was quitting her job so that she could stay home with Karen. Wanda was concerned because Sheila had still not paid for the two and a half weeks that she cared for Karen. Sheila also stated that she would send Wanda a check in the mail, but that she planned to stop by in the evening to pick up Karen's dolls. When Wanda mentioned the situation to her husband, he became angry and suggested to Wanda that they keep Karen's dolls until Sheila pays for the day care services.

Case 4

The University of California system is considering a proposal to eliminate the Scholastic Aptitude Test (SAT) as an application requirement for admission to any of its member institutions. The main proponent of this change is the University of California system's President, Richard C. Atkinson. One important reason for Atkinson's proposal is the dramatic decrease in minority enrollment after a 1995 decision to bar the use of affirmative action in the system's admission decisions. According to the National Center for Fair & Open Testing, the two main University of California institutions, UC Berkeley and U.C.L.A., suffered the most dramatic reduction of minority admissions. At U.C. Berkeley, the number of minorities admitted was less than half of the number for the previous year (prior to the elimination of the affirmative action admission criteria). At U.C.L.A., the decline was more than one third. For all eight schools in the University of California system the total of African Americans accepted decreased by 17 percent and Chicanos/Latinos by 7 percent.

Many, including Atkinson, identify the SAT as the primary reason for low minority acceptance rates in the university system. Said Atkinson, "I do worry about the diversity of our student body, and I think the SAT is really brutally hard on underrepresented minorities and students who come from low-income families." According to critics of the SAT, the exam is skewed in favor of higher-income families since such students are able to enroll in expensive SAT preparation courses. In place of the current admissions criteria that, according to Atkinson, depend too heavily on SAT scores, Atkinson proposes a more "holistic" set of admission criteria that would emphasize not only academic achievement, such as grades, but also other kinds of achievement. Additionally, Atkinson suggests a greater reliance on tests, such as the SAT 2 (previously known as the achievement tests), that measure competence in specific subject areas. Atkinson notes, in this regard, a study showing that the SAT, in combination with the SAT 2 and grade-point averages was not a significantly better predictor of college success than just the SAT 2 in combination with high school grade-point averages.

Many who admit the limitations of the SAT view it, nonetheless, as a useful tool for admission decisions. For instance, while the difficulty of the curriculum may vary significantly from high school to high school, the SAT allows universities to compare applicants uniformly on the basis of one and the same test. For this reason, many critics of Atkinson's proposal see the SAT as providing an element of fairness by offsetting unfair and misleading grade-point comparisons. There is also concern, especially at the more prestigious UC institutions, such as Berkeley, that eliminating the SAT may lead to admitting under-prepared students and eventually lower academic standards. University of California Academic Senate Chair, Michael Cowan, remarks that although "faculty seem sympathetic to exploring ways of attracting a wider array of students (they) want to make sure that nothing is done that would lower quality."

Case 5

The "Adopt-A-Highway" programs began in Texas in 1985 to enlist the help of private citizens and organizations to keep highways clean. The program allows an individual or, more typically, an organization to take responsibility for cleaning up and beautifying a stretch of highway that it "adopts." In recognition of this effort, the name of the organization is posted on a sign along the highway, indicating that particular stretch of the highway is maintained by that organization. Similar programs now exist in most other states and have proven to be an effective way for states to save money and keep highways clean.

In 1994 the Ku Klux Klan submitted an application for Missouri's "Adopt-A-Highway" program, but was denied on the grounds that the Klan had a history of violating anti-discrimination laws and committing violent acts against individuals from racial minorities. However, the Klan sued, arguing that Missouri's rejection of its application violated its right to free speech under the First Amendment. The lower courts ruled in its favor. Senior U.S. District Judge Stephen Limbaugh, in St. Louis, stated that "the state unconstitutionally denied the Klan's application based on the Klan's views." Hence, in November of 2000, signs went up designating a one-mile stretch of Interstate 55 south of St. Louis as having been adopted by the Ku Klux Klan. The Klan seemed to have selected that particular section of I-55 because it is used for bussing St. Louis Black students to county schools under a court-ordered desegregation program. In a symbolic response to the KKK, Missouri passed a bill to name that section of I-55 "Rosa Parks Highway" in honor of the famous civil rights heroine. (Parks became a symbolic figure in the civil rights movement after refusing to give up her bus seat to a white man in 1955 in Montgomery, Alabama.)

Missouri's subsequent appeal to the U.S. Supreme Court was joined by 28 other states arguing that a highway sign acknowledging the Klan suggests an implicit acceptance of the Klan and gratitude for its participation. However, forming an unusual alliance, the Klan found legal representation in the American Civil Liberties Union. The ACLU attorneys representing the Klan successfully argued that the First Amendment protects the organization "against those who would misuse government power to suppress political dissidents."

Attempts have been made in other states to prohibit the Ku Klux Klan from participating in their Adopt-A-Highway programs. In 2000, high school students in Palatine, Illinois adopted all available stretches of highway in order to prevent the KKK from adopting any section of highway in the state. Maryland's Anne Arundel County tried a different strategy. When the Klan asked to participate in its Adopt-A-Highway program, the county took down all 52 of the Adopt-A-Highway signs, rather than allow the Klan to participate. In Missouri's case, some community leaders are suggesting that the Adopt-A-Highway program be discontinued altogether.

Case 6

Following the September 11, 2001 attacks on the World Trade Center and the Pentagon, President Bush announced that the nation was at war, but emphasized that it is a new kind of war. Unlike traditional acts of war, these attacks were not the official action of a government, but rather the work of the terrorist group Al Quaeda, lead by Osama Bin Laden. To this extent, the attacks seemed more akin to criminal activity. Nevertheless, the U.S. government took the position that it would not distinguish between the terrorists involved in the September 11 attacks and the governments that give them refuge. Even though Afghanistan had no official government (recognized by the United States) the Taliban, a fundamentalist Muslim group had control over the people of Afghanistan and functioned as a government. Because it provided refuge and support to Bin Laden, U.S. military activity was initiated against the Taliban in Afghanistan.

Soon after the terrorist attacks, a number of U.S. government officials, including Secretary of Defense, Donald Rumsfeld, proposed a relaxation of policies and guidelines precluding certain strategies that might strengthen U.S. efforts to combat terrorism. One such policy is the 1976 Executive Order, issued by President Gerald Ford, which was intended to prohibit the assassination of foreign heads of state. The policy, however, is worded more broadly. It essentially prohibits the use of assassination as a strategy by the United States Government. Another policy, adopted by the Central Intelligence Agency in 1995, contains guidelines that place restrictions on the recruitment of persons with criminal backgrounds. This restriction was proposed following the revelation that the CIA had a relationship with Guatemalan military officials who were involved in series of murders in the early 1990s. Others on the CIA payroll have included Col. Manuel Contreras, who was believed connected with a car bombing in Washington that killed former Chilean Foreign Minister, Orlando Letelier. The apparent motivation behind this policy is that the U.S. does not want to be seen as condoning or supporting unethical and illegal activities by enlisting the assistance of those who engage in such activities.

In response to proposals to lift the ban on assassinations and to relax CIA policies on the recruitment of informants, the organization Human Rights Watch wrote a letter to President Bush urging him to maintain these policies as they are. According to Jonathan Fanton and Kenneth Roth of Human Rights Watch, relaxing the current policies on assassination and the CIA recruitment of CIA informants and others with human rights abuses would "threaten the very values that came under attack [on September 11], … the basic values we should now be redoubling our efforts to defend."

Case 7

According to rough estimates, 1 in every 1000-2000 infants born each year has ambiguous genitalia. These intersexed infants display various combinations of both female and male genitalia (e.g., an enlarged clitoris without a vaginal opening and with undescended testes).

According to the American Academy of Pediatrics (AAP), "The birth of a child with ambiguous genitalia constitutes a social emergency." Parents, understandably, are distraught, and the AAP notes that both the ambiguity of the child's sex and the parents' reactions to that ambiguity carry significant implications for the child's long term well-being. The most acute quandary is to determine whether the child will be raised as a girl or boy; in fact, parents are typically advised not to name the child or register the birth until the child can be assigned a sex.

Typically, genetic evaluations are undertaken to determine the infant's genetic sex (i.e., whether the child's chromosomal pattern is XX of XY) and the cause of the sexual ambiguity. Additional pediatric, urological, endocrinological and gynecological evaluations determine how best to assign potential fertility capacity for normal sexual function, endocrine function, potential for malignant degeneration, and intrauterine testosterone imprinting. Following sex assignment, surgical interventions are undertaken to revise the genitalia to conform to the selected sex.

While surgical reconstruction is not urgently required for medical reasons in most cases, the majority of pediatricians believe that sex selection should be completed as quickly as possible. Since parents and other family members, as well as members of society, interact differently with boys and girls; until the child's sex is established, say the pediatricians who favor immediate sex selection, interactions are likely to be stilted, stunted, aberrant, confusing, or discomfited. In addition to the distress of the parents and others, say the majority of pediatricians, the child whose sex is undefined may experience ostracism and suffer from confused self-identity and self-understanding.

This assumption, and accordingly, the propriety of early surgical correction, has come under increasing challenge. Medical ethicists have recently argued that, as intersexuality is seldom threatening to life or health, the surgery should be postponed until the person who will be most affected -- the intersexed individual -- can give autonomous consent. Moreover, autonomous consent requires a full explanation of burdens and benefits, the nature of which have yet to be determined. In opposition to the assumption that early treatment is always in the child's best interests, intersexed adults have begun to come forward to report various harmful effects of early surgical intervention. For example, first-person accounts testify to the pain and loss of trust that arise upon learning that one's parents and physicians have deceived them about the nature of one's gender. This loss of trust is often accompanied by a perception that the deceit stems from embarrassment or from seeing the intersexed person as a "freak." Further, surgery that involves reducing the size of a penis or clitoris often results in loss of sensation and of orgasmic capacity.

Case 8

In 1999 Emanuel Sferios founded DanceSafe, an organization whose purpose is "promoting health and safety within the rave and nightclub community." In addition to dispensing free earplugs, condoms, and information on recreational drugs, DanceSafe also provides free (and anonymous) testing of (alleged) Ecstasy.

Ecstasy, also known as MDMA (methylenedioxymethamphetamine), X, and E, affects the brain's production of serontin, a neurotransmitter that regulates mood, memory, sleep, and body temperature. But unlike other drugs that stabilize serontin levels on a continuous basis (e.g. antidepressants such as Prozac and Zoloft), Ecstasy floods the brain with serontin. This deluge of serontin creates a "high," but can also lead to dangerous dehydration, overheating, muscle spasms, and seizures.

Pill testing is DanceSafe's response to Ecstasy's growing popularity with ravers. Americans buy close to one million doses a week at $20 to $30 apiece. The popularity and price had led to fake or adulterated pills. At best, fake Ecstasy pills are harmless (e.g. Excedrin, whose tablets are marked with an "E" have been sold as Ecstasy). However, pills can be dangerous if other, more toxic, substances are substituted.

Sferios reports that screening has revealed alleged Ecstasy pills that actually contained caffeine, antacid, over-the-counter sleeping pills and pain relievers. Other pills contained speed, and other life threatening drugs. In 1999 an unusually large number of ravers, having taken what they thought was Ecstasy, wound up in emergency rooms. The pills contained dextromethorphan (DXM), a common ingredient in cough suppressants. DXM can cause convulsions.

DanceSafe's test identifies the presence or absence of Ecstasy, as well as the presence of speed and several other drugs. If the test demonstrates the presence of Ecstasy, the pill's owner is given a laminated white sheet that reads: "This test produced a normal reaction. It means the pill contains an Ecstasy-like substance. It does not mean the pill is 'safe.' There could still be something else in this pill."

Critics charge that drug testing encourages drug use, but Sferios disagrees. He argues that most ravers are going to take their drugs anyway, so free and anonymous testing enables users to make an informed choice. Thus, Sferios sees DanceSafe as a part of the growing harm-reduction movement, which emphasizes drug education, rather than abstinence or criminalization. He compares pill testing to another risk-reduction program -- needle exchanges, that minimize the risk of HIV infection risk for IV drug users.

Case 9

Mr. Jamison suffered a severe head injury in an accident and died without regaining consciousness soon after being brought to the emergency room. Upon his death, his wife requested postmortem sperm procurement, telling doctors that the couple had been trying desperately to conceive a child. Mr. Jamison had no advance directive stating, or implying, his wish to father a child, or specifying his agreement to this procedure in case of his death.

The hospital ethics committee noted that, under State law, the spouse of the deceased is the surrogate decision maker, and concluded, for this reason, that the decision rested with Mrs. Jamison. Mr. Jamison's parents argued that their son would never have wished to father a child who would be raised with only one parent. Mrs. Jamison's physician expressed the opinion that the Jamison's efforts to conceive a child demonstrated Mr. Jamison's desire that his wife have his child. The hospital's social worker suggested that it would be unfair to bring a child into the world with only one parent. The hospital chaplain pointed out, however, that many children live in stable, loving single parent homes.

The hospital has the equipment to do the procedure and offers services for sperm collection and storage for various reasons, including posthumous fatherhood. However, it has no policy for this situation, where the father is not a competent participant in the consent process.

The medical staff is divided. Some feel that allowing the procedure respects Mr. Jamison's wishes to father a child with his wife. Others believe it is wrong to be an agent of conception without the explicit consent of both parents.

Case 10

Over 75, 000 people are on waiting lists to receive organ transplants. Every day people die waiting. The list grows longer daily, as the number of people needing organs increases faster than the number of donors, and as advances in technology increase the number of viable recipients. Typically, patients who have been on the list the longest are the sickest, but occasionally a critically ill patient may "jump" to the head of the list if it is thought that her death is imminent unless she receives a transplant. "Jumping" is considered morally justified in virtue of the absence of any other available therapy for end-stage organ disease.

Patients needing kidney transplants are not allowed to jump the queue. Here transplant eligibility is determined by length of waiting time because an alternative therapy exists -- dialysis. Most patients (over 50,000) waiting for organs need a kidney. The average wait for a kidney transplant is five years. In the year 2000, 13,372 kidney transplant operations took place in which the kidney was the only organ transplanted (nearly 1,000 additional transplants involved a kidney plus another organ.) In the 13, 372 kidney-alone transplants, 5293 of the kidneys were from live donors.

The Hope-Through-Sharing Program lets patients waiting for a kidney jump ahead of others on the list, if a friend or relative, who is not a suitable match for the patient, donates a kidney to another recipient with whom the donor is compatible. This gives the patient priority over those who have been waiting longer. While the above-described policy is designed to result in kidney donations from people who otherwise might not choose to do so, there is no guarantee that the donor's relative or friend will receive a kidney -- only that he or she moves closer to the top of the list. Although the program increases the likelihood that someone who might die before receiving a kidney will live, there remains the question of fairness in regard to a system that penalizes those who have no one willing, able, or available to donate a kidney on their behalf.

Kidney transplantation from a living person involves risks for the donor. There are concerns, therefore, that such risks might not be adequately considered or that the donor may be coerced. The transplant operation is not standardized, and its procedures are both complex and vary widely. Inadequate long-term data exists on outcomes for donors. Some hospitals that offer live-donor transplants do few of these operations and may lack adequate experience to ensure satisfactory outcomes.

Case 11

You are the Executive Director of a large professional organization. One of your responsibilities is to oversee arrangements for the organization's annual convention. In the first instance, this involves making recommendations about convention sites to the organization's Board of Directors. On your recommendation, in 2000 the Board approved Cincinnati as site for the 2003 annual convention.

In the spring of 2001 fourteen groups in Cincinnati initiated a boycott movement, appealing to organizations, such as yours, not to hold their conventions in Cincinnati. The boycott movement is principally a response to the following situation. On April 7, 2001, a Cincinnati policeman shot and killed a young African-American man. In the course of pursuing the young man, who had refused to stop when ordered to do so, the policeman thought the young man had reached for a gun, although later investigation revealed he had been unarmed. News of the young man's death set off three days of rioting, in which arson, looting, property destruction, and shooting took place. Police arrested more than 800 individuals.

The riot, one of the worst civil disturbances in the United States over the past decade, reflected pent-up anger of numerous African-Americans in Cincinnati concerning, what they perceive as, grievous police misconduct over many years toward African-Americans, especially in the vicinity of the Over the Rhine area adjacent to the downtown Cincinnati business district. At the time of the shooting, there had been four African-Americans killed by Cincinnati police since November of 2000, and fifteen killed since 1995. The police contend that every such incident involved circumstances justifying the use of deadly force. Credible evidence seems to establish that in many of the incidents the police indeed responded appropriately. Nonetheless, African-American and civil liberties organizations in Cincinnati have numerous additional complaints against the police dealing with racial harassment and discrimination. In March of 2001, the month before the rioting occurred, the Cincinnati American Civil Liberties Union (ACLU) and a coalition of African-American organizations, the Black United Front (BUF), filed a lawsuit in federal court against the city, alleging decades of police misconduct toward African-Americans.

In the aftermath of the rioting, two potentially significant efforts to address the underlying problems were initiated. First, Cincinnati mayor, Thomas Luken, announced the formation of a panel to explore ways of improving race relations in the city, and he invited the leader of BUF, Reverend Damon Lynch III to serve as co-chair of the panel, which was named Cincinnati Community Action Now (CAN). Reverend Lynch accepted the mayor's invitation. Second, the city council of Cincinnati agreed to participate in an effort at achieving a mediated settlement of the lawsuit filed in federal court by the ACLU and BUF. Under the innovative procedures for mediation that the parties agreed upon, focus groups of city, police, and community leaders were to develop six goals for a settlement. The city government, police department, ACLU, and BUF were then to

(Case 11 Cont.)

attempt negotiating an agreement to address the six goals, and, if successful, they would then submit the agreement for approval to the federal judge presiding in the lawsuit.

Both of the above mentioned efforts to address Cincinnati's problems in the area of race relations have moved forward since the weeks following the riots, but, unfortunately, in a polarized atmosphere that makes their success uncertain. Toward the end of September in 2001 the policeman who shot and killed the young man was acquitted (He had been charged with negligent homicide, a misdemeanor). In November of 2001 another Cincinnati policeman, brought to trial on assault charges in connection with the suffocation of an African-American man in November of 2000, was also acquitted. After the second acquittal, Reverend Lynch, leader of BUF, co-signed a letter supporting the boycott movement which accused police in Cincinnati of "killing, raping, planting false evidence, and, along with prosecutors and the courts, destroying the general self respect of black citizens." In early December of 2001, an incensed Mayor Luken removed Reverend Lynch from his position as co-chair of CAN.

So far the boycott movement has not generated much attention from the media outside of Cincinnati. Most members of your organization seem unaware of it. None has raised the issue with you -- yet. Many member of the organization, however, have deep interest in and concern about, racial justice and civil liberties. (Time still remains for your organization to cancel the arrangements that have been made with the convention center and hotels in Cincinnati.)

Case 12

Happy Trails is an adult residential community (neither a hospital nor a nursing home). As in any community, residents need to accommodate mutually exclusive needs in a fair manner. Smokers living at the Happy Trails Retirement and Assisted Care Community insist they have the right to light up when and where they please in their home, which they equate with the community. Non-smokers, however, demand the right to live in a healthy, smoke free environment. One smoking resident noted that she, like many other residents, purchased her unit in this particular community in part because it promised "all the comforts of home." A facility that forbids smoking in most areas, she contends, does not offer all the comforts of home. Conversely, one non-smoking resident stated that he, like many other residents, purchased his unit in part because this particular community was affiliated with a health care system, and promised a "healthy environment." A smoke-filled environment is not healthy, he says.

Years ago when some residents purchased their units, they were free to smoke in the dining room, the library, the game room, the lobby, and the hallways. Over time, with increased awareness of the danger of second hand smoke imposed on others (especially the elderly who are at greater risk for respiratory disease), more restrictions were imposed. Smoking is now limited to inside the residents' private units and any out of doors areas on the property of Happy Trails. However, non-smokers want to breathe fresh air in the garden and on the front porch, and are demanding further restrictions that impose greater limitations on the least ambulatory residents who are increasingly limited in their physical environment.

During a community meeting, residents presented many arguments, and asserted many claims, on both sides of the issue, including the following:

- Additional costs of insurance (cigarettes are the number one cause of fire deaths in the U.S.) and maintenance (more frequent cleaning of carpets, draperies, and furniture) are borne by all residents, smokers and non-smokers alike, which is unfair to non-smokers.
- Some residents, non-smokers as well as smokers, engage in behavior that others find offensive, such as speaking loudly and using profanity. If smokers are restricted then shouldn't people who engage in the above kinds of behaviors be restricted as well?
- Smoking is not a choice, but an addiction.
- Smoking is a chosen behavior. People can choose to start and choose to quit.
- Many residents who are adamant about their right to live in a healthy environment and who are critical of those who choose to smoke, nonetheless eat unhealthy diets, do not exercise, and are overweight -- all choices. Shouldn't they be similarly restricted?
- Although a monthly surcharge is assessed upon those who smoke in their units, several residents don't pay this, saying they only smoke outside. Yet they "cheat" and smoke in their units, especially in inclement weather.

(<u>Case 12</u> Cont.)

- Non-smokers are free to move to other places where the air is not "offensive." After all smokers have had to remove themselves entirely from some areas.
- Happy Trails does not have the resources to support separate smoking and non-smoking public areas.

Case 13

The tension between college academics and athletics is nothing new. Maintaining double standards for regular students and athletes dates back to at least 1869, when Rutgers beat Princeton with a football team that included three freshmen who were failing algebra. Early in the twentieth century, President Theodore Roosevelt, by no means adverse to strenuous physical activity himself, proposed outlawing intercollegiate football because he thought it corrupted scholarship.

Academics criticize current college athletic programs for a least five reasons. (1) Colleges routinely lower admission standards for athletes, who, in the Ivy League, have on average far lower SAT scores than the general student population. Many prestigious schools admit athletes with scores of only 820, almost 200 points below the national average, and even farther below their own standards. Some schools, such as Amherst and Williams designate a certain number of admission slots specifically for athletes (at Amherst 75 out of 450). One Middlebury student, whose entrance scores fell far below minimum standards, nonetheless gained admission by virtue of his prowess as a star hockey player. (2) Once in college, athletes often enjoy preferential treatment. Many schools have special tutorial programs aimed solely at helping athletes meet minimum standards. (3) Huge amounts of money are spent on athletic programs. More than a dozen coaches now earn over $1 million a year. The University of Oregon spent $80 million on a new stadium. This big money, critics assert, has turned campuses into sports franchises. (4) Many athletes do not attend college to learn, but rather, hope to use their collegiate experience to land positions on professional teams. (5) Elite athletic programs mean regular students have fewer opportunities to play in college sports.

Those who support maintaining the current practices in regard to intercollegiate athletics counter that: (1) winning teams increase alumni giving and therefore benefit academics in the long run. A consultant recently remarked that the best way for Utah Valley State College to increase alumni contributions would be to implement a high profile football program; (2) intercollegiate athletics is excellent public relations. A former Boston College student from the Midwest states that the only reason he knew about the school, and applied for admission, was the fact that a famous quarterback played there.

The Knight Commission, a panel composed largely of college presidents, concluded last summer that the academic standards for varsity athletes were "abysmal" and "disgraceful." Some schools are reevaluating their athletic programs. The Trustees of Swarthmore College recently concluded that athletic programs were inconsistent with the school's academic mission, and voted to abolish football and wrestling. There actions, however, are unlikely to have any impact at schools that covet the public attention of fielding winning teams.

Case 14

Drilling for oil in Alaska's Arctic National Wildlife Refuge (ANWR) has been a source of contention among policy makers for years. In 1980 Congress expanded ANWR by 9.5 million acres, with 1.5 million acres (known as section 1002) set aside for the study of petroleum production potential. In 1987, 1991, and 1995 legal measures to drill in the 1002 area were proposed and defeated. The issue was raised again when President George W. Bush made drilling in section 1002 part of his national energy agenda. The events of September 11, 2001 have resulted in intensifying the debate.

Proponents make three major arguments for drilling in ANWR: (1) In light of recent economic downturns and the unstable diplomatic situation in the Middle East, the U.S. must increase domestic oil supply in order to decrease dependence on foreign oil. (2) The area occupied by wells and drilling equipment has shrunk by approximately 60% since the development of the Prudhoe Bay oil field. Developments in drilling technology allow a single pad to tap multiple oil pockets at distances of up to four miles. These advances have minimized the environmental impact of petroleum extraction. As evidence, production supporters point to the fact that despite fears to the contrary, the caribou herd in the Prudhoe/Kuparuk oil field region has increased in population. (3) Most Inupiat Eskimos in the area favor oil leasing for the economic opportunities exploration may provide.

Opponents of drilling counter that (1) even if section 1002 produces the maximum projected amount, oil consumption will continue to rise exponentially. Conservation (such as increasing vehicle fuel efficiency), rather than expanding production, note the opponents, is the only long-term solution. (2) The negative ecological impact on the area outweighs any potential benefit from oil production, in the opinion of the opponents. The plain of section 1002 provides critical calving area for a caribou herd five times as large as the Prudhoe/Kuparuk herd in an area one-fifth the size. Development in this areas, the opponents contend, would push the herd into the foothills where calves would be prone to predation and starvation from scarcity of resources. (3) The opponents point out that not all Native Americans favor drilling. The Gwich'in Indians, for example, consider the area sacred. The Gwich'in also subsist on caribou and fear the negative impact that petroleum production might have on the herd.

The controversy remains unresolved. Since control of the Senate switched last year, Majority Leader Tom Daschle (Democrat, South Dakota) has vowed to defeat a bill passed in the House of Representatives that would tap ANWR. On the other hand, Chairman of the House Resource Committee Jim Hansen (Republican, Utah) argues that in light of the September 11 terrorist attacks drilling in ANWR is more important than ever, and has urged the Senate to pass the House energy bill in the interest of national security.

Case 15

The tension between civil liberties and national security is posing new challenges for United States public policy. The events of September 11, 2001 have dramatically affected Arab communities across the nations. Nearly 1,200 people have been detained by law enforcement agencies on charges not yet made public. On November 9, the Justice Department announced that over 5,000 visitors from middle eastern countries would be contacted in an effort to discover possible ties to the Al-Quaeda terrorist network. A recent Gallup poll shows that 1 out of 4 Americans support these unusual measures and believe that some civil liberties may have to be compromised in order to combat terrorism. On the other hand, there is growing concern that federal authorities are over-stepping constitutional bounds and violating the rights of individuals of Arab ethnicity.

Across the country, local law enforcement agencies, in conjunction with the Federal Bureau of Investigation are conducting interviews with Arab individuals. There interviews range from door to door visits to the mailing of letters encouraging recipients to schedule appointments at designated law enforcement offices. According to several police chiefs, these on-going queries are similar to those used in any standard crime investigation. According to one federal spokesperson, "These people are not suspects … they are simply people we want to talk to because they might have helpful information."

These investigative tactics, however, have been severely criticized. The American Civil Liberties Union and National Association for the Advancement of Colored People assert that targeting persons of a specific ethnicity in criminal investigations is patently unconstitutional. Several police departments have refused to collaborate with federal investigators because, they claim, the procedures violate either state laws or department guidelines. Although officials from the Immigration and Naturalization Service claim the interviews are "voluntary," some legal experts feel that the threat of incarceration may cause some foreigners to believe cooperation is mandatory, and unwittingly subject themselves to detention.

The question of racial profiling has lawmakers divided. While the Bush administration is pressing forward with the counter-terrorism investigation, many members of Congress who once supported stiff counter-terrorism measures now express misgivings. An Assistant Attorney General defended the Justice Department's methods, however, by saying: "I agree we have taken steps here that represent a departure from what we have done in recent times. We are not in recent times. Are we being aggressive and hard-nosed? You bet."