

Dr. A is a general practitioner in a small city. He was recently offered the opportunity to invest in a free standing radiology center which will provide X-rays and diagnostic imaging for all of Dr. A's patients. Dr. A is asked to put up \$10,000 per share. He is told that he will earn 25 per cent or more annually on his investment. He is also told that the rest of the doctors in town are investing. Dr. A's return will be calculated based on his investment. However, the profitability of the center will depend on the total number of patients that are referred. This is made clear to Dr. A.

Should Dr. A invest in the center?

ANSWER: Dr. A should not invest in the center. The basic criticism with arrangements of this kind relate to their effect on Dr. A's professionalism and on the difficulty Dr. A may experience trying to dissociate his patient's medical needs from his own economic interest. Suppose, for example, that Dr. A is following a patient with yearly CT scans. Might he begin to conclude that the patient requires biannual or quarterly scans? Suppose the only available appointment at the center is at 2:00 a.m. three weeks from today and another facility is vacant. Will Dr. A conclude that he has more confidence in the skill of the Center? It is a serious mistake to allow these kinds of conflicts of interest and expect either the cost of health care to remain stable or the public to hold in high regard physicians with obviously conflicting interests.

*Hosking Case 4*

Greenhill County employees individuals too perform building inspections in the county. Dissatisfied with the services provided by in-house inspectors and, as part of an effort to "contract out" certain county functions, the county decided to retain a private consulting engineering firm to perform building inspections. Greenhill County selects and retains Engineer A's firm. One of Engineer A's responsibilities is to inspect a building project developed by Enterprise Inc., a company for which she has regularly performed services in the past. Although she did not provide any services in connection with the building project in question, Engineer A and Enterprise Inc., anticipate that they will continue to work together in the future. In contract negotiations with the County, Engineer A discloses this relationship with Enterprise Inc., and it becomes a matter of public record.

Would it be unethical for Engineer A to perform building inspection services for the county in connection with the project developed by Enterprise Inc.?

ANSWER: It would not be unethical for Engineer A to perform building inspection services for the county in connection with the project developed by Enterprise, Inc. Engineer A is being asked to perform basic inspection services in connection with a building which she has never previously been involved, but which was developed by a former and possibly future client. To prohibit Engineer A from providing building inspection services would be an unrealistic intrusion into her practice and would inhibit the county from utilizing a flexible method of delivering services consistent with the public health and safety.

*From NSPE Board of Ethical Review Case # 87-3*

Mr. B, age 28, reported to the community health center of a large city teaching hospital for counseling after being confidentially informed that his blood test was HIV positive. Mr. B. had no symptoms of AIDS.

Dr. T informed Mr. B that although he did not have AIDS there was between a 5 and 35 per cent chance that he would develop the disease within the next five years. He was also told that he could probably infect others through sexual contact. Mr. B then revealed that he was bisexual, and that he believed that he had contracted the infection during one of his homosexual encounters. He also said that he was engaged. Dr. T advised him to inform his fiancée of his diagnosis, but Mr. B refused to do so, saying that it would ruin his marriage plans.

Should Dr. T inform Mr. B's fiancée of Mr. B's test results, or should he maintain the confidentiality of the therapeutic relationship?

ANSWER: Dr. T. must weigh his duty to safeguard confidential information against a duty to protect his patient's fiancée from possible harm caused by Mr. B's infection. Dr. T could best discharge his duty to protect by trying to persuade Mr. B to reveal his diagnosis to his fiancée himself, and by offering testing and counseling to her through Mr. B. If Mr. B will still not agree to voluntary disclosure then Dr. T must seriously consider revealing the information himself. He should first discuss the case with appropriate legal and health authorities. If after such consultation he determines that the risk to his patient's fiancée is significant then he should inform Mr. B of his intention to contact Mr. B's fiancée, and then notify her.

*History Answer, Case 11*

You are the attorney for the defense in a case in which your client has been accused, you believe falsely, of a robbery committed at 16th and P Streets at 11:00 p.m. He tells you at first that at no time on the evening of the crime was he within six blocks of that location. However, you are able to persuade him that he must tell you the truth and that he was at 15th and P Streets at 10:55 that evening, but that he was walking east, away from the scene of the crime, and that, by 11:00 p.m. he was six blocks away. At the trial there are two prosecution witnesses. The first mistakenly, in your view, but with some degree of persuasion identifies your client as the criminal. At that point the prosecution's case depends on a single witness, who might or might not be believed. Since your client has a prior record you do not want to put him on the witness stand. The second prosecution witness is an elderly woman who is somewhat nervous and who wears glasses. She testifies truthfully and accurately that she saw your client at 15th and P at 10:55 p.m. If you destroy her reliability through cross-examination designed to show that she is easily confused and has poor eyesight you may be able the first witnesses testimony will not be corroborated.

Should you destroy the elderly woman's testimony, which you believe to be true, in your cross examination of her? If so, why? If not, why not?

ANSWER:

You should attempt to discredit the elderly witness's testimony. A defense attorney's principal duty is to provide the most effective defense she can for her client within the bounds of law. An effective defense, in almost every case, requires the cooperation of the defendant, at least to the extent that he speaks truthfully to his defense attorney. A defendant will not do so, however, if he has reason to think that his attorney will decline to attack the credibility of witnesses whose testimony the attorney knows is true as a result of what the defendant has disclosed to her.

*from Davis & Elliston, article by Monroe Freedman*

5

You have been asked to design materials that will be used to recruit new employees. You decide to include photographs of the company's employees and its facilities. You ask one of the employees to sit in a wheelchair for one of the photographs. Your company currently has no disabled employees, but upper level management strongly support equal opportunity for disabled individuals. Your company has recently joined a group of local businesses each of which has pledged to work with service organizations for the disabled to find places in its workforce for individuals with disabilities.

Are you morally justified in photographing the non-disabled employee sitting in a wheelchair?

ANSWER: No. Photographing a non-disabled employee seated in a wheelchair in a group photograph of Company employees is deceptive. This is not a situation, however, in which deception is morally justified. That the photograph may succeed in conveying the Company's attitude of cooperation with efforts to place disabled individuals in jobs does not justify creating the false impression that the person seated in the wheelchair in the group picture is disabled. Generally, deception is morally justified only if ~~if justified only the deception~~ prevents a significantly greater amount of evil than ~~it causes~~ it causes. ~~caused by the deception~~. This condition does not appear to be met in this case.

*from Susan Feinberg's T.C. Ethics questionnaire*

6

Author James Herriot relates the story of Mrs. Tompkins and her budgie, Peter. Herriot, a veterinarian, visited the home of the frail and elderly widow to clip the beak of her budgie. Peter had not been his usual self lately, and Herriot thought clipping his beak might revitalize him. As Herriot reached into the cage and gently picked up the budgie it fell limp in his hand. Peter,, apparently frightened, had dies from heart failure.

Near panic, Herriot decided he should not tell Mrs. Tompkins that her pet had died. the loss, he felt, might be too devastating to her. He realized that she had not noticed what had happened - she had poor eyesight and was hard of hearing. So he quickly rushed Peter out of the house, explaining that he would be better able to do the job in his office.

Herriot found a suitable substitute budgie at a bird store. Placing "Peter the Second" in the cage, Herriot assured Mrs. Tompkins that all should be well now. As it turned out, Mrs. Tompkins was never any the wiser. She believed that Peter was revitalized as a result of having his beak cut.

Was Dr. Herriot's decision to deceive Mrs. Tompkins morally justifiable?

ANSWER: The rule that a person should not deceive is morally fundamental, but not absolute. There are circumstances in which a rational, impartial individual could conclude that the psychological distress prevented by a deception is so great as to far outweigh whatever evil the deception might cause. Granted, such a conclusion is difficult in most instances, and should not be made without deep psychological understanding of the affected individual and full knowledge of situational factors. In this case Dr. Herriot appears to have been both a highly principled man, who had deep respect for the moral autonomy of people with whom he dealt, and also a deeply sensitive human being. the fact that his judgment led him to conclude he should perpetrate a deception upon Mrs. Tompkins it itself some evidence that in this instance the deception was morally justified.

*Rebecca L. Pritchard p. 90*

In 1962 the Atlantic Cement Company began operating a cement plant outside of Albany, New York. The Company employed over 300 local residents and by 1970 had invested \$45 million in this plant. The plant, however emitted large amounts of pollution as well as causing constant vibrations and loud noise. Local residents filed suit against the Company claiming that the air pollution, the noise, and the vibrations were harming their health and property. The suit asked that the court issue an injunction that would close down the plant until the pollutions and vibrations could be eliminated. The Company was already using the best available technology, which meant that the suit was asking that the plant be closed down indefinitely.

The court refused to issue the injunction. It reasoned that the costs of closing the plant far outweighed the benefits to be gained by the residents. Instead, the court ruled that the cement company should pay residents a one-time fee for damages that could be proven to exist already, and then pay them a monthly fee to compensate them for ongoing harms. This fee was calculated to be a fair market price for what the residents would receive if they were inclined and able to rent their property.

Was the decision of the court in this case fair. If so, why? If not, why not?

ANSWER: The decision in this case has been strongly criticized. The decision seemed willing treat health as deserving no greater legal protection than economic interests. It also ignored the environmental interests of the general public by considering only the claims of people living near the plant. The decision also effectively coerced the property owners by giving them the choice either to rent their property to the company at a price established by the court, or to suffer the consequences without any compensation. Finally this decision amounted to granting the company a license to pollute with little or no incentive to improve its pollution control technology. As long as the company is willing to pay a fee established by the government, and as long as it uses the best technology available at the time the plant was built, it is free to pollute the air and harm its neighbors.

*from Environmental Ethics by Bes Gerdner (pp 19-20)*

Donald Wohlgemuth joined the B.F. Goodrich Company as a chemical engineer in 1954 following his graduation from the University of Michigan, and by 1962 he had become manager of the space suit division. As the repository of Goodrich know how and secret data in space suit technology he was a key man in rapidly developing technology of interest to several government agencies. Nevertheless, he was dissatisfied with his salary and the denial of his requests for certain additional facilities for his department.

A Goodrich rival, International Latex, had recently been awarded the major space suit contract for the Apollo program. Wohlgemuth negotiated a position with Latex at a substantial salary increase. In his new assignment he would be manager of engineering for industrial products, which included space suits. When he notified Goodrich of his decision Goodrich management raised protested that his resignation would result in transfer of Goodrich trade secrets to Latex. After Wohlgemuth left Goodrich the Company requested a restraining order in the Ohio courts. Goodrich asked the court to issue an injunction that would prevent Wohlgemuth from working in the space suit field for any other company, prevent his disclosure of any information on space suit technology to anyone, prevent his consulting or conferring with anyone on Goodrich trade secrets, and finally, prevent any future contact he might seek with Goodrich employees.

Was Goodrich ethically entitled to have the court grant the injunction it requested? If so, why? If not, why not?

ANSWER: The terms of the requested injunction were unreasonable. All were too wide in scope, and all would have protected much more than Goodrich's legitimate concern of safeguarding its trade secrets. In addition, the measures were speculative, since no clear danger to Goodrich's interest seemed imminent. The injunction would have placed an undue restraint on Wohlgemuth.

The Ohio court which heard the case did not grant the injunction Goodrich requested, but instead issued another injunction ordering Wohlgemuth not to divulge any B.F. Goodrich trade secrets. A trade secret is information in which a business organization has a property interest, which is valuable, and which the organization treats in a way that significantly limits its disclosure.

*From Beauchamp & Bowie (Borum article on Trade Secrets)*



The Americans With Disabilities Act (ADA), enacted in 1990, requires educational institutions to make "reasonable modifications" in their practices, policies, or procedure, or to provide "auxiliary aids and services" for persons with disabilities, unless such modifications of auxiliary aids and services would "fundamentally alter" the nature of the facilities or other benefits offered, or would result in an "undue burden" upon the educational institution.

Recently Eric Delisle, a student who is quadriplegic, has sued the University of Miami, where he is enrolled as a freshman, under the ADA. The lawsuit asserts that it is the university's responsibility to recruit and pay, if necessary, a qualified\* note taker to take notes in class for Eric. The University takes the position that a qualified note taker is unnecessary. The University proposes instead to recruit student volunteers enrolled in the same classes as Eric and to supply them with carbon paper.

Would it be unfair not to require the University of Miami to provide a qualified note taker for Eric, or would such a requirement impose an undue burden on the University?

ANSWER: Society gains from enabling intellectually able and highly motivated students who happen to be disabled to pursue a college education. The cost of a qualified note taker does not seem excessive in light of the benefits both to Eric and to society as a result of his earning a college degree. The University may be concerned about setting a precedent that would open the door to demands for prohibitively expensive assistance on the part of disabled students. At this time, however, such demands are only speculative and cannot morally justify denying what appear to be a reasonable request. under the ADA

\*Qualified note takers must pass a test of their abilities and show that they can work with disabled students.

Walking down the street Jones sees a flower pot fall out of a window, threatening another pedestrian. Jones could save him simply by shouting a warning but he keeps silent. Under prevailing law in the United States in cases of this kind, Jones is not liable for failing to warn the pedestrian.

Should the law be changed so as to impose liability upon the bystander Jones in the preceding situation? If so, why? If not, why not?

ANSWER: The law should not be changed. Such a change would introduce into the law the principle that a person may be held liable for harms that she or he failed to prevent. At any given time, however, there is an uncountable immense number of harms that a person is not preventing, and it makes no sense to say a person is liable for all of these. Under American law a person is liable for harms he failed to prevent only if he was already required to prevent the harm in the circumstances in which it occurred; e.g. in virtue of a previous agreement, or in virtue of occupying a position or role that required action on his part to prevent the harm.

From the standpoint of fairness should the following two situations be treated the same or differently by courts? If similarly, then how, and why? If different, then in what ways, and why?

a) Suppose that A owns a piece of property that, unbeknownst to A, contains a rich mineral deposit of some sort. B, a trained geologist, inspects the property (from the air, let us assume), discovers the deposit, and without disclosing what he knows, offers to buy the land from A at a price well below its true value. A agrees and then later attempts to rescind on the ground that B's failure to reveal what he knew amounted to fraud.

b) Suppose A is aware of an important defect in his own property -- a termite infestation, say -- and merely fails to inform B of the defect's presence. [that is, A doesn't conceal the condition from B, for example, by trying to hide it. He simply doesn't say anything about it to B.]

ANSWER: A court should not allow the contract to be rescinded in case a), but should allow rescission in case b). In a) a legal rule allowing the seller to have the contract rescinded would discourage people like the geologist from putting their training and abilities to use in discovering economically valuable information in which society has an interest, and from which it benefits, over the long run. On the other hand, in b) a rule requiring the buyer to disclose information to the seller concerning latent defects will not discourage significant efforts to discover valuable information. This is because the homeowner probably learned about the termites through a casual, low-cost inspection.

*from Kruman article in Feinberg & Gross*

Elmer donated a pint of blood that his wife Doris needed during an operation. Elmer and Doris were subsequently divorced. Years after the divorce Elmer was in an accident and needed one pint of blood. His new wife, Cora, was of a different blood type, and thus could not contribute blood to Elmer. Was Doris morally obligated to donate a pint of blood for Elmer? Yes?, No?, or "It depends". If "it depends" then what does it depend upon?

ANSWER: It depends upon the extent to which Elmer and Doris are still friends, and the nature of their friendship. It does not depend upon merely the fact that Elmer contributed blood for Doris at an earlier time. When Elmer donated blood for Doris he did so out of love for her that no longer exists either on his part or Doris'. Thus if Doris has a duty to donate blood it depends upon the nature of her current relationship with Elmer. If they are not friends she has no greater obligation in this circumstance than she would have with respect to any other individual who needs a pint of blood.

from article in Sommers & ~~Sommers~~ by Jane English pp 685-86

Laura Talbot has been employed at CAS manufacturing for nearly 15 years. During that time she has steadily moved up the ladder. Now she is head researcher in a special products division. She is very happy working for CAS and likes the community where she lives. She would be perfectly content to work at CAS until retirement. In addition she feels a strong sense of loyalty to CAS. However a complication has arisen for Laura. She has been offered a very attractive position at a firm in another town. She seeks the advice of several good friends including you.

Meanwhile, you have been serving on the long range planning committee for CAS. Although no definite plans have been formulated, the president of CAS has indicated to your committee that he is contemplating the elimination of some of CAS's divisions. Laura's division is on the list to be eliminated. The president has instructed the Committee that he wants this kept strictly confidential so that employee morale is not needlessly affected. The spreading of rumors, warns the president, can serve no useful purpose.

Laura has to decide about the job offer within the next three days. Since the president will be out of the country for the next two weeks (vacationing and contemplating the future of CAS), neither you nor Laura has time to consult with him.

What do you say when Laura approaches you and asks: "This job offer looks awfully attractive, but I really like it here too. How do things look to you at CAS? What do you think I can expect from CAS down the road? To what extent, if any, should your answer to Laura be affected by your close friendship with her? What if you and Laura were not friends at all?

ANSWER: In this case you have a duty of confidentiality, but it seems to be relatively weak. It does not override your duty of friendship to Laura in the circumstances. If you didn't reveal the president's possible plans to her, and she lost her job as a result, she would be justified in feeling very badly let down by you. Even if Laura isn't your friend you would be justified in disclosing the information to her, although it isn't clear you would be morally obligated to do so. you would be justified because the evil you could prevent ( or more precisely, the expected value of that evil) would be significantly greater than the the evil caused by revealing the information. In this connection the president may have made a bad judgment when he concluded that his plans should be held in confidence. Many authorities on employment relations take the view that in circumstances of this kind potentially affected employees should receive early notification that their jobs may be at risk.

from Communications Ethics <sup>introduction</sup> Pritchard (p. 159)

Jennifer is presenting a persuasive speech in Public Speaking 101 class. She is advocating student action on a matter that has high student interest on campus. You are one of her classmates and are appalled at the inaccuracy of her claims. It is evident to you - but apparently not to the majority of your classmates - that Jennifer has not adequately researched her topic. Unfortunately she seems to be getting an enthusiastic response from the class anyway. You wonder what you should or should not do. Should you strongly and vehemently indicate your displeasure? Should you tell Jennifer that she could have easily acquired the facts had she made the least effort? Or should you say nothing, hoping that no harm will come from the speech? Would it make any difference to you if you knew that Jennifer had high anxiety and low self esteem?

ANSWER: As a student in the public speaking class a key part of your learning experience involves analyzing and discussing in public the work of other students in class. If you feel pressured to remain silent then you are not receiving the educational experience to which you are entitled. Furthermore, since the purpose of the course is to learn more about effective public speaking you will benefit Jennifer by pointing out the respects in which her speech needs improvement. Some people take criticism better than others, but no one can learn without it.

*Gabriel & Pritchard p. 47*

After the car that he is driving at high speed hits a telephone pole, Mr. D is brought to the hospital emergency room in serious condition. The physicians who examine him recommend surgery to repair a major internal hemorrhage. But the 68 year old Mr. D refuses. The physicians learn that three weeks earlier Mr. D was diagnosed as having a carcinoma of the tongue. He has refused surgery for the lesion and has asked his own physician not to tell his wife that he has a fatal disease.

The hospital physicians believe that Mr. D. will die without surgery, and they call a psychiatric resident to evaluate Mr. D. The psychiatric resident finds Mr. D coherent, rational, and alert. Mr. D tells the resident that he has had a good professional life as an engineer, and a good personal life with his wife and two children but that he believes his life is now almost over. The resident suggests, and Mr. D does not deny, that the automobile accident was a deliberate suicide attempt.

Should the psychiatric resident recommend that Mr. D's refusal to accept surgical treatment be honored, or that a court order be sought so that surgery can be performed on Mr. D? In either case state your reasons.

ANSWER: In general a refusal to accept treatment is not suicide, since the patient does not set into operation the chain of causes leading to his death. In this case, however, it appears that the patient produced the injury for which surgery is contemplated. In light of this fact the physician should seek a court order for surgery. Although patient autonomy is an important value, Mr. D sacrificed his autonomy by placing his own life in jeopardy.

*Hasting Case. Report, Case 25*

Luiza Magardician, a twenty year old Rumanian citizen arrived in New York in June 1985 in the hope of obtaining a kidney transplant. Before her arrival all available methods of treatment were tried unsuccessfully in Rumania. The director of the National Kidney Foundation of New York-New Jersey says Ms. Margardician's chances of finding a kidney donor are bleak since there is a bad shortage of donors in the United States, and U.S. citizens would usually come first. In addition Ms. Margardician has exhausted her funds and could not afford hospital costs even if a donor were found. In 1984 more than 8,500 Americans were waiting for kidney transplants; only half were expected to receive one that year.

Should the decision to offer Ms. Margardician a transplant be made strictly on the grounds of her medical needs or should her country of origin influence the decision?

ANSWER: The American community (all those who live in the United States) has committed the resources to make organ transplant possible. Under this circumstance members of this community have a right not to be denied an organ transplant because that organ is being sent overseas or offered to a person who has traveled to the United States to obtain it. Residents of the United States have a reasonable expectation that their contributions to their social environment will be reflected in services - particularly of a life saving kind. An open door policy would undermine this expectation. The alternative to an open door policy, however, need not be one that is absolutely closed. The United States could have a quota system under which, for example, 90 per cent of donated organs would be reserved for use by United States residents, and 10 per cent made available to foreign patients.

*Hastings Center Case 52*



Pauline Randall, a sixty five year old married woman with three adult children, has been suffering from amyotrophic lateral sclerosis (ALS) for several years. Her neurological condition has deteriorated so that she can no longer control any voluntary muscles. Ms Randall is confined to a bed in a nursing home and breathes with the aid of a respirator. She understands that her condition cannot be treated and will inevitably lead to her death.

Her physician believes that she is not receiving adequate nutrition and that the time has come to insert a nasogastric feeding tube. When he proposes this procedure to her she says "No more." He asks "do you understand that you will die slowly of starvation if we do not insert a feeding tube?" "yes", she says, "No more."

When Mrs. Randall's family learns of her opposition to the insertion of a feeding tube, they have divided opinions. Her husband believes her wishes should be respected, but two of her three children believe her life should be prolonged. There is no question that Mrs. Randall is legally competent.

Should her refusal of the feeding tube be honored even though it will lead to her death?

ANSWER: In this case the patient is fully able to express her informed wishes. For this reason her wishes are decisive, because a physician's duty is to protect life, not to force patients to continue to live against their wishes. The positions taken by the patient's kin are irrelevant as long as it can be assumed that the patient has made an informed decision. The attending physician would have to respect Mrs. Randall's wishes even if he has arrived at a different conclusion which he considers medically reasonable. He is obliged, however, to counsel the patient concerning this different conclusion.

*History Report Case 30*

**QUESTION: #**

A young woman of about 35 has come in to a doctor with pain in the stomach. After going through several tests the doctor discovers that she is suffering from inoperable cancer, and that she has 3 to 6 months to live. Her pain, however, has temporarily gone away, and she and her family -- she has two children, ages 9 and 12 -- are planning to go on a delayed two week vacation. The woman is highly educated (a college graduate with an advanced degree) and repeatedly asks the doctor what is wrong with her.

What should the doctor do, and why?

ANSWER: The doctor should tell the young woman the whole truth about her condition. At times a person is morally justified in deceiving another person. This is not a situation, however, where deception is justified. Under the facts as presented, the woman wants to know about her condition, her wanting to know about her condition is rational, and the doctor is not in a position to conclude that by deceiving the woman he would prevent significantly more pain and suffering for her and her family than would result from his not deceiving her.

(from Morality by Bernard Gert)

While vacationing in a small, sleepy, quiet coastal town in Maine, you take your dog for a walk at the crack of dawn on a Sunday morning. You come to an intersection with a stop light. Looking carefully in all directions you don't see any cars. Then you notice a sign next to the stoplight that says:

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Jaywalking Forbidden  
violators subject  
to fine  
Village of  
Sleepy Cove

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Immediately after you read the sign, you look up and see that the stoplight has turned red.

Would it be wrong of you to cross the street against the stoplight in the above circumstances? If so, why? If not, why not?

ANSWER: It would be all right to jaywalk under the facts described in this question. There is no general duty to obey the law. Instead, the issue of whether one should do so depends upon the circumstances of the particular case. In this situation it is clear that no one would be injured by your jaywalking, and no social interest, such as in maintaining attitudes of respect for the law, would be undermined. It is true you don't know with absolute certainty that your jaywalking won't result in harm to someone. But this could also be said of anything you might do under any circumstance.

In the 1970's the United States Supreme Court ruled that the government was not required to fund abortions. Congress, in a hard fought compromise, authorized payment for Medicaid abortions in the case of rape, incest, and danger to the health of the woman. The Department of Health, Education, and Welfare (HEW) had the responsibility of implementing this legislative compromise by drafting regulations to cover the funding of abortions. The Secretary of HEW at that time, Joseph Califano, was a practicing Catholic who personally believed both that abortion is morally wrong except to save the life of the woman, and that, as a matter of public policy, elective abortions should not be funded by the government.

Which of the following courses of action would have been most appropriate for Secretary Califano in the circumstances? Explain your choices.

- a) instruct his staff to implement rules and regulations reflecting the intent of Congress to provide Medicaid funding for abortions even in cases of rape and incest, which Califano believed to be morally wrong;
- b) use his powerful position to thwart the intent of Congress;
- c) resign from his position.

ANSWER: Secretary Califano was not morally obligated to resign in view of his attitude toward abortion. On the other hand, he also was not obligated morally to remain in office. In choosing to remain, however, Secretary Califano had an obligation as a public official to carry out the law. A public official must do so even if she or he disagrees with the law either on grounds of ethics or policy. It is morally inappropriate for an appointed public official, such as the Secretary of HEW, to use his position to undermine the legislative decisions of the United States Congress, which reflect the will of the people.

(Secretary Califano sought advice about what to do from Father Richard MacCormack, a professor at Georgetown University. Father MacCormack's advice, based upon Catholic moral teachings, coincided with the above analysis.)

*from Applebaum article (PAPA) 1992*

An ethical question that arose with special force during the Gulf War in 1991 concerned the duties of ordinary citizens who were not called for military service. Many of these citizens had opposed the war before it began. Opinion polls just before the war showed the United States about evenly split between people who favored going to war against Iraq and those who opposed it. Those who opposed the war were faced with the problem of what to do when the shooting started. There seemed to be three options for such people. They could offer visible support for the war. They could remain silent. Or they could publicly dissent from the war policy.

What would have been the ethically appropriate option?

ANSWER: The appropriate option is to continue voicing opposition. If people believe that a war would be gravely wrong an official decision to go to war should not override this judgment for them. Some argue that a person should support what is good for one's country, and during time of war victory is such a good. Therefore, according to this argument, one should always support the victory of one's country in war. This argument, however, is mistaken. First, even if one agrees that victory is in one's country's interest, one may also regard victory as impossible, or not worth the attendant ~~hums~~ moral, economic, and political costs. Second, one cannot always equate the good of one's country with victory in war. Someone might believe that her country would be better off by ending the war. Third, even if success in a war promises benefits for one's country there are moral limits to what a country may do to pursue its benefits. Someone might believe that a particular war goes beyond these limits. In such a case he would be morally justified in opposing the war.

From *Nathanson* Patriotism, morality, & peace

In the military invasion of Panama several years ago, women military personnel performed flawlessly in action. Captain Linda Bray led the 988th into battle, storming the gates of a Panamanian defense forces kennel in an armored jeep. Bray's troops captured the area after a fire fight in which three of the defenders were killed. Private Christina Cabido lead the charge with a machine gun. According to a Pentagon report, 600 of the 26,000 U.S. troops which took part in the invasion were women, and none were killed.

These women in combat violated a law banning females from combat service. The law bans women from infantry, armored, paratrooper, and special forces likely to be in combat, but allows women to return fire if shot at -- as was the case in Panama.

Should there be law banning women from combat? Why or why not?

ANSWER: The rule banning women from combat is an unjustifiable form of gender discrimination. The only relevant criteria for military service in combat roles are those relating specifically to the kinds of abilities a person needs to carry out the roles. The evidence, in Panama and, in all likelihood in other circumstances as well, establishes that some women have these abilities. It would be unfair to bar these women from combat roles if they wish to assume them on the irrelevant ground that a greater number of women do not have these abilities. There is no greater justification for banning women from combat roles in the military than for barring women from professions such as law or medicine, or from entering politics. Furthermore, some critics of the ban on combat roles for women in the U.S. military point out that ban keeps women military personnel from getting promotions, and that women often end up in combat anyway.

from ~~Textbook~~ Contemporary Moral Problems (workbook)

A professor of computer science applied for and received a grant from the Strategic Defense Initiative Program (Star Wars) to engage in a software assurance research project of a theoretical nature. The goal was to determine the methods by which error free software might be produced on a large scale basis. The professor does not believe that SDI (Star Wars) is a viable Department of Defense program. She does believe, however, that her work could add measurably to the body of scientific knowledge concerning the development of error free software.

Should the professor accept the grant money? If so, why? If not, why not?

ANSWER: The professor should not accept the grant money. Acceptance of the grant indicates at least an implicitly endorsement of a project the professor believes will not work. In this case the professor's implicit endorsement is likely to influence others. This sends a message the professor herself believes is erroneous to the public (i.e. that Star Wars is a viable program) Furthermore, for similar reasons the professor is not being honest with the funding agency

*From Ethical Concerns in Information and Computer Science  
Technology and Business : Donn B. Parker, Susan Swope,  
for Bruce Cohen.*

## QUESTION #

In 1944 it became known<sup>to</sup> the Free French Partisan fighting forces that the Germans had executed 80 partisans and planned soon to execute more. The Partisans thus decided they would shoot 80 German prisoners who had recently surrendered to them. At this point the Red Cross intervened, won a postponement of the executions, and sought an agreement from the Germans to treat captured partisans as prisoners of war who may not be shot. The Partisans waited 6 days and the Germans did not reply. The Partisans then shot 80 German prisoners. Apparently, after these shootings the Nazis executed no more partisans.

Was the shooting of the 80 German prisoners by the Partisans morally justifiable? If so, why? If not, why not?

ANSWER: No. The anger, bitterness, and concern about future German actions of the Partisans were fully justified. Such, however, did not justify the killing of innocent soldiers who had not committed war crimes. If, indeed, the shooting of the 80 German prisoners persuaded the Nazis not to kill any more partisan prisoners, this was a good result, but it still didn't justify the killing of innocent persons.

(from Just and Unjust Wars by Michael Walzer)



Suppose that six physicians are discovered to have a preference for patients who pay them in cash and who do not require receipts. Suppose that on full investigation the Internal Revenue Service (IRS) discovers that all six doctors have understated their income last year by \$30,000. As advisers to the IRS Jerry and Paul discuss what should be done about the six doctors. To start with, they agree that all six must pay tax on the income they have failed to declare at appropriately high rates on that income, and substantial financial penalties. Jerry and Paul disagree, however, concerning the criminal prosecution of the physicians. Jerry believes that all six should be prosecuted and sent to prison. Paul believes, however, that only two of the physicians should be prosecuted on the grounds that the community cannot afford to lose any more than four doctors at this time. Jerry strongly disagrees. He views the needs of the community for medical practitioners as irrelevant to the decision to prosecute. He contends that the evidence of criminal violations of the tax code is equally strong against all six doctors, and thus they all should be prosecuted.

Who is right, Jerry or Paul? Explain your answer.

ANSWER: Paul is right. The key purpose of punishing tax cheaters is to encourage honesty in the preparation of tax returns. Society does not need to punish all six doctors in order to do this. In the words of Norval A. Morris, "the extra increment of deterrence (gained from punishing all six physicians) would be bought at too high a price. It would be wasteful of our resources, wasteful of the court's time, and would impose unnecessary suffering on those doctors whose punishment did not substantially increase the deterrent impact we would gain by only punishing two of their number."

From "Punishment, Desert, & Rehabilitation" by Norval A. Morris  
U.S. Dept of Justice Bicentennial Lecture Series (1976)

In New Jersey a person convicted of his first drunk driving offense faces a mandatory suspension of his license for six months, and the possibility of a thirty day jail sentence. In addition the offender must pay a mandatory fine of \$250 and a \$100 fee to support law enforcement efforts to catch other drunk drivers. Convicted drunk drivers are also required to undergo a minimum of 12 hours of counseling for which they must pay a \$1,000 surcharge for each of three years, and well as \$50 a day. In addition drunk drivers receive 9 "insurance points" that could subject them to huge increases of their insurance premiums. The total cost for a first offense of drunk driving in New Jersey probably exceeds \$9,000.

Is the New Jersey penalty for drunk driving fair or unfair? Explain your answer.

ANSWER: The New Jersey penalty for drunk driving is too severe. The seriousness of a crime depends primarily upon the degree of harm and the culpability associated with the crime. The kinds of harms drunk driving causes are also caused by sober driving. Drunk driving increases the risk of these harms, but one has to keep in mind that the chance of dying in a five mile car journey is very low (one in ten million, according to some estimates). Thus even if drunk driving increases the probability of death by a factor of 5 to 7 there is still no substantial risk. As for culpability, it is doubtful one can distinguish a drunk driver in terms of degree of recklessness or negligence for sober drivers who speed, or read, eat, put on make-up while driving, or drive without having slept for 24 hours.

*From Hirsch article in P&PA (94)*

A student comes to the office of the Dean of students complaining about behavior in the residence hall. Ethnic slurs have been written on his door, shaving cream has been spread out over his belongings in the bathroom, and his car has been damaged. The staff seems powerless in the situation as they cannot identify the culprits. The student is both frightened and angry. He feels he knows the persons who are responsible and gives the names of three other hall residents. Further conversations among the Dean, the Hall Director, and the Student Residence Assistants reveal that although they have no hard evidence, they firmly believe the three students identified by the complaining student are involved.

Should the Dean take action? If so, what should she do? If not so, then why?

ANSWER: The Dean must take action. She should make efforts to provide help, support, and advice to the complaining student to assist him in a difficult situation. The Dean should talk to the alleged offenders, and inform them that they are strongly suspected of wrongdoing. The Dean should not at this point level accusations at them or insist that they confess, but she should make clear to them the institutional stance against the behavior of which they are suspected. Efforts at education in the form of discussions in the residence hall about racism and ethnic slurs should be organized.

Ethics and Higher Education (Ed. Wm. W. May) p. 278

In response to a recent outbreak of gang warfare violence at the Robert Taylor Homes in Chicago that left ten people dead over a weekend, the Director of the Chicago Housing Authority, Vincent Lane, wanted to have the Chicago police conduct a warrantless sweep search of the Taylor Homes, and to require residents to agree to such searches as a condition in their housing leases. The ACLU (American Civil Liberties Union) has challenged the constitutionality of the sweep search Director Lane wanted. The ACLU also indicated that it would vigorously challenge in court any policy of the Chicago Housing Authority that makes agreement to warrantless searches a condition of living in public housing.

Under the circumstances prevailing at the Robert Taylor Homes would warrantless police sweep searches of tenants' apartments be morally justifiable?

ANSWER: No: This is a difficult question that requires balancing the fundamental interest of public housing residents in security from life threatening violent criminal behavior and their basic moral right to privacy in their homes. In this case it seems that *the* balance must be struck in favor of the right of privacy. Given the widespread possession and easy availability of guns in the United States, it is uncertain how effective warrantless sweep searches would be, even if done frequently. On the other hand, the searches would have to be very thorough and intrusive in light of the ease with which a person can hide a gun. The situation at the Robert Taylor Homes is tragic and frightening, but dispensing with a warrant requirement for searches of apartment is not an ethically appropriate response to it.

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In 1979 The Progressive, a small circulation monthly periodical dealing with political and social issues, entered into final preparation for publishing an article by freelance journalist Howard Morland about the design and manufacture of hydrogen bombs. Morland's article contained no classified information, but rather, was based upon what he had been able to surmise from interviews and general reading. Morland himself was not a trained scientist, having had only a few college physics courses. Before publishing his article, the editors of The Progressive sent it to a number of reviewers for pre-publication editorial comments. One of the reviewers, unbeknownst to the editors of The Progressive passed it on to an M.I.T. physics professor, who in turn sent it to the U.S. Department of Energy. Shortly thereafter government attorney filed a motion in federal court to enjoin publication of the article as a breach of national security, citing as the legal basis for such an injunction the Atomic Energy Act, which states in part that

the term "restricted data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category.

Would the court have been morally justified in granting the injunction?

ANSWER: The injunction should have been denied on that ground that it would violate The Progressive's right of freedom of the press. The definition of "restricted data," which the government relied upon in requesting the injunction, is so broad that virtually any writings or utterances on the subject of nuclear energy are covered under it. A narrower definition of restricted data would have to contain language that clearly distinguishes "dangerous" or "potentially dangerous" information relating to nuclear energy from information which may be safely disseminated. It is doubtful, however, whether this is possible. Phrases such as "dangerous" or "potentially dangerous" in such a definition would be unacceptably vague, and thus liable to abuse by the government.

In the late fall of 1991 a student at Pleasantville Community College browses shelves of the college library in search of sources for his history paper on the historical roots of the Arab-Israeli conflict. His eyes fall upon a volume entitled The Protocols of the Elders of Zion\* which he looks over and decides to check out. The next day at school he tells other students about the contents of "this blockbuster book I checked out of the library." A Jewish student overhears the description of the Protocols and tell the President of the College's Jewish students' organization about it.

Deeply disturbed, the Jewish students' organization contacts the B'nai B'rith Anti Defamation League (ADL). After verifying that the Pleasantville Community College in fact has a shelf copy of The Protocols of the Elders of Zion, the ADL lodges a furiously angry protest with the college administration

What is the appropriate ethical response of the college administration in this situation?

ANSWER: The principal responsibility of the college administration is to maintain the integrity of the community college as an institution devoted to educational activities at the college level. For this reason, the key issue is not whether members of the community, in this case the ADL, object to having a book in the library, but whether having the book fits with the educational mission of the college. In this situation, despite the scurrilousness of the publication, it has played a role in history that would justify having it in the library.

\*The Protocols of the Elders of Zion is a notorious tract of anti semitic propaganda. Purporting to be the manifesto of a tightly knit Jewish conspiracy bent on dominating the world, The Protocols is a forgery, in all likelihood, the work of French anti semites during the Dreyfus affair in the late nineteenth century. Throughout much of the twentieth century The Protocols has figured in stirring up anti semitic passions in Europe. Agents of the Czar, for example, used it to instigate bloody pogroms against Russian Jews in the years immediately before World War I.

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QUESTION #

Professor Bruce I Lazarus of Purdue University's School of Restaurant, Hotel and Institutional Management has for the past nine years had students in his hospitality law class keep a "drinking diary" for a one week period. In the diary students record "their drinking behavior, patterns, and any other observations they may make in relation to alcohol." Professor Lazarus describes the main purpose of the assignment as to get his students "to learn about themselves and society's attitude toward drinking." He describes the student response as "overwhelmingly positive." Professor Lazarus is the only person who reads the diaries, and he allows students who don't want to keep a "drinking diary" to choose an alternative assignment.

Is the "drinking diary" an ethically acceptable assignment? If so, why? If not, why not?

ANSWER: Yes: It is very important for students entering the hospitality field to reflect thoughtfully both about social attitudes toward alcohol as well as about their own attitudes and behavioral patterns in regard to alcohol use. By not letting anyone else read student diaries, and by giving students the option of doing another assignment Professor Lazarus provides sufficient safeguards for student privacy.

(from Chronicle of Higher Education, 2/193)

An airlines executive, who was in charge of all personnel issuing tickets at the airline's terminal counters, had a new computer program developed for the centralized reservation system to monitor the work performance of the sales and ticket agents. The program provided detailed performance statistics on each agent, including the number of sales and how quickly and accurately an agent produced airline tickets. It also monitored and reported on time spent working at agent ticket counters. This monitoring was not revealed to the sales and ticket agents but the statistics were used extensively on job performance evaluations for salary adjustment and advancement.

Is the monitoring system fair? If so, why? If not, why not. Furthermore, if the system is not fair, would it be fair if the sales and ticket agents were informed about it prior to putting it in operation? Again, if so, why? If not, why not?

ANSWER: The monitoring system is unfair if employees are not informed about it. According to recommendations of the Computer and Business Equipment Manufacturers Association, as a matter of basic workplace fairness, employees should be informed about how and when their work is being measured and about why measurement is necessary. Furthermore, they should have access to their records and receive regular feedback. The Computer and Business Equipment Association recommendation also states that even if an employer informs employees about monitoring this is not enough to guarantee that the monitoring is fair. The standards of performance must be reasonable. The system of monitoring should not promote excessive competition among employees, and it should not be use to "inch up" production standards so that people have to work harder and harder to achieve the same rate of pay.

Team: Parker, Swope & Baker



QUESTION #

In July of 1985 Barbara A. Luck had been employed for almost six and a half years by Southern Pacific Transportation Company as an employee in the engineering department. For the last four years of her employment, she worked collecting information used to manage the engineering department. She wrote computer programs, taught others to use them, and ran reports describing what employees did each day, where Company equipment was located, and how much material was being used by employees. On July 11, 1985 Luck and all other Southern Pacific engineering department employees were instructed to provide a urine sample and to consent to its testing for drugs, alcohol, and medications. She viewed this as an offensive request and refused to comply. Luck met with several Southern Pacific officials that day and the next but remained steadfast in her refusal to take the test. In a July 15 letter Luck learned that she had been relieved of all her duties in her former position as an engineering programmer for failure to comply with the instructions of proper authority, i.e. insubordination.

Did Southern Pacific have an ethically justifiable reason for firing Barbara Luck? If so, why? If not, why not?

ANSWER: No. Many businesses now engage in drug testing. Nonetheless in this case the demand that Luck submit a urine sample was not justified. Her interest in personal privacy outweighed any legitimate interests that the Company might have had in obtaining the test results. In this regard, at the time the Company required all employees in the engineering department to undergo testing, there was no reason to suspect that Luck had either used drugs or alcohol on the job, or that her job performance was impaired by drug or alcohol use. Furthermore, her job as an engineering programmer was not safety sensitive -- that is, the lives and safety of others didn't depend directly on how she did her work.

QUESTION #

Nations A and B are at war. The naval forces of nation A succeed in imposing a full blockade on the major port city of nation B. In addition, the land forces of nation A succeed in surrounding the city. The military command of the forces of nation A plans to maintain the combined blockade and encirclement subject to no exceptions until the city surrenders.

Is this plan morally justifiable?

ANSWER: No. Besieging military forces have a responsibility to open a path for the flight of non-combatants if this is possible to do. The only justifiable practice is summed up in the Talmudic law of sieges by the twelfth century philosopher Maimonides, who wrote: "When siege is laid to a city for the purpose of capture, it may not be surrounded on all four sides, but only on three, in order to give an opportunity for escape to those who would flee to save their lives."

(from Just and Unjust Wars by Michael Walzer)

QUESTION #

Marsha is employed as the City Architect by the City of Oz, which <sup>has</sup> ~~as~~ requested bids for architectural work on a major addition to City Hall. Oz is bound by law to purchase the lowest bid that meets the procurement specifications except "for cause". The lowest bidder, by a narrow margin is Parthenon Associates, a local architectural firm. The Parthenon bid meets the specifications. Marsha recommends accepting Parthenon's bid. After the work has begun, it is learned that John, a major partner in Parthenon Associates, is the spouse of Marsha. He specializes in landscape architecture, which was not a factor in the City's specifications. John and Marsha both vigorously deny that they ever discussed anything about the bid. The City asks Marsha to resign for "breach of public trust."

Was the City justified in seeking Marsha's termination of employment? If so, why? If not, why not?

ANSWER: Yes. Professionals, especially when employed by public bodies must not only avoid actual conflicts of interest, but also apparent conflicts of interest. In this case, at the least, Marsha should have notified the City of John's association with Parthenon Associates before the decision on which bid to select.

(Based upon case vignette in Speaker's Guide for the Presentation "How to be a Good Engineer", prepared by Joseph H. Wujek and Deborah G. Johnson)