

**Cases for the  
Fifth Annual High School Ethics Bowl  
Competition**

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St. Petersburg College Applied Ethics Institute  
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### **Case #1 Confidential Information**

Ardent R. Porter is an investigatory journalist with a respected Washington-area newspaper, Capitol News Briefly. As a reporter working in and around the D.C. area, Mr. Porter often relies on his long list of contacts in order to glean information that might be useful for the various articles he publishes on corruption within politics and government. By establishing relationships with individuals at all levels of government, Ardent has provided himself with valuable human sources that are often capable of providing him with names, tips, or other information that he could not extract from other channels. Furthermore, a few of Mr. Porter's key contacts are able to pass along hard-to-come-by information about questionable or downright illegal actions taken by government employees or agencies.

One such contact is Ian Stalwart, a mid-level agency administrator who works with individuals who do government "groundwork" as well as with high-level government bureaucrats. As a middleman of sorts, Ian is in a position uniquely suited to evaluating the actions of those who work both below and above him. One of Mr. Stalwart's responsibilities is to watch for and report any illegal activity that he might encounter. Mr. Stalwart takes this role very seriously and his responsibilities as a watchdog were what originally led him to seek out Ardent, a like-minded opponent of corruption and illegality within public service.

It so happened that Mr. Stalwart discovered that many individuals within his agency were working to cover up illegally-awarded, over-billed, or otherwise fraudulent government contracts awarded during the early months of the Iraq War, actions which were in violation of several federal laws, in addition to many agency standards. Upon presenting his discovery to his superiors, Mr. Stalwart was told to disregard his findings and to refrain from further discussing the subject. After pressing for a more sophisticated explanation, he was informed that the contracts in question had been deemed classified through appropriate agency and congressional channels and that because the contracts had been deemed to serve a compelling national security interest, it would be against agency policy (as well as illegal) to discuss them, regardless of any questionable procedural or substantive aspects.

Fully knowing that he was in violation of laws regarding the disclosure of classified information, Mr. Stalwart approached Mr. Porter and revealed everything he knew about the dubious contracts. He also provided Mr. Porter with the names of the individuals implicated in the cover-ups and the names of the administrators who had ordered him to remain silent. After composing a lengthy and revealing story, Mr. Porter approached his editor about publishing the story, explaining the dilemma presented by the fact that much, if not all, of the story's core material was classified. Following a discussion about publishing the article by the paper's editorial board it was decided that the story would run in the paper's next issue.

## **Case #2 Dual Enrollment**

Ellen Green, Ph.D. teaches English at a two-year college in Texas. Eight years ago, in an effort to boost enrollment, the college began a dual-credit program allowing high-school juniors and seniors to take freshman college courses, earning credit for both high-school and college. The faculty at the college has reservations about the dual-credit program. The high school students often seem unable to demonstrate the self-control and work ethic expected of college students. But since parents are eager for their children to get a head start earning college credits and the college wants higher enrollment, the faculty teaches the dual-credit courses. The faculty sees the dual-credit program as “all about money.” The college wants the tuition dollars, and the parents want their children to accumulate college hours at lower cost before leaving home to attend a more expensive four-year university.

Last semester Dr. Green taught a dual-credit college class on the campus of a local high school. When she tallied the grades for the course, the high school asked her to provide number grades for the students. Since the college awards letter grades only, Dr. Green was caught off guard, but agreed to provide number grades. Two students had collaborated all semester on their work and earned a weak A. When Dr. Green came to their names, she remembered that one of the girls had participated in class discussions and also had discussed the papers with her after class. She awarded this student three points more, giving her a 93, while the other student, who sometimes missed class, received a 90.

Dr. Green has both students in class again this semester, and the girl who earned the grade of 90 asked why she received three points fewer than her friend. Dr. Green explained that her perception of the friend’s class participation and general interest in the quality of the work led to the extra three points. The girl asked that her grade be raised three points to match the second student’s grade, but Dr. Green said no. The girl asked again on two later occasions and Dr. Green again said no.

Dr. Green learned from other students that the girl with the grade of 90 wanted three more points so that she could be valedictorian of the high school class instead of salutatorian. The valedictorian is also in Dr. Green’s class, and she earned a grade of 98 for the course last semester.

The mother of the girl with the 90 called Dr. Green, asking once more that the grade be raised to 93. The mother then called the chair of Dr. Green’s department, determined to get those three points. As a side point in her complaining, the mother noted that Dr. Green had canceled class on two Fridays. The mother stated, “I paid for three hours a week instruction, and I want my money’s worth.” The mother sees herself as a consumer, and she wants what she paid for.

### **Case #3 Juvenile Sex-Offender**

John and Sue were divorced two years after their son, Frank, was born. Frank's custody was awarded to his mother, who remarried and raised Frank. Frank spent two weekends a month with his father. Frank's father also remarried and had a daughter with his new wife. Frank is eight years older than his half-sister, Judith. Frank had a seemingly normal childhood. When Frank was 14, he visited his father's house for a week while his mother was away on business. Frank's father and step-mother hired a babysitter for one of the nights during the week. After an uneventful night, the sitter had put the two children to bed and went downstairs to read. An hour later, Judith came downstairs crying. Judith told the sitter that, after going to bed, Frank had touched her in inappropriate places with his hands and mouth. The sitter immediately called Frank's father and step-mother.

Upon returning home and finding out what had occurred, Frank's step-mother lividly insisted that Frank leave the house and never come back again. Frank's father contacted Frank's mother, who cut short her business trip and immediately came home to get Frank. After strained negotiations in which Frank's mother promised Frank would go to counseling, Frank's stepmother called the police and had charges of sexual molestation filed against Frank.

Frank was arrested and pled guilty to committing a sex act against his half-sister. Frank admitted that it had happened twice and that his motivation came from seeing pictures of women on the internet that his friends had shown him at school. In Family Court, no evidence was put forward that he was dangerous to girls his own age. In general, Frank was determined to be "low risk". His sentence was probation, but the judge attached an additional component to the probation. Megan's Law mandates that communities be informed of resident sex-offenders. It was named after a young girl named Megan who was raped and killed by a previously convicted sex-offender. In the case of a minor, like Frank, Megan's Law is unclear. Minors' identities are generally protected so that they may start with a clean slate upon becoming an adult, but Megan's Law mandates that the community be informed.

In Frank's case, the judge decided that as a condition of his probation, Frank should have to warn the parents of all dates he might have about his conviction until he turns 18. A state senator approved of the sentence, calling it "in accord with the spirit of Megan's Law." Many parents have also said that they would like to know that their daughter was dating a convicted sex offender, even if those offenders are "low risk".

The public defender assigned to Frank's case, however, argues that the sentence violates confidentiality provisions in the juvenile code. If Frank must notify a date's parents about his conviction, what is to stop the parents from notifying other parents? Furthermore, the public defender asks what should count as a "date". There may be clear cases of dates, as when a couple goes out to a dance or a movie together, but what about hanging out with a group of friends, hanging out at someone's house, or walking together home from school? Frank's mother is worried that everyone in town will know about her son's conviction, unlike many other crimes that juveniles commit and outgrow. She also worries that Frank's sentence essentially bars him from dating girls his own age. It would be a rare parent, upon being notified of Frank's conviction, who would consent to the date. According to Frank's mother, this could lead to him being more of a danger, rather than healing as a normal boy.

Finally, Megan's Law normally mandates a hearing for convicted sex-offenders. If one is judged to be low-risk, as the Family Court assumed Frank was, only local police are notified

rather than notifying the community through postings or the internet. It is unclear whether this right is respected by the condition on the sentence.

#### **Case #4 Peruvian Artifacts**

Alejandro Toledo, President of Peru, has launched a public campaign demanding that Yale University return to Peru Incan artifacts excavated at Machu Picchu in 1912. Yale professor Hiram Bingham III, guided by a native Peruvian, came upon the Incan city of Machu Picchu in 1911. Bingham secured backing from the National Geographic Society and support from Peru's government for archeological excavations at Machu Picchu in 1912 and again in 1914-15.

In October 1912, Bingham gained the Peruvian government's permission to bring to Yale for research the contents of 170 tombs in Machu Picchu. The decree allowed that Peru reserve the right to ask for the return of the objects.

By 1916, Peru, suspecting Bingham of secretly taking Incan gold, ended Bingham's work at Machu Picchu. The items taken to Yale from the 1914-15 excavations were loaned for only 18 months. Yale has refused several Peruvian requests for return of the artifacts. Today, Yale claims that they have complied with the 1912 and the 1916 agreements, returning the objects to Peru during the 1920's. Yale sees no similar responsibility to return the items taken from earlier work. National Geographic Society records show that about half of the items were returned to Peru, with no mention of the remaining artifacts.

Luis Guillermo Lumbreras, the director of Peru's National Institute of Culture in Lima, claims that Yale has had 90 years to complete research on the objects, and now Peru wants the items returned. Peru elected its first indigenous president—Alejandro Toledo, who honored the nation's Incan heritage by holding part of his inauguration ceremony at Machu Picchu in 2001. In part due to his influence, Peru wants possession of the artifacts, which have formed the core of Yale's impressive, scholarly exhibition: *Unveiling the Mystery of the Incas*. After traveling to six cities and attracting over a million visitors, the exhibit now resides at Yale's Peabody Museum of Natural History in Connecticut.

The recent research of Yale professors Lucy Salazar and her husband Richard L. Burger, including extensive scientific analysis of burials, has provided the most reasonable explanation for the existence of Machu Picchu. Rather than supporting the earlier ideas of the city as a center for religious activity including the sacrifice of virgins, the professors' research has suggested that the city served as a simple country retreat from the Inca capital of Cuzco.

The number and kinds of artifacts taken to Yale from Machu Picchu is in dispute. Yale has offered to return some of the pieces to Peru, if Peru allows it to keep others at the Peabody Museum of Natural History, where Machu Picchu is the prize exhibit.

### **Case #5 Choosing Winners**

Near the end of its fall season, a top executive from the popular reality television competition, *Idol Starz*, appeared on the *Today Show* and revealed that the program's contestants either advanced or were cut based on producers' decisions rather than being selected through the program's public text-messaging voting system. The executive went on to state that the show's winners and losers were selected by producers on a round-by-round basis in the hopes that certain "controversial" or "questionable" choices would positively influence ratings, increase fervor for underdog candidates, and create a more developed fan-base which would return to view the show during both current and future seasons.

Given the show's popularity and viewers' commitment to their favorite contestants, the revelation led to a large public outcry condemning the show for dishonesty and false advertising. Many claimed to have been cheated and explained that the show had a responsibility to adhere to the public's decisions about which candidates they preferred. Given special attention during this debate was the show's slogan: "You vote. You decide. Who should be the next *Idol Star*?"

During ensuing interviews, the show's producers explained that their decisions were based on the fact that they were in the entertainment business and that certain unpredictable events helped to keep the audience invested in the show and provided increased entertainment value. They also argued that, more often than not, their decisions about who should advance or win were in line with the public's desires. When questioned about the program's slogan, one producer was quoted as saying, "Look at it carefully. There is a difference between telling someone to vote and decide who should be the next *Idol Star* and telling them that their votes will decide the next *Idol Star*."

### **Case #6 Emergency Contraception**

Wisconsin State Representative Dan LeMahieu (R-Oostburg) was outraged when the University of Wisconsin-Madison's University Health Services (UHS) featured ads in the two student newspapers suggesting that students consider receiving prescriptions for emergency contraception (EC) prior to leaving for spring break. UHS services are available to any student at the UW-Madison, and as such they offer health expertise to students in the areas of medical treatment for illnesses and injuries, counseling for stress reduction, smoking cessation, nutrition, dermatology, sports medicine, as well as confidential testing and treatment of sexually transmitted diseases (STDs). Although a part of the state-funded University of Wisconsin System, the ads were paid for using student segregated fees which are not part of taxpayer dollars or academic tuition funds.

Following the publication of the ads, which were part of a series also advising students to protect themselves from sun exposure and limit their intake of alcohol, Representative LeMahieu initiated drafting legislation to ban any university health center in Wisconsin from advertising or distributing the morning-after pill (EC). LeMahieu contends, "I think it's offensive that the university is trying to tell young women to be prepared and to plan ahead so they can have promiscuous activities on spring break. I don't think that it's the role of the university to promote that type of activity, and I believe that's what their ad is asking young people to do." LeMahieu also added that the UW should be "made aware" that many people who are paying state taxes do not appreciate the offensive advertisements.

On June 16, 2005, Wisconsin's State Assembly voted 49-41 in favor of a bill prohibiting University of Wisconsin System health centers from advertising, prescribing or dispensing emergency contraception, making it the first state in the country to move towards banning EC on all state college campuses.

### **Case #7 Saving Chimps**

Dr. B., a Professor of Psychology at a large research institution, Ohio State University (OSU), has a long distinguished record of working with chimpanzees. In the 1970s, she taught chimps to communicate, first by using American Sign Language and later using graphic symbols. In the last decade, under her direction, two young chimps, Keeli and Ivy, have learned to count and to recognize simple written words. Another chimp, Bobby, has shown an uncanny ability to learn number sequences and even to fill in missing numbers in a sequence. She has learned that chimps can do simple arithmetic, behave similarly to preschoolers, and (along with humans) have the ability to perceive the knowledge state of a peer.

Dr. B., who has dedicated her entire professional life to the study of cognition in chimpanzees, has won international acclaim for her work and was named one of the top 50 women researchers in the nation by Discover Magazine in 2002. Her chimps have been featured on Discovery Channel. However, as funding to support the research center has been hard to come by in the last five years, the university decided to close the research center and send the chimps away. OSU abruptly seized the professor's laboratory on February 28, 2006, changed all the locks, and hired a truck to send all 12 primates (nine chimps and three monkeys) to Primarily Primates, a controversial Texas sanctuary. The university gave the sanctuary a \$324,000 trust fund for the animal's care.

Dr. B. vigorously protested the decision. When a restraining order she filed failed to prevent the university from implementing its decision, Dr. B. chained herself to the center's gate to prevent the transport trucks from leaving. Her efforts were unsuccessful and one of the chimps, 25-year old Kermit, died during the 38-hour transport in early March. Bobby was found dead in his enclosure on April 20. One of the monkeys escaped and was never recovered. Dr. B sued OSU to win custody of the remaining chimps. PETA also joined the suit on behalf of the remaining seven chimps and two monkeys and in June a Texas judge ordered that an independent trustee should oversee the \$324,000 funding to ensure that it be used to house and benefit the remaining OSU primates.

### **Case 8: Client Confidentiality**

Does the vow of client confidentiality extend past the client's death? The issue came up dramatically when North Carolina attorney Staples Hughes testified at a hearing for a man who may have been wrongly convicted of murder.

Hughes represented Jerry Cashwell, who pled guilty to the 1984 murders of Roland and Lisa Matthews. A second man, Lee Wayne Hunt, was thought to be an accomplice. Hunt was convicted and received a life sentence. Cashwell never publicly commented on Hunt's involvement, but soon after Hunt's conviction, Cashwell told his lawyer in confidence that he had acted alone.

Hughes kept his client's secret for 22 years, until Cashwell's death. Then Hughes began seeking ways to help free the man whom he believed to be innocent. In 2007, Hughes testified at Hunt's hearing for a new trial. The judge knew that Hughes planned to reveal Cashwell's secret. The judge cautioned him not to, saying that he would be compelled to report Hughes testimony as an ethics violation. Hughes testified anyway, sharing Cashwell's admission that he had acted alone in the killings and that Hunt was not involved. The judge reported Hughes to the state bar for violating client confidentiality and refused to consider Hughes' testimony in reviewing Cashwell's case.

The U.S. Supreme Court has held that attorneys have a responsibility to keep confidentiality even after a client has died. The Model Rules of Professional Conduct, the rules promulgated by the American Bar Association to guide lawyers' behavior, also strongly urge against disclosing information unless certain criteria are met.<sup>3</sup> Some legal experts believe that it is sometimes justifiable to violate confidentiality, even when the client is alive, but only to prevent an innocent person from being executed. In some other cases where a suspect or convicted killer had information regarding unsolved crimes, lay people have argued that attorneys should not keep clients' secrets at the expense of those hoping to find out the fate of missing loved ones.

Eventually, Hughes was cleared of wrongdoing by the state bar and continues to practice law. Despite Hughes' testimony and questions regarding possible faulty analysis of evidence in the case, as of June, 2008, Hunt remains in prison.

### **Case 9: Nutraloaf**

A disciplinary technique in prisons throughout the United States is being challenged in court. At issue is a type of food called “Nutraloaf” or “Meal Loaf,” which is served to unruly prisoners in lieu of regular prison food. Nutraloaf is made of whole wheat bread, non-dairy cheese, carrots, spinach, raisins, beans, vegetable oil, tomato paste, powdered milk, and dehydrated potato flakes. It is served on a single piece of paper to eliminate the need for dishes or eating utensils that might be used against prison personnel or other prisoners. Everyone involved in this controversy agrees that Nutraloaf constitutes a nutritionally complete, though unappetizing meal.

Inmates who are restricted to eating Nutraloaf believe that this constitutes a punishment over and above their sentences. They are suing the Vermont Department of Corrections for feeding Nutraloaf without allowing prisoners due process. By law, prisoners may not be punished without a disciplinary hearing process to justify the punishment. So prisoners are not (currently) asking for Nutraloaf to be banned, but for a hearing before it can be used.

In the past, subjecting prisoners to Nutraloaf-like meals has been found to be punishment by a federal court in Michigan. In an older decision, the U.S. Supreme Court found that a meal (called “grue”) used in Arkansas prisons could be cruel and unusual punishment if continued for long periods of time. However, the Illinois Court of Appeals found that prisoners were not entitled to a hearing before being put on “controlled feeding status”, nor did they find that substituted food constituted cruel or unusual punishment.

Prison officials insist that Nutraloaf is an effective behavior modification technique rather than punishment. According to Vermont’s Department of Corrections’ Commissioner, Nutraloaf is given to prisoners who abuse food service privileges by using trays and utensils in assaults. Nutraloaf is also fed to inmates who throw feces or urine. Officials claim that once the behavior is stopped, regular food service options and utensils are restored. Disciplinary hearings are not required before prison staff use behavior modification techniques.

### **Case 10: Slow Medicine Elderly Care**

Technological advances make it possible to prolong the life and of individuals who suffer terminal illness and/or are of advanced age. In some instances, these technologies have allowed individuals the opportunity to overcome severe obstacles and continue living a meaningful and enjoyable life. Some patients who reach an advanced age or who are suffering from a terminal disease, however, may not wish to prolong their suffering with unwanted surgeries and treatments.

In a an article published by The New York Times on May 5, 2008, Jane Gross wrote, "Grounded in research at the Dartmouth Medical School, slow medicine encourages physicians to put on the brakes when considering care that may have high risks and limited rewards for the elderly, and it educates patients and families how to push back against emergency room trips and hospitalizations designed for those with treatable illnesses, not the inevitable erosion of advanced age." Slow medicine can keep the elderly and terminally ill out of emergency rooms and hospital beds and offers the advantage of saving costs of unwanted treatments.

Slow medicine practitioners generally will delay treating illnesses, which helps give their patients more time to understand the procedures. Such time can help prevent a rush into unwanted treatments, but opponents to slow medicine argue that this laid back approach can endanger the health of patients – that it is the physician's role to treat illnesses promptly to ensure optimal results. Under such a model, slow medicine might be equated to a lesser form of euthanasia. Beyond the physical issues associated with slow medicine, opponyts argue that it creates a defeated mindset in patients, encouraging them not to fight even when they may want to.

### **Case 11: Genetic Information Nondiscrimination Act**

Newly passed legislation, known as the Genetic Information Nondiscrimination Act (GINA), prohibits health insurance companies from using genetic information to deny benefits or raise premiums for individual policies. Employers who use genetic information to make decisions about hiring, firing or compensation could be fined as much as \$300,000 for each violation.

The reason for the Act is in the title: preventing discrimination against individuals who happen to be genetically predisposed to certain diseases; but some argue that this bill prevents employers from serving the public interest. For instance, public safety might be jeopardized if we allow an individual to drive a school bus or conduct a train if they have a latent health condition that poses a direct threat, such as seizures or a heart condition.

Additionally, we could potentially reduce the overall cost of insurance by excluding individuals with high risk conditions, and help to better allocate risk and cost. Similar to high risk insurance for drivers with high accident levels, insurers would still be required to offer policies to those with high risk genetic markers, but they would pay for the cost of their ultimate care directly, that cost would not be shared by the overall population.

On the other hand, without anti-discriminatory measures such as GINA, some individuals might avoid the benefits that could be reaped from early detection because they fear the potential repercussions from insurers and employers.