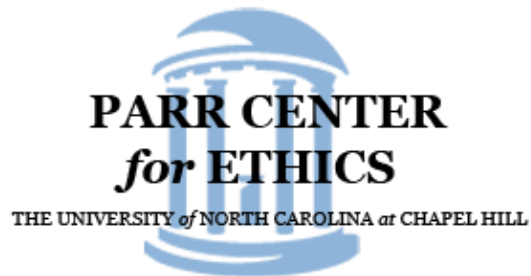




2013 NATIONAL HIGH SCHOOL ETHICS BOWL CASES

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1. Open Markets for Organs

Current United States law allows individuals to donate human organs for transplant and allows individuals to receive donated human organs for transplant. Indeed, public policy and ad campaigns encourage the behavior – however, it is currently illegal to buy or sell human organs.

According to the Health Resources and Services Administration, over 50,000 people were added to the organ transplant list in 2011 alone. In that same year, only about 28,500 transplants occurred. Those who didn't receive transplants continued to wait; many die before they receive donor organs. An average of 18 people on the transplant list dies each day waiting for an organ.¹ Simply stated, there aren't enough compatible organs available.

Some individuals have suggested the possibility of allowing healthy individuals to be legally permitted to sell their organs as a way to combat the shortage. Proponents of an open organ market argue that allowing people to sell their organs would increase the supply of available organs. Openly traded organs would include only those organs that can be donated by living donors: kidneys, and pieces of livers, lungs, and pancreases are the most common. Opponents describe a disturbing future in which those of means harvest the organs of the young and poor, and contend that there are some things that money simply cannot buy.

¹ Data collected from U.S. Health Resources and Services Administration. <http://optn.transplant.hrsa.gov/latestData/rptData.asp> as well as <http://www.organdonor.gov/index.html>.

2. Smoking on the Shore

In August 2012, the town council of Carolina Beach, N.C., passed a law banning smoking on the town's beach. The Town Council voted 4-1 on the issue, showing strong support for the ban among elected officials. Comments from Carolina Beach residents during a public hearing reflected a similar split: nine people spoke in favor of the ban, while two individuals advocated against.

Those in favor of the ban at the hearing voiced environmental and aesthetic concerns, citing the overwhelming clutter of discarded cigarette butts on the beach as damaging. They were also concerned about the air quality at the beach, especially in terms of the impact on families with young children.

Those who spoke against the ban felt that the ban was a severe intrusion on personal rights. Opponents also cited economic concerns, saying that the ban could deter tourists who smoked from visiting Carolina Beach. Ray Rothrock, mayor of Carolina Beach, advocated against the ban on the grounds that it was too extreme. He suggested strong litter laws instead.

3. Stand Your Ground

In 2007, Texas expanded “Stand Your Ground” laws that justify the use of deadly force in cases of self-defense. According to Texas law, deadly force can be used to protect property and to stop rape, arson, burglary, robbery, theft at night, and criminal mischief at night. Before the expansion of the law, deadly force could be used to protect oneself unless one could escape from danger without harming anyone, according to Sandra Thompson, a professor at the University of Houston Law Center. But since 2007, the law no longer requires individuals to try to attempt to retreat from danger prior to “protecting” themselves.

Benito Pantoja, 24, was shot and killed by a Houston man in 2010 for stealing \$20.29 from a taco truck tip jar. Two years later, retired Texas firefighter Raul Rodriguez was sentenced to 40 years in jail for killing his neighbor because of a noisy party. Both men cited “Stand Your Ground” laws in their defense.

In 2012, a 23-year-old father caught a man molesting his 5-year-old daughter in a horse barn and beat him to death. Although some hail the man as a hero, others wonder why he isn’t being charged with murder, claiming that he did more than simply stop the man from molesting his child and that killing him was an unnecessary form of vigilante justice. A Texas grand jury declined to indict the father, declaring that he was within his right to use deadly force.

In Texas, “justifiable” killings increased from 32 in 2006 to 48 in 2010.² Studies have shown that legal protection for self-defense killing, such as “Stand Your Ground Laws,” not only increase the number of self-defense homicides, but also the incidence of murder and manslaughter by seven to nine percent, statistically significant data³.

² <http://www.foxnews.com/us/2012/07/03/texas-justifiable-homicides-reportedly-rise-with-castle-doctrine/>

³ http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf

4. Creative Sentencing

On September 11, 2012, Sheena Hardin drove on a sidewalk around a Cleveland, Ohio school bus from which children were exiting in order to pass it. In addition to suspending her license for thirty days and giving her a \$250 fine, the judge presiding over her case ordered her to stand on the road for an hour for two consecutive days holding a sign that read, “Only an idiot would drive on the sidewalk to avoid a school bus.” Drivers honked at her as she stood outside and passersby yelled comments at her such as, “Why do you hate kids?” Her punishment was recorded and streamed live by local satellite trucks.⁴

Although Hardin’s case is one of the more public examples of creative sentencing, other individuals have been given similarly non-traditional punishments. A couple convicted of theft was sentenced to stand in front of a mall for five hours a week for six years holding a sign labeled, “I am a thief.”⁵

Before sex offender registries became available on the Internet, a judge required a convicted sex offender to wear a tee-shirt that read, “I am a child molester.”⁶

Some people feel that these public punishments deter others from committing crimes; others argue that public shaming should not be used as a punishment because it is too light of a sentence. Still others believe that public shaming is “cruel and unusual” in that it unjustly exposes individuals to public ridicule and excessively damages reputations. Although convictions are matters of public record and can easily be researched, public shaming more straightforwardly declares an individual’s wrongdoings. Those opposed to creative sentencing claim that it actively harms individuals’ abilities to interact with members of the community. They also suggest the longstanding defamatory effects of public shaming disregard individuals’ potential for personal change over time.

⁴ <http://www.ottawacitizen.com/mobile/news/world-news/woman+drove+sidewalk+avoid+school+holds+idiot+sign+under+court+order/7543539/story.html>

⁵ <http://www.ottawacitizen.com/news/Sentenced+humiliation/7544502/story.html>

⁶ http://www.slate.com/articles/news_and_politics/explainer/2012/11/public_shaming_sentences_can_judges_subject_criminals_to_humiliation.html

5. Unmanned Drone Attacks

The Obama Administration's use of unmanned drones for targeted killing overseas is well-documented and controversial. In the fall of 2011, two U.S. drone strikes killed three American citizens in Yemen, including a 16-year-old. In February 2013, NBC News released a Department of Justice memo that purports to defend the president's unilateral power to kill U.S. citizens without judicial process.⁷ According to the memo:

... where the following three conditions are met, a U.S. operation using lethal force in a foreign country against a U.S. Citizen who is a senior operational leader of al-Qa'ida or an associated force would be lawful: (1) an informed high-level official of the US Government has determined that the targeted individual poses an imminent threat of violent attack against the United States; (2) capture is infeasible; and (3) the operation would be conducted in a manner consistent with applicable law of war principles.

The memo argues that when a high-level government official decides that a citizen poses such a threat, the U.S. may legally kill that citizen without any trial or public scrutiny. Some have commented that the memo seems to contradict the Fifth and Sixth Amendments which established the right to due process and public trial by jury, respectively. This worry is compounded, according to opponents of the memo, given that there is some evidence that the main target of the first Yemen strike wasn't "an imminent threat of violent attack" – at least as these terms are ordinarily understood.⁸

Others worry that the language of the memo is so vague that it would allow the president to kill pretty much whomever he or she pleases. Professor Kevin Jon Heller, for instance, argues that the permission for the government to kill "a senior operational leader of al-Qa'ida *or an associated force*" (emphasis added) is already wide enough as to conflict with international law.⁹ Furthermore, the memo explains that an "imminent" threat "doesn't require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future." Based on previous rulings, the memo argues that the national right to self-defense would extend to killing a person who poses such an "imminent threat" *wherever* that person happened to be. This, the memo seems to allow for the targeted killing of Americans even on American soil without judicial review.

Proponents of the policy say that there *are* U.S. citizens who pose a legitimate threat to our national security. Capture may very well be infeasible, and some situations may be so dire that killing for the sake of national security could be justified. Some argue that the president should have the power to kill without breaking the law even if the memo itself isn't a very well-written defense of that power. Attorney General Eric Holder, for example, argued that "due process' and 'judicial process' are not one and the same, particularly when it comes to national security. The Constitution guarantees due process, not judicial process."¹⁰ Holder's defense is that the due process required by the Constitution would be satisfied when an informed high-level official of the US Government has determined that the targeted individual poses an imminent threat of violent attack against the United States.

7 http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf

8 <http://www.nytimes.com/2010/11/20/opinion/20johnsen.html>

9 <http://opiniojuris.org/2013/02/05/the-doj-white-papers-fatal-international-law-flaw/>

10 <http://www.theatlanticwire.com/national/2012/03/holder-due-process-doesnt-necessarily-mean-courtroom/49509/>

6. DREAM Act

For many decades, the U.S. Government has had a difficult time effectively dealing with “illegal immigration.” The Development, Relief, and Education for Alien Minors Act, more commonly known as the DREAM Act, has been proposed in Congress as part of an effort to provide relief for young adults who were brought to the U.S. illegally when they were children. The act has been defeated each time it has come up for a vote, but the Obama administration issued an executive order that enacted many of the bill’s provisions on a temporary basis.

In August 2012, undocumented immigrants who met certain requirements were able to apply for deferred action which, if granted, would prevent them from being deported for two years and would permit them to apply for work authorization. Deferred action is only available to those under the age of 30 who arrived in the U.S. before turning 16. Applicants must have lived in the U.S. for at least five continuous years prior to June 2012; must meet certain “good character” requirements; and must either currently be in school, have obtained a high school diploma or GED, or be honorably discharged veterans.

Those opposing this plan argue that it is morally wrong to provide forgiveness to those who have broken the law. Even though these measures are targeted towards a very specific group of individuals, opponents fear that the new measures have the potential to encourage more illegal immigration in the future by those who expect to receive similar benefits.

Proponents of the DREAM Act argue that the bill will benefit the U.S. economically since the law’s changes are targeted towards young, educated adults. Economically enfranchising this group of immigrants is beneficial on many levels: those targeted will have a far greater earning potential than what they now expect; as a result, tax revenues will increase, and we will all benefit from having a larger talent pool. Additionally, because these immigrants were brought into the U.S. as children, it is wrong to deport those who through no fault of their own have become accustomed to life in the U.S. and are thus merely victims of the current immigration laws.

7. Newly Public Art

On February 11, 2013, the hacker known as “Guccifer” submitted emails and pictures to *The Smoking Gun* that he illegally extracted from Presidents George W. Bush and George H.W. Bush’s email accounts, including details concerning the latter’s then recent brush with death and pictures of paintings that George W. Bush created himself.

William Bastone, editor and co-founder of *The Smoking Gun*, said, “[The Smoking Gun] decided to use a tiny portion of [the material provided by Guccifer] that was illustrative of the nature of the various incursions and their seriousness.” But others believe that the innocent nature of the material uncovered by the hacker wasn’t worth publishing— and further intruded on the Bush family’s already unjustly exposed private matters.

Richard Wald, professor at Columbia University, declared, “if the hack had revealed malefaction of a great nature, you’d say ‘Thank God they published it.’ But if it’s just [trivial], it injures the notion of civility.”

While the investigation and reading of former CIA director David Petraeus’ emails was later justified because it revealed potential national security breaches, the invasion of the Bushes’ private emails yielded no such national benefit. The material leaked to the press was centered around an ailing father and paintings depicting the former president enjoying showers and baths— nothing of great social or political magnitude.

After being first published by *The Smoking Gun*, the leaked material was further transmitted around the Internet by the likes of *The New York Times* and *The Washington Post*, reaching even larger audiences.

8. Eminent Domain

Creekside Court is a 400-unit apartment complex in Freetown (population 15,000) that primarily rents to low-income residents. The average rent for a two-bedroom apartment is \$475 per month. Many of the residents are recent immigrants to the United States; some are refugees. The longest lease available to renters is one year, so all leases expire within the next 12 months.

Creekside Court was built in 1983 and has been maintained by a professional staff hired by the apartment complex. When residents move out, the vacant apartment is repainted and repairs are made to appliances and fixtures, but none of the apartments has been renovated since construction 30 years ago. The buildings are showing evidence of wear and tear – the exterior staircases that allow second-floor residents access to their apartment are in particularly poor condition. A step recently gave way as a resident was descending the stairs, resulting in a serious head injury. Local government inspectors determined that several other exterior staircases were structurally unsound. Several buildings have termite and other insect infestations, some of the stoves and other original appliances do not meet the safety or energy standards required of new appliances, and some slight water damage from leaky roofs has begun to appear.

The apartment complex was recently purchased by a luxury property management company that announced plans to renovate all 400 units and building exteriors as the current leases expire. The company plans to install granite countertops, new stainless-steel appliances, hardwood flooring, two community pools, a hot tub, sauna, and small recreation center. The company estimates that a renovated two-bedroom apartment will rent for an average of \$1100.

The Mayor of Freetown immediately expressed concern about the pending conversion of a large affordable-housing complex into luxury apartments:

“Those 400 apartments are home to more than 1000 of our most vulnerable residents – where will they move? We need these people here, they are hardworking and valued members of Freetown. I will ask the City Attorney to explore the possibility of using eminent domain to take over Creekside Court and converting it to public housing,” she told the local newspaper.

The new owners of Creekside Court responded in a press release: “It would be an abuse of power for the city to seize our property, simply because it does not like our plan to improve it.”

The Supreme Court has repeatedly held that the Fifth Amendment allows governments to exercise eminent domain over privately-held property. That is, governments are allowed to take over private property for “public use” while offering the owner “just compensation.”

9. Don't Touch My Phone

"Don't touch my phone" is a line uttered by teenagers around the globe. But what if one could gather all the knowledge one needs from someone else's device without physically interacting with it? There are now applications, or "apps," that allow people to track others' phones and even intercept text messages.

This new capability is especially attractive to those parents who feel driven to extreme measures when it comes to ensuring their children's safety. Parents can use these kind of applications to see where their children are (or at least where their phone is) at any given time.

Similarly, Facebook now has a 'find friends nearby' feature that gives one the exact location of one's Facebook friends who have enabled the feature. There is also a friend-finding app that is based on people's contact lists. A man used one such app, called "Find My Friends," to catch his wife cheating with another man. He said, "I got my wife a new 4S and loaded up find my friends without her knowing. She told me she was at her friend's house in the east village. I've had suspicions about her meeting this guy who lives uptown. Lo and behold, *Find my Friends* has her right there."

Other current apps also allow for the interception of text messages. The Spy app, when downloaded on a device, intercepts any text message or email that is sent from the device. Some parents use this app to make sure that their children are not writing about drug or alcohol use, involved in sexual relationships, or otherwise engaged in behavior the parents find objectionable.

10. Pay for Play

Should college athletes be paid? Although NCAA President Mark Emmert does not favor paying athletes 'market value,' he does support a small stipend for student-athletes. Some studies have found that the value of a full athletic scholarship may fall several thousand dollars short of the full cost of attending college. Additionally, intercollegiate athletes are not eligible to work part-time to help them pay their college expenses, an option available to other students.

The discrepancy between the lack of income for college athletes and the revenue generated for their universities by their performance adds fuel to the pay-for-play fire. College football and men's basketball generate more than \$6 billion in annual revenue. Top college coaches have annual multi-million dollar contracts, sports conferences sign lucrative TV deals, and school stores make millions from merchandise. However, the athletes that make it all possible cannot receive a penny for their play because of NCAA rules. Athletes are essentially providing billions of dollars to their universities, athletic departments, and the NCAA, which have no legal obligation to pay them for their efforts. Some feel that NCAA athletes are being exploited by the NCAA's stringent no-pay rules. Although the NCAA does not permit athletes to sell their own merchandise, accept food or money from donors, or even use their names to publicize individual training, Leigh Steinberg, a prominent sports agent, claims, "The dominant attitude among players is that there is no moral or ethical reason not to take money, because the system is ripping them off."

However, the proposed stipend allowance creates another problem. Not all Division I universities can afford to provide a stipend if it were legalized. Some smaller schools that are not in power conferences do not have the luxury of handing out stipends to their student athletes. Furthermore, the majority of colleges do not have the extra funds to pay for their "non-revenue producing" sports, such as soccer, wrestling, track and field, lacrosse, and gymnastics. Although athletes in these sports also devote considerable effort and sacrifice to their craft, their chosen sports are less valued as entertainment.

11. Who Pays For Climate Change?

Some scientists speculate that a global temperature increase of four degrees Celsius could destroy 85% of the Amazon rainforest.¹¹ The Amazon, located primarily in Brazil, is the source of many of the world's most important medicines and other products that are derived from flora and fauna found nowhere else in the world.

A similar temperature increase, resulting in the further melting of polar ice, would directly contribute to rising sea levels. A rise of a few feet would have devastating effects on countries like the Maldives, whose highest point is a mere 2.4 meters above the hungry sea.¹²

Those countries and ecosystems that will experience the most devastating changes caused by rising temperatures and rising sea levels are not the ones primarily responsible for these global climate changes. The most polluting countries – China, the United States, India, and Russia – directly and disproportionately affect climate change. But these countries will not suffer the most from its effects. In other words, although the world's most polluting countries catalyze climate change, those who produce the least amount of CO² bear its consequences most.

Peter Singer, a world-renowned ethicist, proposed a cap-and-trade system to cope with the discrepancy between polluters and those who bear the burden of pollution's ill effects. According to his model, each nation has the right to produce carbon dioxide, but only up to a certain amount. Countries that pollute below this limit may sell carbon dioxide emission rights to countries that produce more CO² than their allocation.

¹¹ <http://www.guardian.co.uk/environment/2009/mar/11/amazon-global-warming-trees>

¹² <http://www.environmentalgraffiti.com/conservation/news-how-global-warming-and-natural-process-threaten-maldives>

12. Conjoined Twin Separation

Modern medical technology allows for the separation of conjoined twins, allowing them to live independently of each other if they survive the complicated procedure. But the operation is not a simple one because twins' vital organs and blood are often shared. In 2000, two girls, conjoined twins under the aliases of "Jodie" and "Mary,"¹³ were considered for such an operation.

Soon after birth, Jodie was found to be anatomically sound, while Mary had a severely underdeveloped brain, no lungs of her own and other severe abnormalities. Furthermore, the girls shared a primary blood vessel and the same blood supply. The over-circulation of the common blood supply would eventually kill both girls if they were not separated.

The girls' parents travelled from their native Malta to the United Kingdom to seek medical advice.

Doctors determined that Jodie was developed enough to survive on her own if the twins were separated but that Mary would surely die. The girls' parents, devout Catholics, opposed separating the children because of the Catholic prohibition against taking any action that would intentionally end a human life.

Despite the parents' wishes, the British High Court ruled that the duty to preserve life was so important that the state could order a separation against the parents' wishes and in the best interest of Jodie, the child who would most likely survive. The parents appealed this decision, and the final ruling in the matter was delivered by the Court of Appeals, whose judges provided several different individual opinions on the case, deciding in favor of ordering the separation.

One judge argued that Mary's death was inevitable and that for Jodie, separation meant the difference between living and dying. Another found that separating the girls was necessary to protect Jodie from the connection to her sister and that Mary was in effect killing Jodie by exhausting her sister's blood supply. Separation was then allowed under a provision of English law that allows for killing in self-defense. After the ruling, the girls were separated and as predicted, Mary soon died. Jodie was eventually taken home by her parents where it seems she will eventually live a relatively normal life.

¹³ <http://www.hss.cmu.edu/philosophy/london/Twins.pdf>

13. ‘Go Fish!’

“We’ve lost jobs,” an actress said during a political ad aired in 2008. “John Snow’s solution for our economy? ‘Go fish!’”

This ad was funded by an independent political group called Real Jobs NC.¹⁴ The ad was a response to then-Senator John Snow’s plan to build a pier with an aquarium on North Carolina’s coast. He subsequently lost to his Republican opponent, Jim Davis, by a mere 200 votes and identified his opponent’s persistent attacks as a contributing factor. He said Davis seemed to have had an endless supply of money.

Private donations are the primary source of funding for political campaigns. Due to a Supreme Court ruling that struck down limits on spending in political campaigns, corporations and unions hope to gain a bigger role in politics, funding candidates that would best serve their needs. In a democracy in which the government is “of the people, by the people, [and] for the people,” it is increasingly difficult to determine whether corporations should have the same campaigning rights as individuals.

Proponents of corporate campaign financing argue that corporations have the right to support the candidate of their choice. These donations also prevent governments from taking on the burden of paying for all candidates’ political campaigns, especially during troubling economic times. Critics argue against systems that publicly subsidize and fund political campaigns, professing that these systems would allow for even more corruption of the government.¹⁵ These people find it troubling that money has such a huge impact on politics. They cite the example of Germany, which has found alternative solutions to the problem of campaign financing, such as allowing private funding of the parties rather than individual candidates.¹⁶

Is allowing continued private funding viable? Do “big money holders” have public interest at heart, or are they playing a game that will only serve to widen the ever growing gap between the wealth and non-wealthy?

¹⁴ http://www.newyorker.com/reporting/2011/10/10/111010fa_fact_mayer?printable=true¤tPage=all

¹⁵ <http://reason.org/news/show/public-funding-of-campaigns-wo>

¹⁶ <http://www.loc.gov/law/help/campaign-finance/comparative-summary.php>