

# **CASES**

for the

## **TWENTY-FIFTH**

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Prepared by

Robert Boyd Skipper: Chair, Case Preparation Committee

Robert A. Currie

Deni Elliott

Cynthia Jones

Heather Pease



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## Case 1: Invasion of the Mind Snatchers

Todd often worried about his younger sister, Tabatha. They, and everyone else in the world, were living through the worst pandemic in modern history, but Todd was convinced Tabatha had been infected by an even more insidious pathogen than the SARS-CoV-2 virus, the novel coronavirus that attacked the circulatory system and various internal organs, primarily the lungs. Todd was convinced his sister was the victim of an agent that attacked only her brain, robbing her of the ability to think coherently.

Todd, a television journalist, and Tabatha, who had quit pursuing an acting career to join a religious cult, had communicated infrequently in recent years. But when they did get together on one of their trips back to their hometown of Memphis, Tennessee, Todd discovered that his sister had come to believe in the multi-level conspiracy theories that, collectively, had become known as Q-Anon. Q is a mysterious person or group, supposedly with access to classified information that it reveals through coded messages to its followers, the Q-Anon. Q's messages sent out over online bulletin boards and amplified over social media, had convinced Tabatha that COVID-19 was a political ploy to damage President Donald Trump's chances for re-election; that wearing a mask did nothing to reduce its spread, since it was no more deadly than a common virus; and that Bill Gates, co-founder of Microsoft, was behind the push to create a vaccine that was, in reality, a cover for implanting microchips in millions of people so that their movements could be monitored.

Todd thought it was another of Q-Anon's baseless theories that had sucked his sister down a rabbit hole, specifically, the one that claimed that Hollywood celebrities and leading Democrats were running a child sex trafficking operation, and that then-President Donald Trump, was working to shut down the operation. Tabatha had become obsessed with this hoax and couldn't stop talking about the "Save the Children" rallies.

In a disturbingly short amount of time, Todd saw his sister slip out of his reach. She ceased to even listen to his objections or counterevidence and retreated into the comfort of her conspiracy bubble. Todd believed that YouTube, Instagram, and Facebook had been the principal media through which the conspiracy contagion had engulfed his sister. She had never, she claimed, had enough money to afford a cable TV subscription, so she had never been exposed to round-the-clock cable news. She mostly read the local newspaper and various religious-based books vetted by her church. However, after she got her first smartphone with access to the Internet and social media, she couldn't stop sharing with Todd all the memes and viral videos she came across.

Watching this transformation of his sister, Todd grew ever more convinced that unless the social media companies monitored and even policed their users' content, the whole population could, like Tabatha, become fertile ground for movements like Q-Anon, which the FBI had described as a potential terrorist threat. Unfortunately, in Todd's view, Section 230 of the Communications Decency Act of 1996 protects Internet platforms like bulletin boards and social media websites from liability for what users post on those sites. Todd firmly believed that it was time to make those who owned and controlled social media platforms take responsibility for the content they hosted or relinquish the immense profits

they were making off their viewers. He believed they should be held just as accountable as traditional media, such as newspapers, television and radio. Todd, as a professional journalist, believed with all his heart in freedom of speech—but that every freedom should bring responsibility with it.

Todd thought this was more than a First Amendment issue. He saw the Internet as a megaphone in a very crowded theater where irresponsible people were screaming “Fire.” As a result, an increasing number of people like his sister were becoming unmoored from reality.

## Case 2: Lessons from the Plague Year

While humankind will be learning from the pandemic for years to come, none of us can ignore the numerous ethics issues with which we have been presented. The ethical implications of the pandemic in the United States and abroad are staggering.

From the beginning, problems arising from social disparity became painfully obvious, as the virus affected different populations disproportionately. During the first wave of the pandemic, some people could work from the safety of their homes. Others lost their jobs as restaurants closed and leisure travel ground to a halt. Others had no choice but to work in situations in which they were continually exposed to the virus. People of color had higher rates of infection and death. The vaccines, when made available, were distributed to the whitest and the wealthiest nations first.

Later, as the virus surged and resurged, the supply of ICU beds, experimental treatments, and ventilators dwindled. The scarcity of medical resources forced hospital leadership to decide whether patients over a particular age should be given palliative care only. They had to decide if it made ethical as well as economic sense to remove the most seriously ill patients from ventilators and free them up for others who looked more likely to survive. At times, the situation had become so dire that some healthcare personnel were comparing their working environment to a MASH unit.

Different nations took very different approaches as the contagion raged within their borders. Some countries, like India and China, mandated draconian nationwide shutdowns and curfews. Other countries, like Argentina and Sweden, acted as if there was no pandemic at all. The United States took no coherent approach. The federal government delegated healthcare decisions to the states, many of which in turn left healthcare decisions up to individual businesses and people. While some leaders within the federal government verbally encouraged social distancing and wearing masks to limit COVID spread, others encouraged large crowds for campaign rallies, met face-to-face in legislative sessions, and held holiday parties, thereby sending a message by their actions in sharp contrast with the government's verbal message. At the personal level, behaviors ranged widely, from extravagant tipping out of sympathy for service workers to screaming abuse at store clerks who tried to enforce mask requirements imposed by their company, city, or state.

The list of COVID-related ethical issues could go on for pages, and several of the cases in this year's ethics bowl address a few of them. In the United States, we generally expect colleges and universities to contribute to the public good by producing research useful to the community and to the advancement of knowledge. We also expect them to prepare students for active and responsible engagement as citizens in a diverse world. How well are you, as college students, being equipped to deal with these issues now and for future global emergencies?

Above and beyond a school's responsibility to provide a safe environment and carry on its normal job of education, the question arises as to whether the pandemic has given higher education an increased

responsibility for helping students and the community recognize, analyze, and actively address the ethical issues that arise from the pandemic, such as those mentioned above. If so, we might expect higher education to meet that responsibility by adjusting coursework, changing the nature of campus life, shifting the direction of some research, and forming new community partnerships. Some would argue that this sort of activism is not appropriate for higher education. The traditional role of educators is to educate, after all, not to shift direction with every crisis, even one as dire as the current pandemic. Any attention given to COVID-19 is attention taken away from other subjects.

## Case 3: A Road Less Traveled

We've come a long way from the time when the only clue we had of a traffic problem ahead was if drivers in the oncoming traffic flashed their headlights to warn us. In recent years many of us have come to depend on apps like Google Maps or Waze to help us anticipate problems on our planned travel route and take a detour. These apps do a great deal to reroute traffic away from existing congestion, thus keeping things from getting even worse. Knowing that an accident ahead will add an extra thirty minutes to our drive, we can exit the freeway for a mile or so and reenter on the other side of the problem.

Waze depends on data contributed by other drivers to flag such things as accidents, stalled vehicles, or traffic patrols. Google Maps takes much of its data, particularly about traffic congestion, from cell phones that drivers have with them in their cars. We're all familiar with the green, orange, bright red, and dark red streets on the virtual map that Google uses to approve or warn us off of our intended path. Of course, as with any new technology, these apps bring their own share of problems, irritations, and glitches. Residents of once-quiet neighborhoods, for example, may suddenly find that Google has redirected freeway traffic past their houses.

Of all the apps out there, these traffic apps might seem to be the most utilitarian, but even they can be turned into art. Simon Weckert, a German performance artist, claims to have used a city street to create an artwork with Google Maps. He gathered up ninety-nine cell phones from friends and suppliers and piled them all in a child's little red wagon. An assistant then pulled the wagon down a mostly empty street. Apparently the algorithm used by Google assumed that slow-moving phones correlate with slow-moving automobiles, so the street on Google Maps changed from green to dark red in both directions, indicating a massive traffic jam. The work, "Google Maps Hacks," on Weckert's website includes videos of the person pulling the wagon, the phones, and the changes that occur on the map. About this work, he says, "99 second hand smartphones are transported in a handcart to generate virtual traffic jam in Google Maps. Through this activity, it is possible to turn a green street red which has an impact in the physical world by navigating cars on another route to avoid being stuck in traffic." Weckert's other works also explore the ways that technology, reality, simulations, and humans interact.

On the web page describing his work, Weckert quotes from "The Power of Virtual Maps," an essay by Moritz Ahlert, "what is the relationship between the art of enabling and techniques of supervision, control and regulation in Google's maps? Do these maps function as dispositive nets that determine the behaviour, opinions and images of living beings, exercising power and controlling knowledge?"

When interviewed by the *Washington Post*, Ivy Hunt, speaking for Google, said, "We've launched the ability to distinguish between cars and motorcycles in several countries including India, Indonesia, and Egypt, though we haven't quite cracked traveling by wagon."

## Case 4: Balancing Interests

In 2011 the Department of Education issued a Dear Colleague Letter (DCL 2011) that clarified the scope of the Title IX Act of 1972 to include sexual misconduct. Prior to this, most people familiar with Title IX knew it as legislation written to correct gender inequities in education, as it required that schools support women's and girls' sports at a level comparable to men's and boys' sports. For example, if a college offered athletic scholarships to 250 male players and no female players, they failed to offer equitable access to educational opportunities on the basis of gender. DCL 2011 argued that these same protections were needed for women and girls because sexual assault and sexual harassment (especially in an education setting) disproportionately affect those who identify as female, thus creating educational inequities similar to those that Title IX legislation addressed.

In 2020 the Department of Education (DoE) put new legislation in place for Title IX. In 2017, the DoE had already withdrawn the DCL 2011 guidance, as well the 2014 Questions and Answers on Title IX and Sexual Violence. Considerations of equity and fairness had played a large role in the 2011 and 2014 guidance documents as had the recognition that victims and survivors of sexual violence had long been ignored or silenced. The 2017 and 2020 decisions, however, were heavily influenced by concern for the rights of the accused, especially due-process rights, as reports surfaced of schools that had wrongly found respondents to be responsible for sexual misconduct.

The 2020 Title IX legislation has been applauded by powerful lobbying groups that had advocated for the rights of the (mostly male) accused/respondents. However, advocates for (mostly female) victims and survivors point to parts of the legislation that they argue represent a significant step backwards in addressing sexual misconduct. One particularly troubling requirement is that a purported victim/survivor or complainant be present at hearings for the case to move forward. While those who endorse the new legislation point to due process rights and the right of a person to confront their accuser, victim advocates point to the move in the criminal system to not force victims/survivors to testify or be present in legal proceedings. They also point out the long history of ignoring complaints, especially when athletics, athletes, or a school's budget is affected (e.g., Penn State, Baylor, LSU). Everyone agrees that schools should allow equitable access to educational opportunities for all, but it is unclear how to balance the interests of all students in such situations.

## Case 5: Work Hard. Have Fun. Cleanse History.

Amazon, the world's largest online retailer, is taking a stand on racial injustice. They recently announced that they will no longer sell white supremacist and racist books, specifically citing works written by David Duke, a former Ku Klux Klan leader, and George Lincoln Rockwell, founder of the American Nazi Party. In addition to removing such books from their inventory, Amazon is also editing images by digitally removing the swastika from the books and videos they will continue selling (e.g., *The Rise and Fall of the Third Reich*).

As an independent company, Amazon has the right to determine what products they sell when those products propagate hate speech. They have received praise for their decision, especially in the midst of the growing Black Lives Matter movement and the call for sweeping legal and social reform. Their position as the world's largest online retailer might even inspire other retailers to follow suit.

However, Amazon's critics argue that this decision contradicts a core American value, free speech, and wonder how far the censorship will go. They point out that censorship of reading material and video was one of the first things the Nazi Party did upon assuming power. Additionally, others fear that some books important for education and some best-selling American classics may soon be unavailable through Amazon. These works might include *To Kill a Mockingbird* by Harper Lee, *Adventures of Huckleberry Finn* by Mark Twain, *Oliver Twist* by Charles Dickens, certain works by Immanuel Kant, or even some writings of the primary author of the Declaration of Independence, Thomas Jefferson.

## Case 6: Barreling Through the Hills

In early April, residents of the Texas Hill Country listen for the songs of golden-cheeked warblers. These small, endangered birds come every spring to the only place in the world where they build nests and raise their young. But, in April of 2020, bulldozers drowned out the familiar birdsongs as work crews began laying the Permian Highway Pipeline. The pipeline, when complete, will cut a 430-mile-long swath across the heart of Texas Hill Country. When completed, its operator plans to deliver two billion cubic feet of natural gas from West Texas to a processing facility on the Texas Gulf Coast. There it will be converted to liquified natural gas and pumped onboard tanker ships bound for the world market.

Even though Texas is a “property rights state,” Texas law gives pipeline companies the right of eminent domain even if property owners whose land lies on the path of the pipeline object to construction for environmental reasons or loss of property value. The companies can build where they like if they claim to be providing infrastructure for transporting natural resources. The Permian Highway Pipeline, for instance, will cross through thousands of properties, including the city of Kyle, and claim a 125-foot easement on these properties. They can do that by simply ticking a box on a form provided by the body that oversees the oil and gas industry, the Texas Railroad Commission (which, oddly enough, has had nothing to do with railroads since 2005).

Texas leads the nation and the world in the production of oil and gas. The proceeds of mineral leases on state land largely fund the University of Texas and Texas A&M University systems. The fracking boom, centered in West Texas, where the pipeline will originate, has made the Texas Public University Fund one of the wealthiest in the country.

Nevertheless, numerous lawsuits challenge the pipeline, primarily for lack of proper environmental studies. Besides the effect on native animal species, a major concern has focused on the karst topology characterizing much of the region. Karsts are underground systems of tunnels and caverns formed by limestone or dolomite rock dissolving over time. Karstified landscape like that in this region magnifies the dangers of pollution to local aquifers, as groundlevel pollution may flow unimpeded into a water system, without the usual filtration that happens in a porous aquifer. Concern over the effects of a spill in this fragile terrain has prompted much public outcry. The courts so far have mostly sided with the pipeline’s builder and operator, Kinder Morgan, a Houston company and one of the largest infrastructure companies in North America.

“At a time where we as a country are facing uncertain outcomes,” Elizabeth Coldwell, a spokeswoman for Texans for Natural Gas, told the *Houston Chronicle* in response to a court ruling rejecting a challenge from property owners, “it’s reassuring to see critical infrastructure projects like the Permian Highway Pipeline avoid falling victim to litigious activists seeking to undermine the energy industry. Now, more than ever, Texans need the comfort of knowing that the industry that helps fund our schools, pay our teachers, and fill the coffers of Texas’ Rainy Day Fund maintains its license to operate.”

Another challenge to the pipeline is the current oil and gas glut on the world market, exacerbated by the coronavirus pandemic that has driven down demand and prices. “It seems pretty hard to argue with a straight face that these projects are financially essential right now when we’re seeing a reduction in production,” said Erin Zwiener, a district representative in the Texas legislature who represents a portion of the Texas Hill Country. “I think a lot of folks are assuming that it will suddenly reverse one day, but I suspect we’re looking at a much longer term issue.”

The Railroad Commission has accepted Kinder Morgan’s claim that the pipeline will not have a significant impact on the golden-cheeked warbler.

## Case 7: □ for Rex

Madison was pleased to find that, despite COVID-19, the university she would be attending in fall, 2020, was allowing some students to live in residential housing, including the full class of incoming freshmen. As she prepared her list of what to take to campus, she often found her eyes resting on Rex, her aging German shepherd. Rex had been part of the family for fourteen of Madison's eighteen years. She hated the thought of leaving him behind. Her parents would care for Rex, and her younger siblings would play with him, but Madison thought that her relationship with Rex was special. She thought of him more as her friend than as a pet.

When Madison googled "dogs on campus" on her school's website, she found that the residential halls had a no-pet policy, but read that the Federal Fair Housing Act required schools to allow service animals and emotional support animals in campus housing. Without a doubt, she reasoned, Rex offered her emotional support, and she provided emotional support to him as well.

Madison had been seeing Dr. Walker, a psychologist, to cope with her stressful senior year in high school, but the stress seemed worse during the pandemic and her enforced isolation with her family. Though she started seeing Dr. Walker face-to-face, she had been forced to continue the appointments through her therapist's telehealth service since March. She told Dr. Walker her plan to take Rex to school and requested that the psychologist provide a letter for the school's disability services office confirming that Rex was an emotional support animal. To her surprise, Dr. Walker declined to write the letter. She told Madison that her stress did not rise to the level of a disability. She said that even if it did, providing such a letter would create a role conflict for her as Madison's therapist, and it was beyond the boundaries of her competence to say that Madison's dog would be appropriate living on a college campus. She did offer to refer Madison to a forensic psychologist who could conduct an independent psychiatric examination to evaluate whether she had a mental disability.

Madison and her parents were unhappy that Dr. Walker wasn't willing to help out, but Madison's mother found dozens of companies on the Internet willing to sell them a letter from a licensed mental health professional prescribing Madison's need for an emotional support animal along with a service dog vest and ID tag. According to the online sellers, if Rex wore a service-dog vest, he could go with Madison to classes and the cafeteria as well as live in the dorm. The cost of the online letter was far cheaper than the psychologist Dr. Walker recommended, and the Internet seller offered a money-back guarantee. To qualify, all Madison needed to do was take a short quiz online in which she truthfully said that sometimes she felt worried or anxious.

## Case 8: Dirty Hands

New York City was an early epicenter of the COVID-19 pandemic in the United States, largely due to its population density, which created ideal conditions for contagion. But 2020 was not the first year an epidemic visited New York. Eerie relics from past diseases may still be seen, if one knows where to look. In the middle of the East River, just between the Bronx and Rikers Island are two tiny islands, overgrown with vegetation, currently designated as bird sanctuaries. The larger island, North Brother, contains crumbling old buildings, now abandoned for over half a century, that played a role in the epidemiological history of New York. The twenty-acres of North Brother once contained hospitals and residences in which patients with highly communicable diseases were quarantined. One famous patient wrote to her lawyer in 1908, “I am not segregated with the typhoid patients—there is nobody on this island that has typhoid. There was never any effort by the Board authority to do anything for me excepting to cast me on the Island and keep me a prisoner without being sick or needing medical treatment.” The author of this letter was Mary Mallon, known in popular culture as “Typhoid Mary.”

In 1907, Dr. George A. Soper, an epidemiologist, was called in to investigate a sudden typhoid outbreak in the family of a New York banker, one General William Henry Warren. Mr. Warren had rented a house at Oyster Bay where he and his family of three and their seven servants stayed for the summer. Of the eleven people in that household, six contracted typhoid within days of each other, and the landlord was afraid he would never be able to rent the place again unless the mystery surrounding the disease’s source was solved. At the time when Dr. Soper investigated the Warren family, very little was known about how typhoid spread. Then current theories blamed it on contaminated water or milk, or rotting organic matter, or sewer gasses. But because of the odd pattern of outbreaks in this and other cases, Dr. Soper came to suspect that humans were somehow spreading the disease. Meticulous sleuthing narrowed the possibilities down to one person: Mary, the cook, who had left shortly after the first case of typhoid appeared in the household.

Dr. Soper uncovered Mary’s recent employment history through the agency that placed her. He discovered that in the previous few years, she had worked in several households that exhibited the same pattern. In Dr. Soper’s own words, “a well-to-do and socially prominent family, soon after moving from the city to the country for the summer, experienced an outbreak of typhoid fever. In no instance had its cause been satisfactorily explained. The cook always left soon afterward. She had never been suspected.”

We now know that typhoid is a type of salmonella, and is mostly spread through uncooked food contaminated by fecal matter. Mary, when she used the toilet, would apparently soil her hands and return to the kitchen without washing them. While the food she cooked was probably safe, the fresh fruits and vegetables were most likely not.

After Mary was captured, she was held against her will on North Brother Island, where she was housed in a private bungalow. She had a comfortable arrangement and freedom to move around the island, but still felt herself to be a prisoner. After almost three years, she was released with the promise that she would not work as a cook or handle the food of others, and also that she would check in with the

Department of Health every three months. She kept none of these promises, and for five years eluded detection by changing her name and seeking work on her own, without going through the agencies that knew her. Among other places, she worked at a hotel, a restaurant, and a sanatorium. The number of people she infected during this time is unknown. She was eventually found and returned to North Brother, where she spent the final twenty-three years of her life.

Mary never believed she was an asymptomatic carrier of typhoid, for she never showed any symptoms of the disease herself. But stool samples repeatedly showed she continued to produce typhoid bacilli her whole life, most likely in her gallbladder. She maintained she had been falsely imprisoned, without ever having been tried or even accused of a crime. Her lawyer sued to get her released from quarantine, but the suit was thrown out, partly on the strength of *Jacobson v. Massachusetts*, 197 U.S. 11, in which Chief Justice Harlan wrote, "The liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good... The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community." In Mary Mallon's case, the Department of Health took away her career and her freedom of movement for life, without a trial or even a hearing. But, in fact, all she had to do was wash her hands.

## Case 9: "Able" To Practice Medicine?

A large body of evidence reveals race-based health disparities in the United States. The data also shows a dearth of physicians who identify as Black or African American, American Indian or Alaska Native, or Hispanic. These two facts seem connected in an interesting way. Health researchers have found a positive correlation between patient satisfaction and health outcomes. That correlation isn't very surprising. Interestingly, though, health researchers have also found a connection, at least for women and for underrepresented minorities, between patient satisfaction and outcomes on the one hand and, on the other hand, whether the patients and health care workers identify as being part of the same group. Simply put, members of marginalized groups seem to have better health outcomes when they can identify with their healthcare providers.

In the last few decades, US medical schools have made strides toward attracting and graduating female and minority students. In fact, female medical students outnumber male medical students in application rates, matriculation rates, and total medical school attendance. Students of color have had mixed success at gaining admission into medical schools and also in graduation rates. A handful of historically black colleges and universities (HBCUs), Hispanic-serving institutions (HSIs), and minority-serving institutions (MSIs) are taking the lead in graduating physicians from underrepresented groups. But the members of one sizable group in the United States, people with disabilities, still experience great health disparities, compounded by race, and yet are largely absent from the ranks of physicians and medical students. Only a very few physicians identify as having a disability, relative to the population as a whole. (The CDC estimates that one of every four American adults have some type of disability, whereas fewer than 3 percent of medical students and around 2 percent of physicians identify as a person with a disability. About a third of the medical students who self-identify report they are ADHD.)

There are many factors that could be preventing persons with disabilities from becoming medical students and physicians. Perhaps the numbers are underreported because of a bias against identifying as a person with disability, especially in such an emotionally and physically demanding profession. Perhaps medical schools are not complying with the Americans with Disabilities Act (ADA). Perhaps the medical school entrance requirements themselves don't comply with the ADA. One such hurdle for would-be physicians might be the Medical College Admission Test or MCAT. Numerous rules for taking the MCAT effectively dissuade test takers from requesting needed accommodations, while other rules are simply not in compliance with the ADA. (The required documentation policies of the Association of American Medical Colleges for reviewing requests for disability accommodations do not appear compliant with the DOJ guidelines for accommodated testing under the ADA, for example.)

Many disabilities are not immediately obvious to others, while some physical disabilities, like deafness or blindness or conditions requiring a wheelchair, are hard to miss. Women who use a wheelchair have worse health outcomes for conditions like breast cancer, for example. Given that over 40 percent of OB/GYN practices fail to be accessible to wheelchair users, this particular statistic isn't surprising. If a physician in such a practice had a physical disability, one could assume the office would necessarily be accessible.

A few recent hints in the popular culture suggest that persons with disabilities could be becoming more widely accepted as physicians. One example might be the television show, *The Good Doctor*, even though disability rights advocates have objected that the lead character is not representative of the overwhelming majority of people with autism.

Discriminating against people can be warranted if the reasons for exclusion are relevant. The schedules of residents and physicians are physically and emotionally grueling, to say the least, and certain disabilities could make it difficult, if not impossible, for a student to succeed in medical school or as a practicing physician. However, certain other types of disabilities should be no barrier to practicing some medical specializations. In fact, certain traits often listed as disabilities may even be a benefit to some medical students and physicians. (For example, being overly attentive to seemingly minor details can be beneficial in diagnosing a patient's symptoms, especially in cases where a patient's general symptoms can indicate numerous potential causes.) It is unclear whether the conditions for administering the MCAT is a proper place to set up hurdles for persons with disabilities.

*Note: This case is adapted from the 2018 honors thesis of National Ethics Bowl alum student Mimosa Thomas, who passed away in 2020 at the age of twenty-four and who identified as a person with a disability.*

## Case 10: Putting Animals Out to Pasture

Currently there are more than 100,000 primates in public, private, and government research facilities across the United States. These animals are being used for biomedical, clinical, and behavioral research studies across various disciplines. Many of these primates have been bred and born in captivity and have spent their entire lives living in research labs. Having been born in captivity, most of these animals have strong bonds with their human caretakers/researchers, and have never experienced sunlight, rain, or basic intraspecies socialization.

Traditionally, once animals have no more value as research specimens, they are humanely euthanized. Currently, euthanizing is considered a “best practice”; however, animal rights activists (and some researchers) argue that these animals, primates in particular, should instead be sent to a retirement sanctuary.

After two years of searching for a suitable retirement sanctuary for Bush, one of their primates, researchers at Princeton University were lucky enough to find one. He is now living out his days at an annual cost to the University of \$2,500. While \$2,500 is not an exorbitant amount, euthanizing would be more cost effective and the money saved could go towards other research, such as cancer trials.

Some researchers have other reasons to oppose retirement sanctuaries. The United States Department of Agriculture does not require animal sanctuaries to register with them, so there is little if any oversight of the living conditions. For this reason, adoption by the right persons might seem to be a better option than retirement sanctuaries. But there is no system in place for monitoring those conditions either.

## Case 11: Who's Watching the Watchdogs?

The headline of the *National Law Journal* article shouted, “Whistleblower Receives \$50M Award, Largest in SEC History.” It was a story about an insider at the heart of a U.S. Securities and Exchange Commission case. Such a reward may be impressive, as was the \$104 million dollars awarded several years earlier by the IRS to a banker who exposed secrets of the Swiss banking system. Blowing the whistle on fraud and corruption in the business world can be very remunerative. Still, it can also be very costly and even risky.

By the time a whistleblower pays legal fees and other expenses, a years-long legal case may net less than half of the reward. What's more, according to attorneys and government officials, the emotional costs to whistleblowers are daunting. Bankruptcy, foreclosures, divorce, and even suicide are all too often the way these stories end. In many cases, careers are wiped out and reputations ruined.

A number of federal statutes aim at protecting those who come forth with inside information. The first was the False Claims Act of 1863, which dealt with military contractors who supplied the Union army with shoddy equipment. Also referred to as the “Lincoln Law,” the False Claims Act included a qui tam provision, permitting those who came forward with evidence of fraud or corruption against the government to file a lawsuit and share some of the recovered damages. The False Claims Act was most recently updated and amended in 1986. Then came the Dodd-Frank Act of 2010 in response to the financial meltdown of 2008. Both of these acts provide financial incentives to whistleblowers and protection against reprisal.

While the Lincoln Law and other legislation offers protections to those who expose fraud against the government, the story is very different when it comes to whistleblowers from inside the government. For those within the US intelligence community who would blow the whistle, there are neither financial incentives nor much protection. Critics of the Intelligence Community Whistleblower Protections Act of 1998 say it is misnamed because it effectively provides almost no protection.

In the wake of the 911 attacks by Al Qaeda, two employees of the National Security Agency (NSA) revealed how mismanagement of agency software had obscured information about the terrorist organization's plans. Instead of being acknowledged by agency management, these whistleblowers had their homes ransacked by FBI agents in search of classified information, which, of course, traumatized family members. The NSA stripped them of their security clearances and seized personal property, forcing them to go to court to recover what had been taken. Another NSA employee leaked information about the agency's mass surveillance program that also swept up information on US citizens. He was charged with espionage and eventually agreed to a plea bargain.

And, of course, when Edward Snowden released a flood of information about how the NSA gathered personal data of citizens, he became the target of a manhunt and has been forced to live in exile in Moscow rather than face trial in the United States.

## Case 12: All the Opinions Fit to Print?

Every day for more than a century, the *New York Times* masthead has proudly proclaimed, “All the News Fit to Print,” reminding readers, sources, advertisers, and employees of the news organization’s commitment to impartiality, balance, and fairness. In early June, 2020, editorial page editor James Bennett was forced to resign, and deputy editorial page editor Jim Dao was reassigned to the newsroom, leaving some people to wonder if all opinions were fit to print.

An opinion piece written by Senator Tom Cotton (R-Arkansas), published in the June 3 issue of the *Times*, had sparked the controversy leading to Bennett’s resignation. Cotton expressed his view that the US military should be deployed to quiet the civil unrest in the country at that time. Protesters were demanding federal and state response to the newest wave of police killings of black men. Cotton accused radicals, rioters, and Antifa for promoting anarchy among the Black Lives Matter protesters. Senator Cotton encouraged President Trump to invoke the Insurrection Act and send in the military to deal with US civilian citizens. “One thing above all else will restore order to our streets: an overwhelming show of force to disperse, detain and ultimately deter lawbreakers.” Some readers and many *NYT* employees were horrified by the op-ed piece, claiming that the Senator’s language was overly-dramatic and dangerous. Some felt that publishing such opinions could lead to further violent outcry among citizens who felt unheard and vulnerable. *Times* employees signed a letter which said, in part, “We believe [Senator Cotton’s] message undermines the work we do, in the newsroom and in opinion, and violates our standards for ethical and accurate reporting for the public’s interest.”

The *New York Times*’ apology for publishing the essay appeared within days of the op-ed’s publication and continues to be attached to the piece that can be found on the news organization’s website. The newspaper took responsibility for not challenging overstatements and for writing a provocative headline to accompany the piece.

Critics of the *Times* say that the news organization caved in to reader and employee backlash. They point out that the newsroom, which indeed is dedicated to balanced and accurate reporting, is different from the editorial offices, which has the responsibility of providing a diversity of opinion on timely matters. They think that readers of the *New York Times* should know the positions that their elected officials hold, even if a position is not popular or trades more on emotion than fact. The critics charge that leadership’s response reveals the news organization’s liberal bias.

## Case 13: Whom or What Have We Here?

In the summer of 2025, an event that the human race had expected for hundreds of years finally took place: first contact with intelligent, extraterrestrial life. Despite how long we had expected this event, we were embarrassingly unprepared when it happened. While science fiction books and movies had long explored first contact as a theme, aliens had mostly served as allegories for then current attitudes or interests. From ruthless space warriors bent on taking over the earth, to waspish parasites that lay eggs in us to feed their larvae, to benevolent guardians trying to save us from our own folly, to childlike innocents just trying to phone home, “space aliens” had served writers as a sociological mirror for ourselves. But when first contact, the reality, actually did happen, it was almost as though we had never taken the possibility seriously.

They contacted us, although not intentionally. A spacecraft had crashed, and the military had captured the occupants. The military was slow to reveal the fact, of course, perhaps on the assumption either that aliens would call forth a military solution or that humans would panic. But when the three ethics specialists were called in as consultants (a utilitarian, a deontologist, and an environmental ethicist), it was clear we were facing puzzles that involved something other than firepower. In the third year of alien captivity, there had been an incident. It’s not clear who started the conflict, but it had escalated quickly, resulting in serious injuries among human guards and alien detainees.

The question our ethicists faced was simple: What moral standing did extraterrestrials have? The usual concepts did not seem to apply. They could not, by definition, have human dignity, but did they have some sort of dignity? Should we consider them particularly complex furniture of the universe or fellow citizens of the Kingdom of Ends? Do they have rights? Do we have obligations to them? Do they have obligations to us? What would justice look like between our species?

What made the question of the moral standing of these aliens particularly difficult for humans to grapple with was that they did not resemble us in the least. Movie versions of aliens had invariably depicted them as roughly humanoid in appearance, bilaterally symmetrical, with two legs, a head, and something like hands at the ends of two arms. These creatures looked more like snakes with tentacles sprouting from around their “head,” prompting the human liaisons to dub them the “slithy toves.” Thus, we had to set aside our automatic responses of fear and revulsion and come to terms with our many biases and assumptions.

They had a language, but it wasn’t audible, rather they wove their tentacles in intricate patterns that had taken linguists almost two years to decipher. And when the linguists did start to make sense of tovisish, it seemed to consist mostly of commands and queries, not statements of fact. So, the first moral perplexity arose because these beings had no concept of truth or falsity.

Another problem, particularly for utilitarians, was that these beings seemed incapable of experiencing pain, or for that matter, any detectable sort of suffering. They seemed to have no concern at all for their own well-being. Thus, an ethics based on maximizing some sort of good would have to rethink the notion of what the good would be for slithy toves. Or should only human good matter?

Were they rational? Well, not in the sense of always acting in their own self-interest. Sure they could calculate, but so can an adding machine. Did they have self-consciousness? That was hard to say, because their language, as far as we understood it, could not express declarative statements like “I exist.”

Even the environmental ethicist was perplexed, since these creatures were not in any way a part of our ecosystem. In fact, though clearly living beings, their metabolism was based on silicon, not carbon. Their environmental impact, in terms of nourishment and waste, had no place in our ecology. So, at least one question was settled: There was no danger of us eating each other.

## Case 14: Too Many Letters?

The urge to discriminate unfairly against others is not limited to racists, sexists, or homophobes. Members of the queer community can also turn away people who want to be a part of that community.

A few decades ago, various members of the queer community did not fully accept those who identified as bisexual, and a decade or so ago they shunned trans people for various reasons. Some older queer-identifying people are still reluctant to accept those who identify in the recently added categories represented by the current “LGBTQ2SIA+” moniker (Lesbian [L], Gay [G], Bisexual [B], Transgender or Transsexual [T], Queer or Questioning [Q2], Two-Spirit [2S], Intersex [I], Asexual [A], and Others [+]).

Because members of the queer community have made immense strides in the past few decades, and now have legal protections against discrimination based on their identification, the issue of inclusion is more than mere lack of acceptance by some. One of the latest letter additions to “LGBTQ2SIA+” stands for *asexual* and designates those who do not experience sexual attraction or desire sexual contact. Not every “Ace” (person who identifies as asexual) wants to identify as queer or as a member of the queer community; nevertheless, their inclusion as a group comes with the obvious benefit of legal protections. Their inclusion would also acknowledge asexual identities as real, rather than just what someone might say to thwart a sexual advance from an unattractive suitor.

The reasons for exclusion of asexuals by the queer community can be varied. Many believe that asexual people, as opposed to gay people, have not faced the same struggles that unite members of the queer community. In other words, asexuals have not endured the hate, rejection, and violence that those who identify as gay, lesbian, or trans have had to endure. An asexual person, as opposed to a lesbian or gay man or trans person, can lead a life authentic to their identity without ever “coming out” as asexual. They can thus have fulfillment without the real pain that other queer-identifying people have faced from discrimination, physical violence, and rejection. Bisexual women and trans people, for example, have exceedingly high rates of violent victimization. And although asexuals can also be lesbian, gay, bisexual, or trans (as romantic attraction and sexual attraction can be separated and gender identification is independent of sexual attraction) there is little evidence that asexuals have been comparably targeted qua asexual by those who commit hate crimes.

## Case 15: Sex Actually

COVID-19 has disrupted life across the globe. Daily activities such as work, school, friendships, leisure, and grocery shopping have been drastically affected by the need for new safety precautions. One area of life, intimacy and sex, is no exception. For many people, a healthy sex life is an important part of being human, because physical connection and emotional bonds are critical, especially in times of high stress (such as during a global pandemic).

New York City, one of the largest US cities and one of the earliest epicenters of COVID-19, released a set of guidelines regarding sex during the time of COVID. The guidelines outline some critically important information about transmission, such as the fact that COVID has been found in mucus, saliva, semen, and fecal matter. The ideal sex situations (according to NYC Health Department) is to have sex with only one person with whom you live. This is a great recommendation if you are married or cohabitate with your monogamous partner, but not everyone is in a committed relationship.

For those who are “single and still looking” the guidelines recommend prioritizing safer sex options such as masturbation, video dates, sexting, sexy “Zoom parties,” and dental dams. The guidelines also encourage the idea of embracing kinky methods by exploring a variety of sex positions, different types of face masks, and the use of barriers such as walls to prevent face-to-face contact during sex.

Critics worry that some of these COVID safe sex techniques may make one vulnerable in other ways. Sexy Zoom parties and video chats raise concerns about internet security and safety. Then there are questions about whether it is the proper place for a city government to recommend sex practices often labeled as “kinky.” Shouldn’t a city government focus solely on information about transmission, prevention, and treatment of COVID? One thing is clear, COVID is not going away anytime soon and the conversation about COVID safe sex is far from over.

## Case 16: Beyond the Academic Pale

The media department at the White House had recorded and edited a video graduation address by senior presidential advisor Ivanka Trump in the middle of May, 2020, weeks ahead of time for playback at the virtual graduation at WSU Tech. However, her nine-minute message wouldn't be played back at that ceremony the following June because of reaction on campus to the remarks and actions of Ms. Trump's father, the President of the United States, in response to demonstrations protesting the death of George Floyd, an African American, at the hands (or rather knee) of a Minneapolis policeman.

The decision to pull the First Daughter's video graduation address came as a result of a letter signed by five hundred faculty, students, and alumni. The letter penned by an associate professor said "Ivanka Trump, obviously, represents her father's administration as one of his closest advisors. To many Americans, that administration has come to signify the worst of our country, particularly in its recent actions towards those peacefully protesting against racist police brutality."

"Our nation's campuses should be bastions of free speech," said Ms. Trump, after learning that her video would be removed from the graduation ceremony. "Cancel culture and viewpoint discrimination are antithetical to academia. Listening to one another is important now more than ever."

Some applicants at a number of colleges and universities around the country might concur. Schools, reacting to social media postings by incoming freshmen, have blocked their matriculation.

N-words and calls for white supremacy have prompted schools to slam the admissions door in the face of otherwise qualified students. In many cases, according to an article from June 4 in the *Chronicle of Higher Education*, these decisions arose from complaints by current students and alumni.

"I'm really heartened personally that people are standing up and that institutions are saying, 'We don't want this, either,'" said Marie Bigham, a former admissions officer and college counselor who founded the advocacy group, Admissions Community Cultivating Equity & Peace Today (ACCEPT).

The *Chronicle* also reported that some public colleges are concerned that turning away students who have made offensive online remarks misses an opportunity for a teachable moment. After all, these students are still adolescents. The *Chronicle* quotes Missouri State University's president as saying in a blog post that he was "horrified" by remarks of two incoming students but decided not to block their admission since their comments, while offensive, were "legally protected." Both subsequently withdrew from school voluntarily.

## Case 17: What Pants Shall We Put on Today?

In a now famous interview in April with an Indianapolis radio station, thirty-seven-year-old Republican congressman Trey Hollingsworth argued for opening up the economy, despite the predicted loss of human life. “But it is always the American government's position to say, in the choice between the loss of our way of life as Americans and the loss of life of American lives, we have to always choose the latter.” In an oft-quoted remark he said that policymakers have to “put on our big boy and big girl pants and say, ‘This is the lesser of these two evils.’”

Other Republican officials echoed this sentiment. In an interview with Tucker Carlson, seventy-year-old Texas Lieutenant Governor Dan Patrick claimed that “those of us who are 70 plus, we'll take care of ourselves, but don't sacrifice the country.”

Critics were quick to jump on remarks like these, calling the GOP a death cult, and reducing the trade-off to choosing between letting people die and going to the movies or to bars. But policymakers have always had to make tough choices that involve risk to human life. In order to make such decisions, the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), the Department of Transportation (DoT), are among the governmental agencies that regularly weigh the economic costs involved in saving lives. The EPA, for instance, currently places the value of a statistical life at \$7.4 million in 2006 dollars, or \$9.4 million in 2020 dollars. By placing a dollar value on every human life, it becomes possible to weigh the costs and benefits of certain risks and precautions.

One of the most contentious debates centers around K-12 schools. Schools have made an extraordinary effort to convert in-person classes into online classes, in many cases donating or loaning the necessary technology to families that lack it. However, there are obvious drawbacks to schooling from home. Parents who are not tech savvy or who are themselves working from home are unable to give the sort of assistance necessary. Parents who work outside the home may not be able to afford child-care. In many cases, the school is a much safer place for children to be than at home with abusive parents. In many other cases, school meals are almost the only meals students will eat during the day. For these and other reasons, schools are under intense pressure from politicians and parents to open their doors wide to all students whose parents wish them to attend in person.

While schools, for non-COVID reasons, may be safer for the students, they are much riskier places for teachers and staff. Many schools have taken strenuous precautions in conducting in-person classes, with varying degrees of success. Regular disinfection of surfaces, strict enforcement of mask-wearing, plastic barriers at desks, six feet of separations between students, and improved filtration on the air flow have been some of the precautions put in place at some schools. Nevertheless, safety precautions are only as good as their enforcement, and no one who's ever dealt with small children seriously expects them to follow all the rules strictly.

Teachers in many states have little or no power or influence. In states like Texas, for instance, where Governor Gregg Abbott has imposed no mask mandate yet has forced schools to reopen, teachers who protest by striking may be fired, lose their certification, and even lose their pensions. One Texas teacher interviewed by *The New Yorker* compared the state's response to COVID-19 to its response to gun

violence, claiming the state was telling teachers, in effect, “No, we shouldn't fix the gun problem; we should make teachers stand in front of bullets. We shouldn't fix the virus; we should make teachers be willing to die.” It's no wonder that many teachers feel as though they are up against a united army of parents, administrators, and legislators—people who never set foot in a classroom—who sit safely at home and berate teachers for not putting on their big boy and big girl pants and choosing “the lesser evil,” namely, death.