

2021 VT Ethics Bowl: A Case Competition

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REGIONAL ETHICS BOWL **CASES**

FALL 2020

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1. Protests and Property Destruction

After George Floyd's murder by police was caught on camera and the video went viral, Black Lives Matter (BLM) protests erupted across the United States. These demonstrations against police violence and racial injustice may be the largest social justice movement in U.S. history: polls as of August 2020 show that about 15 to 26 million people have participated. The demonstrations have continued for weeks and have already started making real progress through both legal and cultural avenues. For example, many cities and states have banned police chokeholds, and public support for the BLM movement has skyrocketed.¹

Civil disobedience is a hallmark of these protests: protestors block roads, disobey curfews, and disrupt events in order to amplify their message.² In many instances, police have responded with brutality, further illustrating the protestors' point.³ Nonviolent protests have a long history in this country, and often include breaking unjust laws or demonstrating abuse of power in an organized manner, knowing that the police are likely to respond with violence. Indeed, these tactics were not only famously but also successfully used during the civil rights movement of the 1960s. However, in the chaos of many of the current protests, there has also been random looting and vandalism by a small minority of the protesters present according to eyewitness accounts. It is unclear who is committing these acts, and in many instances peaceful protestors have attempted to intervene to stop the vandalism.

Many believe that this type of indiscriminate destruction of property only serves to discredit the movement. As one author argues, "The violence and property damage associated with the civil unrest are inexcusable. The looting is indefensible. Both do incredible damage to any cause seeking justice, especially ones fighting to end police brutality and reform the criminal-justice system." In other words, "using peaceful protests as a cover for theft and destruction is actually violence perpetrated against the movement itself."⁴ These critics of looting would argue that looting and vandalism do not constitute legitimate civil disobedience, insofar as the laws against such acts are not inherently unjust.

According to Attorney General William Barr, "groups of outside radicals and agitators are exploiting the situation to pursue their own separate, violent and extremist agenda," and "the violence instigated and carried out by Antifa and other similar groups in connection with the rioting is domestic terrorism and will be treated accordingly."⁵ President Trump has blame Antifa and the "radical left" for the rioting, and announced that Antifa would be designated as a terrorist organization.⁶

But others have taken the stance that this type of property damage and theft are justified, considering

¹ Larry Buchanan, Quoc Trung Bui, and Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, The New York Times, July 3, 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>

² Matthew Yglesias, *Vandalism and theft aren't helping*, Vox, June 4, 2020, <https://www.vox.com/2020/6/4/21278048/civil-disobedience-looting-vandalism>

³ Anthony L. Fisher, *Police rioted, justifying the point of the protests*, Business Insider, June 1, 2020, <https://www.businessinsider.com/police-rioted-george-floyd-riots-justifying-protests-2020-6>

⁴ Anthony Fisher, *Destruction swings at the system, but the punch lands on the peaceful protests*, Business Insider, June 14, 2020, <https://www.businessinsider.com/george-floyd-peaceful-protests-looting-riots-destruction-righteous-cause-2020-6>

⁵ Hollie McKay, *George Floyd unrest: How riot groups come together to loot, destroy*, Fox News, June 1, 2020, <https://www.foxnews.com/us/george-floyd-riots-looting-destroy>

⁶ Rob Blitzer, *Trump announces US to designate Antifa as terrorist organization following violent protests*, Fox News, May 31, 2020, <https://www.foxnews.com/politics/trump-announces-u-s-to-designate-antifa-as-terrorist-organization-following-violent-protests>

the vital importance of fighting for black lives and the dire state of racial inequality in this country. One author argues that “the destruction of property should be taken seriously rather than treated as an unfortunate externality or the expression of regrettably unchecked passions.”⁷ The looting and burning of multinational chains and big box stores can be seen as acts of anger and rage directed at an unfair system, a bid for the redistribution of property, and a necessary escalation to get the attention of the broader community.⁸ As Trevor Noah has explained, “Black Americans watch time and time again how the contract that they have signed with society is not being honored by the society that has forced them to sign it with them.”⁹

⁷ R.H. Lossin, *In Defense of Destroying Property*, The Nation, June 10, 2020, <https://www.thenation.com/article/activism/blm-looting-protest-vandalism/>

⁸ Olga Khazan, Why People Loot, The Atlantic, June 2, 2020, <https://www.theatlantic.com/health/archive/2020/06/why-people-loot/612577/>; Glenn Greenwald, What is the Goal of the Protests, and Which Tactics are Morally Justified and Strategically Wise, The Intercept, June 4, 2020, <https://theintercept.com/2020/06/04/what-is-the-goal-of-the-protests-and-which-tactics-are-morally-justified-and-strategically-wise/>

⁹ @TheDailyShow, “Society’s Broken Contract with Black America,” Twitter, May 31, 2020, <https://twitter.com/thedailyshow/status/1267078626203144199>; see also, “You broke the contract,” YouTube, uploaded by The Ferryman, June 8, 2020, <https://www.youtube.com/watch?v=EoDeVpvuEzI>

2. Mandatory Masks and Racial Profiling

Oregon's Lincoln County instituted a mandatory mask policy to reduce the spread of the novel coronavirus. The policy included an exemption for "people of color who have heightened concerns about racial profiling and harassment due to wearing face covering in public." Extreme backlash ensued. "The calls and comments fell into two main categories: 'There were people saying we were racist against white people,' said Lincoln County Commissioner Claire Hall. And on the opposite end of the spectrum, 'We got messages of, to the effect, 'Why are you participating in a genocide plot to kill people of color?'" Ultimately, the exemption was removed.¹⁰

Long before the coronavirus outbreak, people of color—especially black men—have been adjusting their personal presentation in an effort to counteract racial stereotypes that lead many in their community to see them as a threat. For them, the recommendation that everyone should wear cloth face coverings to slow the spread of the coronavirus came with the added concern that homemade masks could exacerbate racial profiling. As one man explained, "The CDC coming to you and saying 'put a bandana over your face, walk out and that will make you more safe,' as a black man in New York City, it's like them saying put on a hoodie and walk behind a white grandma. That's not how life works for us."¹¹ Another man put it this way: "I don't feel safe wearing a handkerchief or something else that isn't CLEARLY a protective mask covering my face to the store because I am a Black man living in this world. I want to stay alive, but I also want to stay alive."¹²

At the same time, communities of color have suffered a disproportionate toll from the coronavirus pandemic. For example, in Chicago, black residents are falling ill with coronavirus at more than twice the rate of other groups, and black people account for almost seventy percent of coronavirus deaths in the city. As one professor of medicine explains, the disparate impact of the pandemic is the result of longstanding health disparities: "The roots of health disparity based in racial and socio-economic status are long and deep-seeded, ranging from pre-existing health conditions to access to health care."¹³

The Lincoln County exemption was an attempt to balance the protection of all citizens from the virus with the concerns of people of color worried that wearing a mask would put them at risk for violence. But the exemption was swiftly removed due to "unprecedented vitriol" and "horrifically racist commentary" that county leaders received. They explained that "The expressions of racism regarding the exception has created a ripple of fear throughout our communities of color. The very policy meant to protect them, is now making them a target for further discrimination and harassment."¹⁴

¹⁰ Erin Ross, How Internet Outrage Led to A Change In Lincoln County's Face Mask Policy, OPB, June 28, 2020, <https://www.opb.org/news/article/lincoln-county-face-mask-internet-media-outrage/>

¹¹ Gwen Aviles, *Black men fear homemade coronavirus masks could exacerbate racial profiling*, NBC News, April 9, 2020, <https://www.nbcnews.com/news/nbcblk/black-men-fear-homemade-masks-could-exacerbate-racial-profiling-n1179236>

¹² Derrick Bryson Taylor, *For Black Men, Fear That Mask Will Invite Racial Profiling*, The New York Times, May 26, 2020, <https://www.nytimes.com/2020/04/14/us/coronavirus-masks-racism-african-americans.html>

¹³ Erika Edwards, *African Americans 'disproportionately affected' by coronavirus, CDC report finds*, NBC News, April 8, 2020, <https://www.nbcnews.com/health/health-news/african-americans-disproportionately-affected-coronavirus-cdc-report-finds-n1179306?cid=related>

¹⁴ Scottie Andrew, *An Oregon county drops its mask exemption for people of color after racist response*, CNN, June 26, 2020, <https://www.cnn.com/2020/06/24/us/oregon-county-people-of-color-mask-trnd/index.html>

3. Harry Potter and the Tweeting TERF

J.K. Rowling, the author of the beloved Harry Potter books, has repeatedly tweeted and blogged in support of sex essentialism and the position that trans women are men and trans men are women. The Human Rights Campaign pointed out the problem with her view by responding: “Trans women are women. Trans men are men. Non-binary people are non-binary.”¹⁵ Fans of the books have been outraged at Rowling’s transphobic rhetoric that they believe flies in the face of the values embodied in the books that made her famous. The stars of the Harry Potter movies, including Emma Watson and Daniel Radcliffe, have denounced Rowling’s views. In a piece published via an organization dedicated to protecting trans youth, Radcliffe apologized to fans and said: “If you found anything in these stories that resonated with you and helped you at any time in your life—then that is between you and the book that you read, and it is sacred.”¹⁶

Others have agreed with the sentiment, arguing that the books can be separated from the views of their author. As one fan put it, “I’m a firm believer in separating the art from the artist, and I still think J.K. Rowling’s stories are of great value; whimsical, nostalgic tales of a British boarding school system that never existed, ice-cold baths and savage beatings replaced with chocolate frogs and sexless love potions.”¹⁷ Another fan and fellow author argues: “J.K. Rowling gave us Harry Potter; she gave us this world. But we created the fandom, and we created the magic and community in that fandom. That is ours to keep.”¹⁸

The difference between the world Rowling created in the Harry Potter books and her real-world positions is jarring for many who interpreted the books as supporting values like “being yourself, loving those who are different from you and sticking up for the underdog.”¹⁹ In stark contrast, her views devalue and erase the trans experience and target an already-vulnerable community.²⁰

¹⁵ Aja Romano, *J.K. Rowling’s latest tweet seems like transphobic BS. Her fans are heartbroken*, Vox, Dec. 19, 2019, <https://www.vox.com/culture/2019/12/19/21029852/jk-rowling-terf-transphobia-history-timeline>; see also J.K. Rowling, *J.K. Rowling Writes about Her Reasons for Speaking out on Sex and Gender Issues*, JKRowling.com, June 10, 2019, <https://www.jkrowling.com/opinions/j-k-rowling-writes-about-her-reasons-for-speaking-out-on-sex-and-gender-issues/>

¹⁶ Emma Pocock, *Harry Potter Stars and Fan Community Reject J.K. Rowling’s Statement on ‘Trans Activism’ And Gender Identity*, Forbes, June 23, 2020, <https://www.forbes.com/sites/emmapocock/2020/06/23/harry-potter-stars--fan-community-reject-jk-rowlings-statement-on-trans-activism-and-gender-identity/#6e3568bb295d>

¹⁷ Dani Di Placido, *J.K. Rowling, And The Separation of the Art from the Artist*, Forbes, Dec. 19, 2019, <https://www.forbes.com/sites/danidiplacido/2019/12/19/jk-rowling-and-the-separation-of-the-art-from-the-artist/#1075f687e0e0>

¹⁸ Julia Jacobs, *Harry Potter Fans Reimagine Their World Without Its Creator*, The New York Times, June 12, 2020, <https://www.nytimes.com/2020/06/12/style/jk-rowling-transgender-fans.html>

¹⁹ Graham Vyse, *Why these Harry Potter fans are standing with the LGBTQ community against a J.K. Rowling tweet*, The Washington Post, March 3, 2020, https://www.washingtonpost.com/lifestyle/magazine/why-these-harry-potter-fans-are-standing-with-the-lgbtq-community-against-a-jk-rowling-tweet/2020/03/02/31992d72-4834-11ea-8124-0ca81effcd9b_story.html

²⁰ Aja Romano, *Harry Potter and the Author Who Failed Us*, Vox, June 11, 2020, <https://www.vox.com/culture/21285396/jk-rowling-transphobic-backlash-harry-potter>

Because Rowling is using her platform to spread damaging views, many former fans believe that the art simply cannot be separated from the artist under these circumstances. As one former fan wrote, “The argument that we should be able to separate art from the artist and not let the actions of the latter dictate our judgment of the former has been increasingly challenged as our tolerance for acts of violence and expressions of hatred by once-loved artists and creators dissipates... J.K. Rowling’s most recent anti-trans tweets... and increasing alignment with the U.K.’s vitriolic TERF (Trans-exclusive radical feminist) brigade [are] a betrayal of her fans.”²¹ Or, as another fan succinctly lamented in a reply to Rowling on Twitter, “HP is everything to me and you’re slowly killing everything it represents.”²²

²¹ Aisling Walsh, JK Rowling’s Awful Gender Politics Should be No Surprise Harry Potter Fans, The Mary Sue, June 16, 2020, <https://www.themarysue.com/jk-rowlings-awful-gender-politics-should-be-no-surprise-to-harry-potter-fans/>

²² Romano, *J.K. Rowling’s latest tweet*, supra.

4. The death of living history?

Civil War Reenactment has existed for nearly as long as the Civil War itself.²³ While the war was still ongoing, some would reenact battles that had taken place earlier in the war in order to help spread awareness of very recent history. However, Civil War Reenacting as a more pervasive hobby in the United States really got its footing around the time of the first centennial, when living historians in the 1960's reenacted the Battle of Bull Run in 1961. Over time, reenacting as a hobby gained steam, with some people building a career out of traveling from one reenactment to the next, populating "sutler's row," providing all the garb, accessories, souvenirs, and various relics that would enable someone to learn what life was like for soldiers and civilians in the U.S. in the 1860's. Reenactments often brought hundreds of reenactors to camp out at battle sites for long weekends, setting up camp sites intended to closely mirror the life of these soldiers.

Many reenactors take pride in their authenticity, carefully study the history, Napoleonic tactics, weaponry, garb, and way of life for folks during the Victorian era. Reenactments sometimes had teams of historians who would have detailed assessment forms, and would rate the quality of the costume and presentation provided by participants (full disclosure, the author of this case obtained a rating of Authentic with Honors at the Battle of the Wilderness). Some reenactors own the gear that would have been donned by both sides of the conflict, and enjoyed filling the gaps when it came to certain units needing more enlisted men to more accurately reflect the numbers and proportions that would have been seen during the Civil War. Others, however, are deeply committed to one side or the other, and more than a few reenactors participate to get the chance to see the South win a battle or two and revel in the notion of Southern pride and the myth of the lost cause.

Reenactments require a good deal of organization. They generally require permission from the management of the relevant state or national park in which the battles took place, permission for camping, sanitation, and coordination of registration, setup, and cleanup, and a good volume of those involved in the planning take the duty of living history seriously, aiming to educate the public about the way in which war was fought at that time, the tactics used, and the impact of the battle on the overall outcome of the war and the causes for the war in the first instance. However, in order to participate in reenactments, all that is generally required is registration, payment of the fee necessary for participation, travel costs, and something approximating an outfit that would suffice to get folks onto the battlefield.

Reenactors often have "home regiments," not always associated with the actual geographic region they claim (so, for instance, the 115th New York reenacting group was based in South Florida), and these regiments will often self-police when it comes to who may join and go onto the battlefield with them. Many reenactors maintain extra garb so that new participants can get some help before committing to owning a fully authentic outfit and weapon. Cavalry generally bring their own trained horses that would be familiar with the sound of gunshot, artillery would have a communal cannon and supplies that all members of the unit might help pay to maintain.

²³ Kat Eschner, "Civil War Reenactments Were a Thing Even During the Civil War," Smithsonian Magazine, <https://www.smithsonianmag.com/smart-news/civil-war-reenactments-were-thing-even-during-civil-war-180967405/>, December 17, 2017.

But not all regiments are created equally, and some held themselves to higher standards than others.

In the present climate of reckoning with Confederate monuments, flags, and textbooks influenced by those who seek to perpetuate the myth of the lost cause, some question whether Civil War Reenactment as a hobby needs renewed scrutiny. Some reenactors believe their hobby serves to remind the public of the loss suffered during war, the importance of the reconstruction of the union of North and South following the war, and the reason the war happened in the first instance. Further, they see the participation even by those who may not yet be experts on the history as a chance to reach people, educate people, and help keep the lessons fresh in citizens minds so that that understanding can unfold over time.

However, there are some who worry either that the reenactment itself is a glorification of a dark time in the nation's history that should instead be relegated only to history books, not glorified as something to be relived again and again. Further, without strict rules and control over the message, the wrong lessons might be taught, especially for those for whom Dixie and the lost cause might still linger on (those for whom racism and segregation are still goals). In the goal to educate Americans about history to avoid its repetition, however, some reenactors worry that if we fail to come together to share, discuss, and learn the history, we might be more apt to repeat the lessons, and that now, more than ever, it's important to hear those lessons rather than bury them.

They argue that reenactment is distinct from the monuments being taken down because the participants can contextualize the lessons, explain the painful history, and teach the lessons we should have learned from the war. Further, they point to the reenactment of other periods of U.S. history, like the living history museums of Williamsburg, Jamestown, and elsewhere, as well as reenactments of the Revolutionary War, Seminole War, and World Wars I and II, and they argue that all add meaning and make the lessons real, especially for children first being exposed to things that happened hundreds of years ago.

5. Pay to Play

Seattle City Council member, Kshama Sawant, has proposed a 1.7% payroll tax on Amazon and approximately 825 other large companies headquartered in her city, each with an annual payroll of \$7 million or more. Non-profit organizations, public employers, and grocery stores would be exempt. The new tax is expected to raise \$300m each year. Seattle has the fourth highest rate of unsheltered homeless in the U.S.; and 75% of the money raised would go toward building thousands of affordable, publicly owned homes. The remaining funds would go toward converting homes that use oil or gas to clean electric energy.²⁴

This proposal is not Ms. Sawant's first. In 2018 she lobbied hard for the so-called "Amazon tax", which would have levied a \$275-per-employee "head tax" on corporations making over \$20m a year. As with the current proposal, monies collected would have been used to fund new public housing and homeless services. Although the tax passed, Amazon threatened to relocate jobs outside the city; this threat garnered the support of labor unions who feared the threatened job losses might actually come to pass. As a result, the tax was repealed one month after being passed.²⁵

Homelessness is uncommonly prevalent—and worsening—in Seattle. A count of homeless persons conducted on January 24, 2020 identified 11,751 individuals in Seattle/King County, a 5% increase over the last year. Of these, 8,166 were in Seattle; 53% had no shelter; 25% were Black (African Americans comprise 7% of the total population); 15% were Native Americans and Alaska Natives (who constitute 1% of the region's population); and the rate of individuals living in vehicles rose from 19% in 2019 to 23% in 2020.²⁶

Supporters of the proposal argue that it is a genuinely progressive tax that burdens only the wealthiest segment of the city while excusing the less well-off. Moreover, many have become homeless due to job loss caused by companies like Amazon placing their loyalty to shareholders over local communities. Now in the time of COVID-19 job loss is burgeoning and, derivatively, so is homelessness as persons or families who cannot meet mortgage or rental obligations find themselves out on the street—through no fault of their own.

Furthermore, supporters contend that employers have obligations to the well-being of the communities in which they are situated. These communities provide services (e.g., utilities, which the cities maintain) to employers, whose employees further use city services (e.g., transportation) that benefit the companies. Being a good citizen requires acknowledging the contributions of the community to the success of the individual and the individual company and reciprocating in kind. For companies like Amazon, this is accomplished in part by providing jobs to citizens, but also by paying their "fair share" of taxes.

²⁴ "Kshama Sawant wants to tax Amazon so people can afford to live in Seattle. Can she pull it off?" *The Guardian* Feb. 19, 2020. <https://www.theguardian.com/technology/2020/feb/19/socialist-kshama-sawant-tax-amazon-seattle>

²⁵ "Is Amazon taking revenge on the Seattle socialist who took on the retail giant?" *The Guardian* Aug. 5, 2020.

²⁶ All Home-VN Research "Seattle/King County Point-in-Time Count of Individuals Experiencing Homelessness." <https://regionalhomelesssystem.org/wp-content/uploads/2020/06/Count-Us-In-2020-Final.pdf>

Finally, the tax seems unlikely to burden Amazon significantly from a financial perspective. Amazon [the largest employer in Seattle] ... paid federal income tax at a rate of 1.2% in 2019— compared to the 14% tax rate paid by the average American in the same year. Further, 2019 was the first time Amazon paid taxes since 2016. Despite making billions in profits, Amazon received federal tax refunds in 2017 and 2018; that is, though Amazon reported \$30.1 billion in U.S. profits in 2016-2018, during that time it received \$104 million in tax refunds.²⁷

Opponents argue that addressing the problems of the homeless does not require more money, but better management of monies already being collected. Some argue that the city should work with currently funded non-profit organizations to achieve more efficient fiscal management and better outcomes for the populations they serve. Others suggest revamping or enacting new statutes that are developer-friendly, encouraging new construction to address the current housing paucity. While opponents might agree that COVID unemployment and subsequent hardships are not the fault of the recently unemployed themselves, they also point out that neither are the businesses responsible for COVID-19-associated woes. Finally, opponents believe that social problems are better solved by the market than by the government.

²⁷ Gandel, Stephen (Feb. 6, 2020) “Amazon paid a tax rate of just 1.2% last year, versus 14% for average Americans” CBS News. <https://www.cbsnews.com/news/amazon-taxes-1-2-percent-13-billion-2019/>

6. Here Comes the Judge

Robert Ruehlman, an Ohio Common Pleas Court Judge in Hamilton county Ohio claims he regularly calls U.S. Immigration and Customs Enforcement on defendants in his courtroom when he suspects they could be in the country illegally. "I call ICE in a minute. I have no problem calling ICE," said Judge Ruehlman, who states that he calls ICE "10 to 20" times a year. "I do. I do not think every judge does that. I think I'm the only judge that does that, but I do. I think it's important." Further, Ruehlman says that he depends on his own intuition as a guide for when to make such calls, and that he typically feels the need to call when the defendant speaks Spanish or needs an interpreter.²⁸

The Hamilton county sheriff has expressed concern about the practice, asserting that "anyone who is a victim or witness to a crime should be able to fully participate in the judicial process to further justice and remove dangerous criminals from our streets." The judge, on the other hand, stated, "I don't see where the outrage is. Number one, they're an illegal alien. They're not supposed to be here, so they're breaking the law. Number two, they're in front of me for a felony." He claims his hunches have never been wrong.²⁹

It is common practice across branches of law enforcement to rely on intuition, training, and experience in the pursuit of criminals. The subjective judgment of police officers is defended by law enforcement as a critical tool on which they depend to perform their jobs. However, the subjectivity of this tool has become increasingly difficult to defend in light of a long string of highly publicized police killings of unarmed people of color. American law enforcement has a long and troubled history with racial profiling.

"It's not racial profiling. It's just common sense," Ruehlman said. "They speak Spanish, they're charged with carrying a lot of drugs, and they're not from here. It's pretty clear they're illegal immigrants, you know, and if it turns out they are a citizen, then there's no harm, no foul." In a statement concerning Ruehlman, ICE spokesman Khaalid Walls said courthouses are often the only place agents can find a person, and visitors are typically screened upon entry to search for weapons and other contraband, so the safety risks for the arresting ICE officers and for the arrestee are substantially diminished.

Legally, the matter seems to be up to the discretion of the presiding judge concerning whether immigration police should be consulted when a suspected offender is present in court. Nancy Sullivan, an advocate for migrants, said she's conflicted in this case. "I don't think this is the best way to go about it," Sullivan said. "Nobody wants a convicted criminal on the street who hasn't served time or done whatever, but I think it has a very chilling effect on getting crime victims or witnesses to come to court."³⁰ Judge Charles Kubicki, the presiding and administrative judge for Common Pleas Court, said that as far as he knows, there are no rules or laws that prevent judges from contacting immigration agents. He added there are also no laws *requiring* judges to do so, either.

²⁸ Da Silva, Chantal (Jan. 24, 2020) "Judge Says 'It's Not Racial Profiling' to Call ICE If Defendants 'Speak Spanish' and Are Charged With Carrying Drugs" *Newsweek* <https://www.newsweek.com/cincinnati-judge-calls-ice-if-defendants-suspected-being-undocumented-1483825>

²⁹ Bellware, Kim (Jan. 25, 2020) "Ohio judge says he relies on a hunch to call ICE when he suspects defendants are undocumented" *The Washington Post* <https://www.washingtonpost.com/immigration/2020/01/25/robert-ruehlman-calls-ice/>

³⁰ Francisco, Courtney (Jan. 23, 2020) "Judge Robert Ruehlman says he calls ICE when he suspects defendants could be here illegally" WCPO ABC Cincinnati <https://www.wcpo.com/news/local-news/hamilton-county/judge-robert-ruehlman-says-he-calls-ice-when-he-suspects-defendants-could-be-here-illegally>

CASES
for the
TWENTY-FIFTH
APPE INTERCOLLEGIATE ETHICS BOWL® NATIONAL CHAMPIONSHIP HELD IN CONJUNCTION
WITH
THE THIRTIETH ANNUAL MEETING OF THE
ASSOCIATION FOR PRACTICAL AND PROFESSIONAL ETHICS
ONLINE
SATURDAY, FEBRUARY 27, AND SUNDAY, FEBRUARY 28, 2021

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7. 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."

8. 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.

9. 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.

10. 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.