

**CASES**

**For the**

**ASSOCIATION FOR PRACTICAL AND  
PROFESSIONAL ETHICS  
INTERCOLLEGIATE ETHICS BOWL  
NATIONAL CHAMPIONSHIP**

**TAKING PLACE AT**

**THE APPE ANNUAL MEETING**

**IN**

**CINCINNATI, OHIO**

**ON THURSDAY MARCH 4, 2010**

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## **1. Arms Against a Sea of Trouble**

Even following the Bath, Michigan School Disaster of 1926 in which 45 victims died, people thought of schools as safe places for students to study and learn. Over the years, many killings have taken place at schools, typically involving fewer than six victims. But in the past few years, several incidents have begun to change public opinion. In the aftermath of the University of Texas shootings (1966), in which 14 people died, and the Columbine High School Massacre (1999) that claimed 12 victims, public outcry involved, among other things, efforts to toughen the gun laws and make it a crime for minors and convicted criminals to buy weapons. Most recently the killing of 32 people at Virginia Tech (2007) has provoked a different sort of reaction.

Laws about guns on campuses vary from state to state. Utah, for example, explicitly requires public universities to allow properly licensed students to carry guns on campus. Several states leave the decision up to the colleges. “Students for Concealed Carry on Campus” formed shortly after the Virginia Tech killings. The national grassroots movement supports letting anyone who may legally own a gun – but especially licensed, trained individuals – carry a concealed weapon onto college campuses for the purpose of self defense. Currently, the organization claims more than 40,000 members.

The Gun Free Schools Act of 1994 mandates that every state receiving federal funds under the Elementary and Secondary Schools Act of 1965 (ESEA) have in effect a law requiring K-12 public schools to expel for a period of not less than one year any student found to have brought a weapon or explosive to school. Each state’s laws, however, also must allow the school superintendent to modify the expulsion requirement on a case-by-case basis. (20 U.S.C. 8921 (b)(1))

In 2008 the school district of Harrold, Texas approved a change in district policy to allow teachers and staff to carry concealed guns at the local high school, under certain conditions. Besides being licensed by the State of Texas to carry a concealed handgun, school personnel must also undergo training in crisis management and hostile situations, and their ammunition must be designed to minimize ricochets. Some have argued that the traditional “gun free” zones created by schools simply invite would-be assailants by announcing that their intended victims will have no adequate defense.

## **2. For Bitter or Worse**

On May 01, 2006, in New York's Westchester County Supreme Court, an all-male jury officially denied Dana Godner a divorce from Michael, her husband of thirteen years. As Diana Kapp reported in the June 01, 2008 issue of *Elle*, before deliberation the judge admonished the jury to follow the law. According to *Elle*, the judge told the jury, "It doesn't matter if you deem this a deadbeat marriage or a loveless marriage. The only thing that matters is [whether] there are grounds for [divorce]." New York is the only state that doesn't provide a "no-fault" divorce ground ( i.e. irreconcilable differences). In New York there are only four sanctioned grounds for divorce: cruel and inhuman treatment, adultery, abandonment for one year, and three years imprisonment.

The jury found Michael Godner's treatment of Dana didn't rise to the level of cruel and inhuman. They did what the law demands – sent Dana Godner back to her husband against her will. During the trial, Dana provided the details of the increasingly isolated life she shared with her three children. The couple no longer shared meals or a bedroom and, in reality, lived apart under the same roof. She alleged that Michael Godner had become almost entirely consumed with his work as the CFO of a \$14 billion investment firm and resented being asked to deal with family matters. According to Dana's testimony, he was a controlling bully who insisted on pre-approving every purchase she made and limited her to only a small allowance for her personal expenses. Whenever she broached the subject of divorce Michael would end up screaming at her that if she chose to leave it would be without either their children or any money.

Following the trial, Michael Godner stated that although no law is perfect, as long as the environment is safe and non-violent, it is in the best interest of children that laws maintain a family's intactness. He stated further that he believes divorces are too easily granted, and that allowing parents to put their own needs and desires above their children's well-being undermines opportunities for the children's emotional health and future success.

An attempt is now underway at getting the New York legislature to broaden the grounds for divorce in New York. The New York chapter of the National Organization of Women (NYC-NOW), a group one might expect to support the attempt, has strenuously opposed it. NYC-NOW regards the legal power to deny a divorce as the only significant leverage for many women in a system of divorce litigation that, in NYC-NOW's estimation, is weighted heavily in unfair ways against the economic interests of women. NYC-NOW's President Marcia Pappas observes, for example, that frequently in contested divorce cases a woman who can't afford legal representation faces a "big gun" litigator hired by her husband. Furthermore, notes Pappas, spousal maintenance awards (i.e. alimony) are determined on a case-by-case basis, rather than in terms of a statutorily mandated standard amount. Much is left to legal interpretation, and in Pappas' words, "judges are an old boy's club." Consistent with NYC-NOW's position, a 1997 study, conducted by Richard Peterson of the Social Science Research Council in New York, based upon data from 228 California divorce cases in 1977-78, found that divorce resulted, on average, in a 27% income decline for women in the first year following a divorce, and a 10% increase for men.

NYC-NOW thus is opposed to broadening of the grounds for divorce in New York until such time as the system of divorce litigation is changed to assure greater economic fairness for women.

### **3. Virgin Records**

Six months after San Diego native Natalie Dylan graduated from Sacramento State University, she received a letter from the Direct Loan Servicing Center notifying her that the deferment on her student loans had expired and she would soon be required to begin repaying the loans. Never having taken out a student loan, Dylan was stunned to learn that she was nearly \$100,000 in debt. Apparently, Ms Dylan's stepfather used her personal information to obtain fraudulent student loans and then absconded with the money. While it remained unclear whether Natalie Dylan will be held responsible for repaying the loans obtained in her name, the government subsidized financing she was counting on to fund her graduate degree was no longer available to her.

To pay for graduate school, Natalie Dylan made the decision to auction off her virginity to the highest bidder through the online auction site eBay. Not amused, eBay removed the offering soon after learning about it. Undeterred, Dylan turned to Dennis Hof, owner of the Moonlite Bunny Ranch, a legal brothel near Carson City, Nevada where her sister already worked. Hof thought the idea was tremendous and agreed to conduct the auction on the brothel's website, offering his establishment as the site for the deal's consummation. He asserted that it was better for women to use this particular asset to pay for education rather than to give it away in the back seat of a car.

Dylan, who holds a degree in women's studies and plans to begin work soon on a master's degree in marriage and family therapy, doesn't believe what she is doing is degrading. Rather, she described her unusual auction as empowering in that she is using what she has to better herself. Dylan stated she would undergo to a gynecological exam and a polygraph test to verify the authenticity of her offering.

Dylan explained that the highest bidder might not necessarily win the auction, as she wanted to find someone with whom she had some chemistry. Hof said that bidding had topped \$3 million and that Natalie was talking by telephone to some of those hoping to win the auction.

Afterword:

It now appears that Ms Dylan will have to relist her virginity for sale. The winning bidder, an Australian businessman, backed out and requested that Dylan refund his \$250,000 deposit because his wife did not want him to go through with the purchase. Ms Dylan returned the money and suggested to the man that he return to marriage counseling.

#### 4. No News Is Good News

All copies of the January 30, 2009 issue of the Stevenson High School (Lincolnshire, IL) *Statesman* disappeared as soon as they were set out, leaving students without their newspaper. The *Statesman* has a reputation for addressing difficult subjects that high school students are concerned or curious about, such as teen suicide and oral sex. It has won numerous journalistic awards, including the Press Association Pacemaker Award, considered to be the Pulitzer Prize of high school newspapers. The January 30, 2009 issue contained three stories and four sidebars about “hooking up,” a term used by teens for casual sex.

Stevenson High School administrators denied responsibility for the disappearance of the newspapers. Their denials were met with skepticism in some quarters, however. Immediately after making the denials the administration vociferously denounced the stories and sidebars on hooking up. They said the topic lacked newsworthiness and that the *Statesman*'s treatment of it failed to include counterbalancing perspectives to the message that one night stands are typical among high school students. The administrators accused the *Statesman* of having recklessly disregarded the privacy rights of students whose first names and graduation years were indicated in the stories and sidebars. Shortly thereafter the administration instituted a policy of increased oversight of the *Statesman*. A spokesman, citing the administration's ultimate responsibility for the content of the taxpayer-funded newspaper, called the policy revision a curriculum decision to assure balance, fairness, and accuracy in a student activity that is fundamentally a learning experience.

Following these decisions twenty parents attended a school board meeting. Most decried the removal of the newspapers and the new administration policy, expressing concerns about censorship and contending that the *Statesman* provides information about behavior that gets kids talking about issues of consequence that affect them. Several parents, however, voiced support for the administration, complaining that the “Hooking Up” issue was sensationalism, not journalism.

In the case of *Hazelwood School District v. Kuhlmeier* 484 U.S. 260 (1988) the U.S. Supreme Court considered the question of how the first amendment rights of freedom of speech and freedom of the press apply to public high school newspapers. The Supreme Court held in this case (by a vote of 6-3) that school officials may impose reasonable restrictions upon the expression of students, teachers, and other members of the school community in school newspapers.

## **5. The Gift that Keeps on Giving**

Joel McKiernan donated sperm to his friend (and former lover) Ivonne Fergusson for in vitro fertilization performed in a clinical setting. They agreed that his role would be anonymous, that he would not be held financially responsible, and that he would not seek visitation or any other parental rights. Fergusson conceived twins, fathered by McKiernan's sperm, but listed her husband as their father on the twins' birth certificates.

Five years later, following her divorce, Fergusson sued McKiernan for future and retroactive child support. The county court and the superior court both contended that the oral agreement between Fergusson and McKiernan was unenforceable because it violated Pennsylvania's policy barring parents from bartering their children's rights to support. Although the trial court rebuked Fergusson for her deception, it ruled that the best interests of the children were the primary factor in ruling against McKiernan.

In December 2007, the Pennsylvania Supreme Court ruled that the oral agreement between the parties would stand, overturning lower court rulings that would have held McKiernan to both retroactive and future child support. In response to the argument that these children have the same rights as those born of a sexual union, Supreme Court Justice Max Baer, writing for the majority, pointed out, "This analogy, however, is unsustainable in the face of the evolving role played by alternative reproductive technologies in contemporary American society. It derives no authority from apposite Pennsylvania law, and it violates the commonsense distinction between reproduction via sexual intercourse and the nonsexual clinical options for conception that are increasingly common in the modern reproductive environment. The inescapable reality is that all manner of arrangements involving the donation of sperm or eggs abound in contemporary society, many of them couched in contracts or agreements of varying degrees of formality [940 A.2d 1236, (Pa. 2007)]." The decision also noted that requiring sperm donors to financially support their progeny would discourage sperm donation for couples unable to conceive.

## **6. Smoke Screen**

At a time of strained budgets, spiraling tuition, and funding cuts to education across the country, Virginia Commonwealth University entered into an agreement with the tobacco company, Philip Morris USA. The agreement bars professors from talking and writing about research funded by Phillip Morris, assigns intellectual property rights for that research to the company, and also requires administrators to report to the company any interest in the research by third parties. These terms violate University research policies, including the right of researchers to publish results and the right of the university to retain intellectual property rights.

Scholars across the country, including faculty from Virginia Commonwealth University, expressed shock at the university's agreement to relinquish control of publishing research results to a corporation with a vested interest in controlling information about its products. Critics charge that this agreement undermines both the scientific integrity and the fundamental value of the university as a place to examine ideas and research results freely and thoroughly. Many question the appropriateness of accepting money from tobacco companies because of the health risks and cost of smoking, and the tobacco industry's past misuse of scientific data.

A Virginia Commonwealth University spokesperson defended the agreement, saying that some of the funding will support research on pulmonary disease and reduction of environmental toxins from chemical processing. The spokesperson also defended the restrictions on disclosing information, citing Philip Morris USA's need for confidentiality to protect its commercial interests, and to ensure that research results are neither misinterpreted nor released prematurely.

In addition to the research funding, the university expects long-term benefits from an enhanced relationship with its Richmond-based neighbor: Philip Morris USA is the nation's largest tobacco company and leads the tobacco industry in funding academic research.

## **7. Baby, Baby, Baby**

Nadya Suleman told her fertility doctor she wanted more children. He implanted six embryos and, with much media attention, she subsequently gave birth to eight premature infants some months later.

Concerned observers raised a number of problematic issues. They contended that women's bodies did not evolve to hold so many fetuses, posing a real danger to the mother. They pointed out that Suleman, single and unemployed, was unable to support the six children - some with disabilities - she had already, and that the cost for care for the inevitably premature infants would fall on society. Further, they provided data that indicate premature multiple infants often have serious health and developmental problems that affect their quality of life.

The multibillion-dollar U.S. fertility industry is largely unregulated. The Suleman case has raised interest in many states in regulating in vitro fertilization. The American Society for Reproductive Medicine (ASRM), to which most clinics belong, recommends implantation of a maximum of two embryos. ASRM member clinics agree to follow ASRM professional guidelines, which change as medical knowledge advances. The Association may expel a clinic that fails to follow the recommendations, but that action is rare.

Consequently, states have been trying to find ways to avoid some of the dilemmas highlighted by the Suleman case. A Missouri bill requires doctors to follow ASRM guidelines that limit the number of embryos that may be implanted, under penalty of losing their state medical licenses. Other states have considered requiring means tests and psychological evaluations of potential implantation recipients. These suggestions, however, raise privacy and autonomy issues.

## **8. Health Bars**

After her policeman boyfriend severely beat her, Mariana de la Torre left her three young children in the care of an aunt, and came to the United States hidden in the trunk of a car. She bought a stolen identity and social security number and found a job.

When Ms. de la Torre was diagnosed with advanced cervical cancer, she initially did not seek treatment because she could not afford to pay. As her symptoms became severe, she obtained care at several Illinois hospitals using the stolen identity. Trinity Hospital in Moline absorbed \$317,000 for her treatment; Medicaid covered \$106,000; and both the University of Chicago Medical Center and St. Francis Medical Center in Peoria provided additional treatment before the fraud was discovered. Trinity Hospital officials admitted they didn't know if she would have received the same level of treatment if they had known she was using a false identity. According to the March 15, 2009 Chicago Tribune, de Torre "didn't think to do harm to anyone; I only wanted the pain to end".

De Torre's supporters defend her actions as the exercise of a fundamental human right to preserve her life and care for her children. Her detractors charge that her calculated fraud was not justifiable, even in an inequitable healthcare system.

## **9. Cut to the Quick**

The Czech Republic is the only country in Europe that offers surgical castration to violent sex offenders. In 2009, the nation came under heavy criticism for the practice when the Council of Europe's anti-torture committee named the practice of surgical castration "invasive, irreversible and mutilating." According to Dan Bilefsky, writing in the 11 March 2009 New York Times, "[o]ther critics said that castration threaten[s] to lead society down a dangerous road toward eugenics."

For some who have elected surgical castration, the procedure provides relief from worry that they might hurt someone else, and offers the chance to live a productive life. Czech doctors claim it is the most foolproof way to tame sexual urges, and discontinuing the practice puts potential victims at risk. Surgical castration takes about one hour to perform and involves removing the testes through an incision in the scrotum. Chemical castration, which is used more widely, is reversible and necessitates the continual administration of anti-androgen drugs either orally or intravenously. A specialist in sexual disorders at Johns Hopkins argues that chemical castration is superior to surgery for treating sex criminals, because continual treatment provides the opportunity for physicians to monitor compliance should it be a condition of release.

Although anecdotal, there are reports of recidivism by violent sex offenders who have been surgically or chemically castrated. Surgically castrated ex-cons can at least temporarily reverse the effect of castration by taking testosterone, which is readily available over the Internet. Yet, evidence suggests the rate is less than five percent, compared with over 80% for untreated offenders.

Surgical castration in the Czech Republic is voluntary. It could, however, be construed as coercive when it is explicitly or implicitly a condition of increased freedoms in custody or of release from incarceration.

## 10. Brother, Where Art Thou?

Citywatcher.com, a company that provides security surveillance equipment, sought a way to limit access to a vault containing sensitive data. It implanted a product called VeriChip in the arms of two of its employees. The VeriChip is a radio frequency identification device (RFID), a microchip about twice the length of a grain of rice that is implanted quickly and painlessly by a physician. It emits a code when scanned by special equipment at the vault's door, reading the 16-digit ID number that cross-references to a record in VeriChip's database.

RFIDs have been widely used for libraries, credit cards, roadway tolls, and other applications. The VeriChip Corporation of Delray Beach, Florida, has also made implantable chips that are widely used in pet dogs and cats so they can be identified if they get lost. The use of microchips in humans, however, has raised a number of concerns.

Critics worry that more and more uses will be found for the chips. They worry that a massive national database could be compiled, even though public opinion has consistently discouraged a national ID and its resulting comprehensive database. Critics also point out that inexpensive, handheld wireless readers can detect the numbers on the chips, leading to more privacy invasions. They worry that hacking or employee error could breach the security of such an extensive database. And even if it is secure and private now, government policy could change in the future, making the database available to government agencies and other parties.

Critics are concerned that chips may have health impacts. However, reports linking tumors with the VeriChip in a small percentage of animals have not been sufficiently documented to lead the US Food and Drug Administration to lift its approval of the device as safe for humans.

Involuntary implantation has been especially contentious. Controversy surrounds suggestions to implant chips in prisoners, guest workers, immigrants, newborns, Alzheimer's patients, and other vulnerable individuals. Advocates of 'chipping' contend that the advantages outweigh the disadvantages, particularly for specialty security and medical uses. In fact, VeriChip has a variety of new product lines aimed at medical uses for storing medical information, tracing Alzheimer's patients, and tracing chemicals in cardiovascular applications, among others.

CityWatcher.com is not the first employer to require 'chipping.' The Attorney General of Mexico required his staff to be 'chipped' to access a vault of secure documents.

The potential uses of the chips worry many people. Several states have proposed legislation to prohibit involuntary use of the RFID devices in humans. In Pennsylvania hearings, VeriChip Corporation has made a clear statement supporting a law to ban involuntary implantation. States will need to determine whether employment-required implantation infringes on an employee's free choice, especially in an economy with scarce jobs.

## **11. The Game's Afoot**

The Ohio Secretary of State certified petition signatures that put a proposal to allow casino gambling in Ohio's four largest cities on the ballot. Recently, Ohio Governor Ted Strickland issued an Executive Order authorizing the Ohio lottery to run slot machines at horse racing tracks, even after Ohioans had voted against them.

State sanctioned gambling has been around since 1964, when New Hampshire started the first lottery. A total of 27 states now have casinos, and only two states have no legalized gambling. Legalized gambling yielded \$70 billion in 2004, an amount that exceeded what Americans spent on all other forms of entertainment combined.

Since approving the Ohio lottery in 1974, Ohio voters have rejected subsequent state-sponsored gambling schemes. Like Ohio, other states that have refused casinos in the past are now reconsidering the issue. Despite the current distressed economic times, anti-gambling forces, including the conservative Ohio Roundtable and some church leaders, believe the issue will fail in November. Some anti-gambling activists maintain that gambling is inherently wrong. Others point to difficult issues such as gambling addiction, unfair taxation methods, unrealistic revenue estimates, expanded organized crime, vulnerability of the poor, increased poverty, threats to family stability, and religious objections. Advocates endorse both the slots and casinos as much-needed help for Ohio's ailing economy. They also oppose government interference in the rights of citizens to enjoy leisure and spend their money as they wish. Other observers see a middle ground that supports legal gambling for mature adults, but adds more controls such as limits on casino size, operating hours, and location. Opponents and those on middle ground all want just enough state intervention to assure the rights of individuals to do what they want as long as nobody else is hurt.

## 12. Roach Baiting

John liked hanging out in the Starbucks near his apartment because mostly people his age patronized it. He knew all the regulars, so he couldn't help but notice the attractive, serious, twenty-something who sat at a table next to him. She sipped her cappuccino for a few minutes until a ringtone distracted her. She opened her purse and pulled out a small metal tablet that she unfolded into a mat the size of a dinner napkin and laid on the table. Her face lit up from the tablet's glow. She swept her hand over the tablet and said, crisply, "I told you, Phil, I need to take a break from us. Don't call me again." A man's voice tried to say something, but she smacked the tablet and his voice gave way to a dial tone.

Obviously irritated, she started tapping and swishing her hand across the tablet. John couldn't see what was happening, but the lighting on her face kept changing, as though from a computer screen. Finally, his curiosity got the better of him and he leaned over toward her table. When he got close enough, he could see that the woman's hand controlled holographic objects that she could move from one spot to another and manipulate in the tablet. With a wave of her hand, she opened what looked like an address book and spoke to it. "Open, Phil Gossett." The book fell open and pages turned on their own. "Delete entry, Phil Gossett." The image of the open page burst into flame and disappeared in a puff of holographic smoke.

"Whoa!" said John. "What is that?"

The woman looked up and noticed him for the first time. She smiled. "Oh, it's this new IEB-Pad I got last week. Pretty, cool, huh?"

"How does it work? I'm sorry, I'm John. Do you mind if I sit here?"

"No, that's fine. I'm Sylvia. I have to go pretty soon, but I have a few minutes."

John pulled up a chair and was soon playing with the gesture-and-voice-activated ultra-thin holographic computer. At one point, while browsing one of John's favorite gaming sites, she said, "Watch this. Command: Block Ads!" All the advertisements blinked off and only the web content remained.

John nodded delightedly. "Now that's more like it. I can't stand ads. They make me puke."

An hour later, Sylvia excused herself from the group that had gathered around her table. She folded up the IEB-Pad, tucked it into her purse, and left. In her car, she checked off "Starbucks" from a list taped to her windshield visor, and said to her IEB-Pad, "more bait distributed." Ten minutes later, while she sat in another coffee shop, her IEB-Pad rang. "I told you, Phil, I need to take a break from us. Don't call me again."

### **13. Never-Never Land**

In 1998, the CEO and Board of the German chemical company Degussa AG began to look into the role its company played during the Nazi years. Neither CEO Utz-Helmuth Felcht, nor any employee of the company had worked for it that long ago, so they hired Peter Hayes, a historian who specialized in WWII German history, to investigate.

Hayes discovered that Degussa had indeed collaborated with the Nazis and had engaged in a number of shameful practices, such as using slave labor, smelting precious metals confiscated from Jews, taking over Jewish businesses, and seizing their real estate. On the other hand, Hayes also found that Degussa had not collaborated as fully as it could have, and may have refrained from taking over Jewish firms until the Nazis compelled them to do so. But the most painful part of its history involved a sister company of which Degussa owned 42.2%. This company had produced Zyklon B, a potent pesticide, which the Nazis had used in their concentration camps to kill millions of prisoners in the closing years of the war. During the Nuremberg Trials, the courts tried some people who worked for distributors of Zyklon B, found them guilty of war crimes, and executed them, but were unable to prove that the leaders of Degussa had known that the Nazis used Zyklon B for anything other than a pesticide.

In 2000, Degussa, along with the German government and sixteen other large corporations, created the Foundation for Remembrance, Responsibility, and the Future. This foundation attempted to compensate those who survived Nazi forced labor and their heirs.

Hayes published his most important findings in 2002. In the same year, the Memorial Foundation to the Murdered Jews in Europe opened bidding for construction of a large memorial. After much soul-searching, Felcht decided to bid on supplying a protective coating for the 2,700 pillars that would make up the monument. The coating would shield the pillars from defacement by neo-Nazi groups.

Construction of the memorial began in 2003, but halted after six months when a Swiss newspaper broke the story about Degussa's collaboration with the Nazis. Many people demanded that the builders void the contract with Degussa and redo the work, because no company should profit twice from the Holocaust. But the Memorial Foundation realized that such an action would kill the project, already late and over budget. Defenders of Degussa argued that restricting bidding to companies that had not collaborated with the Nazis would narrow the competition and raise the cost. They also pointed out that no current employee had been with the company during the war, and that Degussa's current management had made sincere efforts to discover and clarify the extent of its past involvement. The Foundation ultimately decided to resume construction, using Degussa product.

## 14. Greenbelt

In 2003, Ann Arbor, Michigan, voters approved a 30-year property tax increase to preserve open space and farmland at the city's periphery, which includes land both in the city and in the surrounding townships. The tax increase funding the Greenbelt Program was expected to generate \$84 million over 30 years. By 2007, the program had preserved 703 acres at the cost of \$11.26 million.

The promises of greenbelt advocates are attractive, although it is still too early to tell whether they have merit. More parkland and an end to "urban sprawl" top the list. With growth focused inside the greenbelt, the argument goes, employment will rise to a level that can efficiently support mass transit, thereby reducing many environmental threats from air pollution to road congestion. Higher densities, claim supporters, encourage walking and bicycling rather than driving.

Greenbelt detractors, on the other hand, have grave concerns about the equity of the program. They argue that reducing the acreage of land available for residential development will negatively affect the inventory of affordable housing in an area already notorious for its high housing costs. "Anything that increases the value of real property is great if you already have a piece of the pie," one citizen complained at a public forum on the progress of the Greenbelt Program. She was particularly concerned because the greenbelt will mainly abut high-income areas of the city, making already highly desirable properties even more valuable. The greatest benefits accrue to the few, while many pay the costs. "Same old story. The rich get richer."

Pittsfield Township, a city on Ann Arbor's southern boundary with parts included in the greenbelt plan, long time resident Isadore Freeman is concerned by the inequity of curtailing commercial and industrial growth at the periphery just when that growth was crossing into Pittsfield. "We have been waiting years to benefit from that growth! The elitists across Ellsworth Road don't care a nickel about us. They only want our land to ensure it remains idle." Pittsfield Township, especially when compared with Ann Arbor, survives on meager means. The growth of its tax base has not kept up with its need for services, and, for the most part, Pittsfield residents must travel some distance for employment. "Just when we expected to have money to fix our roads, they shut off the tap. How fair is that?"

People living in Ann Arbor contend that the city plans to purchase property and development rights for the greenbelt only on the open market. An unnamed source in the city administration explained that if Wal-Mart wants a parcel that is designated as part of the greenbelt, it could outbid the city for the land. Governments, however, are apt to change their strategy should the acquisition of land and development rights become troublesome. Landowners in the greenbelt path must weigh whether to sell to Ann Arbor or risk having their properties taken under eminent domain for less money. Developers interested in land programmed for the greenbelt would similarly want to avoid buying any property that the city later might seize. Other landowners outside of Ann Arbor have similar fears since the state also has powers of eminent domain, which it could use or grant to other organizations. Even without the threat of eminent domain, though, few developers are able to compete with the purchasing power of Ann Arbor's program.

It is no longer just the purchasing power of Ann Arbor taxpayers that opponents of the greenbelt must face, but also the dollars from their own pocketbooks paid in taxes. Recently, the US Department of Agriculture anted up \$335,000 from its Farm and Ranchland Protection Program to subsidize the Greenbelt Program.

## **15. Public School Expulsions**

On May 02, 2000 James M., then fifteen years old, caused an explosion by placing a quarter stick of dynamite in a toilet at his school. On May 06, 2000 the school district expelled him for a period of two years. The decision to expel James did not provide for him to receive any alternative education during the period of expulsion. James explained his behavior at the expulsion hearing as a prank, instigated by another student, to get them sent home from school for the day. By May 06, 2000, when the school district issued its decision to expel James, he had amassed nineteen disciplinary infractions throughout the 1999-2000 school year. His grades for the immediately prior grading period had been two F's and a D+.

Early in the fall of 1999 James' mother had expressed her concerns to the assistant principal for discipline that James might be using drugs. She inquired of him about the possibility of implementing for James a program she had heard about under which, with parental consent, a student is subjected to random drug testing in school. The assistant principal for discipline said he would try to learn more about the program, but never got back to her about it. Later in the fall (December, 1999) a truant officer found James and a friend smoking marijuana in the friend's home during school hours and returned them to school. In the following spring (April, 2000) James was sent home from school for shouting profanities in a school corridor. That evening he attempted suicide by swallowing twenty- six tablets of Ritalin, his prescribed medication for attention deficit hyperactivity disorder (ADHD). James' mother brought him to a hospital emergency room immediately. He was released the next day, fortunately alive and unharmed. James' mother promptly informed the assistant principal for discipline of the attempted suicide, discussing it with him at school for approximately a half hour.

Most educators, even those who decry what they consider widespread excessive reliance upon expulsions, would say that no public school could accomplish its fundamental purposes without authority to expel. Educators would point, in this regard, to considerations such as maintenance of an environment in which learning can proceed, provision of basic security and safety for students, and affirmation of respect for indispensable rules of school conduct by communicating an unmistakable message that certain kinds of violations are forbidden completely.

The two-year expulsion period for James M., with no provision for alternative education, was (and remains at this time) a permissible disciplinary measure under the Illinois School Code. Despite such compliance with the laws of Illinois, however, it is apparent that, in many cases, a two-year expulsion, without providing for alternative education during the expulsion period, makes it all but certain the expelled student will drop out of school. Such a consequence, in turn, is correlated strongly with a bleak future that includes unemployment, necessity to rely on public assistance, substance abuse, and/or incarceration for criminal activity.

A case now pending before the Supreme Court of North Carolina involves a student expelled in January of 2008 for the remainder of the 2007-08 school year. The student contends that the expulsion violated her right to receive a free public education, under the State Constitution of North Carolina because no alternative education program was provided for her during the expulsion period.