CASES

for the

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1. Corporate Welfare

Many US workers earn so little that, to provide for their basic needs, their families are forced to rely on government programs. Food stamps, Medicaid, Temporary Assistance for Needy Families, school meals, low-income housing assistance, child care assistance, assistance for home energy bills, and earned income tax credit are just a few of the approximately 80 government assistance programs that help millions of low-income families and individuals. An analysis of the recipients of government assistance programs, conducted by the UC Berkeley Center for Labor Research and Education, revealed that 52% of the recipients of these programs are members of working families. The annual cost to US taxpayers to support public assistance for working families is nearly $153 billion. Critics argue that taxpayers are effectively subsidizing highly profitable businesses such as McDonald’s and Walmart, whose workers receive such low wages that they qualify for low-income government assistance.

A McDonald’s press release dated January 23, 2015, announced that net income for fiscal year 2014 was $4.75 billion. The salary for McDonald’s CEO tops a million dollars annually, with an incentive (as of May, 2015) that can add another 160% to the base salary. By comparison, the average hourly wage for McDonald’s employees of company-owned restaurants—which account for 10% of McDonald’s restaurants—was $9.01, according to an April 1, 2015, article in Crain’s Chicago Business. An employee who works a forty-hour week, fifty-two weeks a year, at an hourly wage of $9.01, will earn $18,740.80. The US Poverty Guidelines, published by the Department of Health and Human Services sets the poverty threshold at $20,090 for a family of three, living in the contiguous United States. (The threshold is higher for those living in Hawaii or Alaska.) The raise does benefit workers at McDonald’s franchise restaurants, where the franchisees determine employee compensation.

Walmart is the world’s largest retailer, with a 2014 net income of $16.1 billion, according to Walmart’s official website. CEO Doug McMillon’s compensation package for 2014 was worth a little more than $19 million. Still, as reported in Forbes, Walmart employees qualify for and receive approximately $6 billion annually in low-income government assistance. In addition, 18% of all food stamps redeemed in the United States are redeemed at Walmart stores (April 15, 2014).

In contrast to McDonald’s and Walmart, Whole Foods company policy limits CEO pay to nineteen times the average employee’s salary.
2. Catch-22 Redux

In Joseph Heller’s 1961 novel *Catch 22*, the main character Yossarian and his fellow WWII bombardiers can only avoid dangerous missions by being declared mentally unfit for duty. But convoluted rules (catch-22) disallow insanity as an excuse. In an eerie parallel, modern commercial pilots experiencing psychological distress are illogically discouraged from seeking help by the threat of being classified as mentally unfit to perform their jobs.

Every few years a commercial pilot shows signs of mental distress while flying or, tragically, intentionally crashes the plane. These events occasion intense media and industry examination of how the mental fitness to fly is monitored in pilots, and they result in calls for more regulation. In March 2015, as example, twenty-eight-year-old co-pilot Andreas Lubitz locked the pilot out of the cockpit and then crashed Germanwings flight 9525 into the French Alps killing all 150 people onboard. Many questioned how Lubitz’s apparent mental distress escaped attention and what protections exist for the flying public.

Assuring the mental stability of pilots is, however, much harder than it appears. A variety of factors combine to complicate the assurance of mental stability in pilots: rules about mental fitness are not strictly enforced by regulatory agencies, accurate screening for mental stability is difficult, and doctors and colleagues are reluctant to report suspected psychological problems that could result in job loss for the pilot. Finally, there is the catch-22.

In the United States, the Federal Aviation Administration (FAA) publishes its standards in the *2015 FAA Guide for Aviation Medical Examiners*. Pilot applicants with any of a number of mental conditions, including attention deficit/hyperactivity, bipolar disorder, personality disorder, psychosis, substance abuse, and attempted suicide, are considered mentally unfit to pilot. Other conditions that can also lead to deferral or denial of licensing include adjustment disorder, bereavement, minor depression, or use of certain drugs.

US prospective pilots go through an extensive physical and mental health screening. After employment, the FAA requires annual physical examination by an approved physician for pilots under 40 and half-yearly for those over 40. Doctors are expected to notice and report warning signs of psychological distress, but there is no requirement for specific mental health checks. Joan Lowy in a March 2015 report on *PBS Newshour*, reported that mental health follow-up after a pilot is hired is “cursory at best.” The European Aviation Safety Agency and the International Civil Aviation Organization of the UN have similar rules for who can fly and for screening. It is apparent that in the United States and elsewhere, protocols for enforcing pilot mental health standards are not elaborated or diligently enforced.

Several factors mitigate against doctors doing much psychological probing during annual physicals. First, most of the examining physicians are not specifically trained in mental health and feel unprepared to accurately identify and assess psychological distress. Second, since they are obliged to report suspicions about mental health problems, by not prodding they aren't forced to interpret a finding and possibly destroy a pilot’s career by mistake. Other complicating factors include the sheer volume of time it would require to administer careful and regular mental health screenings to all pilots and the lack of foolproof methods for that mental health assessment.
Another presumed line of defense against impaired pilots turns out to be generally ineffective. That is the expectation that other pilots will report observations about a disturbed pilot to management. But pilots say that they are reluctant to endanger a colleague’s career. “Check flights” that result from such a colleague report are quite rare in the United States, indicating that peer reports are infrequent.

Finally… the catch-22. Pilots themselves are required by the FAA to disclose existing psychological conditions and medications and can be fined $250,000 and lose their license for not doing so. Pilots are expected to report their own mental distress but doing so makes them nearly certain to lose their jobs and careers.

Dr. Phillip Scarpa, President of the Aerospace Medical Association (AsMA), relaying his organization’s 2014 findings on pilot mental health screening, acknowledges that some serious mental illness with sudden onset is virtually impossible to predict. However, for common and treatable conditions (such as fatigue, anxiety, depression, substance abuse, life stressors), AsMA advocates more vigorous screening and treatment in a non-threatening environment. The organization suggests education about aviation mental health for pilots, their families, and their examining doctors. AsMA recommends several specific quick screening tools that ask the pilot to reveal stressors and substance usage. Most of these efforts, though, require that the pilot enter the catch-22 zone of self-incrimination. Advocates of more screening recognize the need for establishment of “safe zones” that allow pilots to admit problems and seek help without the certainty or high probability of losing their license. Removing the catch-22 is tricky.
3. Be My Baby

Alex, Kerry, Pat, Randy, and Sandy became close friends two decades ago when all were working towards their degrees in education. Post graduation, all were happy to have secured tenured teaching positions in public high schools. Though pleased with their careers, all five have yet to meet a goal they share, that of raising a child biologically related to him or herself, and/or his or her partner. They each view biologic parenting as an essential component of a good life—so essential, in fact, they believe that not only should a government not interfere with their efforts in that regard, but it should also provide positive assistance, when needed, to help them secure that end.

Alex and Kyle are married to each other and living in Illinois. Having been unable to conceive after many years of trying, they seek the aid of a local fertility clinic to begin the often long and expensive process of making a baby with assisted reproduction technologies (ART). They learn, among other things, that creating a baby in this way can cost upwards of $50,000 when the selected processes include hormonal stimulation of ovaries, oocyte retrieval, in vitro fertilization, preimplantation genetic diagnoses, genetic counseling regarding embryo selection, embryo transfer, and cryo-preservation of any viable embryos not implanted in the first cycle. Alex and Kyle are thankful that they live in a state that mandates that their tax-payer funded health insurance regards infertility as a disease, and thus covers medical treatments to address the disease. They were especially relieved to learn that their insurance policies will even cover the medical costs of obtaining donor oocytes and sperm, including the costs of psychological and medical screening of a prospective donor, when needed. They decide to start the process right away and share their exciting news with their friends.

Pat and Randy, also married, are eager to take the same route. But because they live in a state that, unlike Illinois, does not mandate insurance coverage for ART, they decide to move to a state that does. California seems ideal insofar as recent legislation ensures that that coverage be provided without regard to sex, gender, or sexual orientation. Pat and Randy are female.

Sandy is single, though he too fits the medical definition of “infertile” insofar as twelve months of regular, unprotected sexual intercourse with another has not resulted in a successful pregnancy. He would like to raise a child genetically related to himself and knows he could do so with the help of an oocyte donor, a surrogate mother, and ART. But Sandy is reticent to take this route. Because the state he lives in, Illinois, is in an extremely precarious position financially, Sandy thinks that the state should not be allocating its scarce resources to expensive processes such as ART and making more children. He views infertility as a condition that exists between two people, but thinks it is not, properly speaking, a disease. Still, he thinks that if a state provides ART for couples, it ought to do so for singles as well: discrimination on the basis of marital status, he believes, is no more justified than discrimination on the basis of gender, sex, or sexual orientation.
4. Friday Night Regrets

On Monday April 27, 2015, The New York Times, ran a stark single piece on the front page of its sports section surrounded by a lot of white space and none of the usual pictures. Entitled “A Son Calls His Mother,” the article told the story of Patrick Risha, 32, who had recently hung himself.

His mother, Karen Zegel, relates how her two children “grew up midsentence in a never-ending football conversation.” Patrick played football from the age of ten, following in the steps of his high school coach father. Like his dad, he became the local hero—from Mighty Mite to “The Horse”—he was vaunted in the press, looked up to by the other kids, and supported by his family who even spent their summer vacations at football camp. He went on to Dartmouth and, according to a teammate, became a “pounding running back” who loved contact. He got his degree in government but with a disappointing academic record.

Looking back, his sister recalls praying that he’d get up after each tackle. His mom referred to his body as a “piece of meat,” highlighting the common sports injuries reported among footballers—sprains and strains, growth plate and repetitive motion injuries, and heat related illness. Sometimes Patrick couldn’t remember the game he had just played. In retrospect, she recounts just chalking up Patrick’s erratic behavior and fits of anger during high school to adolescence.

Growing up, Patrick was an outgoing, smart, self-sufficient kid. Through and after college, though, he increasingly become an impulsive loner, overwhelmed by even the simplest tasks of daily living like managing his finances. He dabbled in pain killers and other drugs prescribed to address his problems.

He lost even further ability to cope after a year of dramatic life changes including fatherhood with his longtime girlfriend, his sister’s marriage, and his own father’s death. Finally, he called his mother one last time—from the end of his dog’s leash.

Patrick’s brain, on autopsy, revealed chronic traumatic encephalopathy (CTE), a degenerative brain disorder caused by repeated blows to the head. Detectable only posthumously, this finding is not uncommon among former football players. It is tied to cognitive problems, mood swings, depression, impulsive anger and actions, and memory loss.

Karen Zegel has established a foundation and a website (www.StopCTE.org) aimed at parents and at youth football. But she is going up against a culture that spawned the CNBC reported $7 billion youth sports industry (June 13, 2014).
5. Nuts Over Water

As California deals with its multi-year drought, stakeholders are looking for solutions, and, some say, for scapegoats. Farmers feel put upon. Residents feel put upon. Industry feels put upon. Certainly the Almond Board of California feels that their favorite nut is being maligned unfairly.

The acclaimed 1974 movie *Chinatown* documented California water wars in the beginning of the Twentieth Century, but the state has been plagued by water shortage for much longer. Today, huge population and industrial growth, complex water rights laws, fertile farmland and good growing weather, plus unrealistic definitions of beauty (green lawns in a desert) complicate and exacerbate an escalating problem.

California Governor Jerry Brown has called for a 25% reduction in urban water usage. Critics claim the solution is inadequate because the 80% of California water that is used for farming is exempt from such rulings. Further, despite huge population increases, urban usage has actually decreased in recent decades due to effective conservation measures. Many people are reluctant to criticize farming in California. The state’s climate is ideal for many crops, we need food, and farming is integral to the economy of California and the United States. Critics, though, argue that farming should not receive conservation exemptions. They point out that farming water-intensive crops in a desert is incongruous, that we could get many of the crops grown in California from elsewhere, that farming contributes just 2% to the California GDP, and that exporting California crops exacerbates the worsening water shortage.

More arcane arguments are concerned with the allocation of surface water rights. These rights protect access to surface water in streams and canals for senior water rights holders whose land was granted those rights before 1914. Junior water rights holders have already had some or all of their allotment taken away. In a promising 2015 development, a small number of farmers with senior water rights saw that cuts are inevitable and voluntarily offered 25% cutbacks in exchange for assurances of no further reductions. State officials hope peer pressure will result in more farmers voluntarily making such cuts. In contrast, groundwater has historically been largely unprotected, consequently when deprived of surface water, farmers dig deeper wells, if they can afford it. Groundwater depletion has resulted in a lower water table, salination of water sources, and, in some areas, sinking ground levels. A new law intended to close this groundwater loophole has been passed, but the industry has influenced rule makers to seriously delay implementation.

The Almond Board of California has been the center of a media maelstrom since an article in *Mother Jones* in February 2014 revealed that production of each almond requires a gallon of water, the almond industry uses three times more water annually than Los Angeles does, and profit margins are high. California, except for its water situation, has ideal conditions for growing almonds. The state produces 100% of the US supply of almonds, and still exports 70% of the crop globally, thus supplying 80% of the earth’s almonds. This exportation especially riles critics. They say California is, in essence, “exporting” precious California water to places like China for commercial profit while leaving Californians fighting over water for their yards, golf courses, showers, drinking water, industry, and farming operations. The Almond Board points to other high water consuming crops and industries, claiming that almonds are being unfairly vilified.
Although almonds are not the highest water-using crop, they do present some special issues. Many other crops can be laid fallow in drought years, but almond trees live for 20–25 years and must be watered every year. The recent recognition of almonds as a healthy food gives almond farmers a profit margin that allows buying water at higher prices, drilling for groundwater, and developing conservation methods. Critics claim profits should not be driving decisions about who gets the limited supply of water.
6. To Be or Not to Be

An advance directive is a written document that identifies an individual’s wishes regarding medical treatment if that person becomes unable to communicate them to the attending physician. Advance directives are legally recognized throughout the United States, although laws governing their implementation vary from state to state.

“Voluntarily stopping eating and drinking” (VSED) is a provision included in some advance directives to shorten the dying process. There are particular concerns about honoring VSED in advance directives of patients with dementia.

Some religious groups, ethicists, health care professionals, and disability advocates who oppose VSED for patients with dementia raise concerns about honoring their advance directives. In the absence of reaffirmation, they maintain that end of life decisions should always be made in favor of prolonging life, even when the quality of life appears to be severely diminished. They also argue that dementia and the capacity to decide voluntarily are mutually exclusive, rendering the “choice” of VSED invalid. Further, people often live with advanced dementia for years. Allowing a person with dementia who is otherwise healthy to die by starvation, is effectively slow euthanasia. Although it may not be possible to understand the patient’s subjective perception, there is no reason to assume that the individual does not experience pleasure or happiness.

Those who support implementation of VSED in advance directives for individuals with dementia argue that there is no fundamental difference between the advance directive of an individual who is unable to communicate because of dementia, and that of an individual unable to communicate because of another disease or condition. Additional concerns arise when dementia patients require gastronomy tubes. In addition to the discomfort of insertion and presence of a feeding tube, physicians may order restraints to prevent the patient from pulling out the tube. Restraint is distressing, even for patients with advanced dementia.

According to the Chicago Health and Aging project, almost four out of ten people who reach the age of ninety will develop dementia, and a similar number will experience mild cognitive or functional impairment. As greater numbers of people live longer, thanks to improved nutrition, medical care, and other factors, there will be more people with nonreversible dementia. Many baby boomers who now care for parents with dementia do not want to live with dementia themselves, or to burden their children with caring for them should they develop the disease.

Those who request VSED in the case of dementia in their advance directives face challenges in having their wishes honored. Health care providers may worry that withholding nutrition and hydration to the elderly could result in criminal charges of neglect or abuse.
Wanting to secure the best possible future for her child, Sue started making plans soon after she learned she was pregnant. Sue knew that acquiring excellent prenatal care, maintaining a good diet, and living in a safe and healthy environment wouldn’t be difficult due to the ample financial resources she enjoyed. But Sue wanted something more for her child—something that, technically speaking, couldn’t be purchased—she wanted her child to be a US citizen. So Sue, a Chinese national living in Shanghai, started searching the Internet and laying the groundwork to participate in the burgeoning field of maternity tourism. When the time came, Sue would fly to the United States and stay in what was promoted as a lovely small hotel, explicitly set up for the needs of new and expectant mothers, while waiting for the birth of her child. Approximately one month after the birth, Sue and her baby would return to mainland China and resume normal life. As a US citizen, her child will qualify for enrollment in the highly exclusive international schools in China as well as more easily travel to the US for high school or college. At twenty-one years of age, her child can petition the US government to grant her parents permanent residence, thereby starting their own process to US citizenship. The price for the package Sue chose is steep—between $40,000 and $50,000—though this includes assistance with obtaining the necessary visa, transportation, housing, and other amenities once in the United States. But Sue is confident that she’ll be getting her money’s worth.

Alice would also like to travel to the United States to deliver her baby, but she lacks the resources to pay for any of the well-advertised and seemingly well run maternity hotels on the West coast. By scouring the Internet she learns that she can also secure US citizenship for her child by giving birth on the island of Saipan, one of the Northern Marianas islands and a US territory. Travel to Saipan from China would be much less expensive than travel to California, and the costs of lodging in Saipan would be much less than the advertised costs of maternity lodging in California as well. Further, in an effort to promote tourism to the Marianas in general, US immigration policy allows foreigners to stay in the Marianas for up to forty-five days without first obtaining a visa. This will also reduce costs. And although maternity tourism isn’t as well developed in Saipan as it is California, Alice views it as her only affordable option.

Amy, born and raised in California, also wants to secure the best future for her children, and wants to get into the business of maternity tourism. In particular, she wants to rent the upstairs unit of her two-flat to pregnant women from abroad to enjoy a birthing “vacation.” Her guests may stay as long as it takes to give birth in the United States and recover enough to return home. Amy cannot offer the range of amenities that the luxury maternity hotels offer, but she can promise the availability of baby supplies, names and numbers of midwives or birthing assistants, and transportation, as well as availability to address unexpected developments. Amy reasons that she can charge double to triple what she would normally charge for short-term rental of the upstairs unit. And even after paying the appropriate taxes on her new small business, the additional net income will help Amy better provide for her own children. Currently maternity tourism is legal in the United States. The United States and Canada are among a handful of countries that still grant citizenship as a consequence of being born in that country. In the United States, the Fourteenth Amendment guarantees this birthright. Further, US immigration policy currently does not regard an advanced pregnancy as grounds for denying someone a tourist visa. Still, some Americans object to private business taking profit from the sale of access to citizenship, while others object to the circumvention of existing immigration policy.
8. Cybersecurity on a College Campus

Goodman College, a small undergraduate liberal arts school with enrollment of about 3,000 students, struggled through the last two decades without a director of information services. It managed as best it could with limited resources and limited expertise. Recently, during a round of accreditation review, auditors criticized the college for having a weak password policy that did not provide adequate protection for information stored in the university’s systems. According to the old policy, passwords had to have exactly eight characters, and could be anything printable, including dictionary words or repeated characters. Passwords never had to be changed, and the system would not keep someone from guessing repeatedly at passwords.

On numerous occasions, student and faculty accounts were compromised, although it always turned out to be due to someone running an infected email attachment; there is in fact no evidence that anyone’s password had ever been cracked. Nevertheless, the information technology team, in responding to the auditors’ criticisms, implemented a much stricter password policy. Passwords had to be changed every 90 days. No password could ever be reused. Every password must contain at least one lowercase letter, at least one uppercase letter, at least one number, at least one other character excluding “@,” no words or phrases found in English or foreign dictionaries, and it must be at least 10 characters long. Furthermore, once accepted, a new password could not be changed again for 30 days. After three failed attempts at guessing a password, the account would be locked until the user showed up in person at the help desk with a valid school ID and requested a password reset. The help desk is open from 9:00am till 4:00pm Monday through Friday on schooldays and closed other days.

The new policy satisfied the auditors but infuriated both faculty and students. Faculty complained that they have used their favorite passwords at other online services for over a decade without ever having to change. They said that having to change passwords so often and having to jump through so many hoops would dramatically increase the likelihood of forgetting their passwords. They said that getting locked out of their accounts and being forced to wait for the help desk’s business hours could be a disaster on weekends, holidays, or at night, the very times when they would normally be doing much of their online work. They further predicted that the same problems the faculty experienced would also plague students, who could be locked out of assignments, projects, tests, email, and so forth.

The members of the password policy committee listened politely to faculty complaints and pointed out that they had no choice in the matter. The auditors had spoken, and that was that: They had condemned Goodman's previous password policy, demanding that it more closely conform to “best industry practices.” Faculty appeals based on the unreasonableness of the new policy, or the personal hardship it would cause, or the predictable interference with the educational goals of the university fell on deaf ears.

In an effort to placate some particularly vocal faculty members, the chair of the password policy committee explained that a compromised email account from the “.edu” domain (like Goodman’s) is especially dangerous. Accounts ending in “.edu” are not as carefully filtered by major providers, and when such accounts start spewing out SPAM, the entire university gets blacklisted by many companies. It takes many hours to get the university’s name removed from
blacklists. “Keeping all our users’ accounts secure is not only our duty to the individual user, but to the rest of the school, and to the academic community as a whole.”

Shortly after this conversation, the chair of the password policy committee noted to one of the faculty members that another (anonymous) faculty member’s account had become compromised on Friday, and the understaffed and overworked technology team had spent about twenty extra hours on the weekend getting Goodman off of several blacklists. The incident, while illustrating the dangers of compromised accounts, had not actually come from a cracked password.

Soon, faculty and students alike began keeping written and electronic records of their latest passwords in easy-to-find locations. Predictably, after many years of not having any passwords cracked, these new insecure methods started to produce a trickle of compromised accounts.

Seeking a quicker response from the administration, one small group of students began a protest movement. Every Friday afternoon and every day before a holiday, the members would go off campus and anonymously attempt logging in multiple times to the accounts of every administrator, effectively locking the entire administration out until the help desk reopened.
9. Patent Right

Hepatitis C is a stealthy blood-borne disease, displaying no visible symptoms for years, while insidiously destroying the liver over time. The Hepatitis C virus (HCV) causes inflammation of the liver, and can lead to serious liver damage such as scarring (cirrhosis), liver cancer, and liver failure. For about 80% of those infected, Hepatitis C becomes a chronic condition. According to the Centers for Disease Control and Prevention, approximately 3.2 million people in the United States have chronic Hepatitis C; the World Health Organization estimates that between 130 and 150 million people are currently infected with chronic Hepatitis C worldwide. Unlike Hepatitis A and Hepatitis B, there is no vaccine for Hepatitis C.

The traditional course of treatment for Hepatitis C lasts up to 48 weeks, with a drug cocktail that includes interferon or ribavirin. From 10-50% of those treated with the cocktail benefit. For some, the progression of the disease is slowed. For others, a cure is effected, with HCV no longer detectable in the blood, due either to the drugs or spontaneous viral clearance. Even those who benefit, however, almost universally suffer debilitating side effects from interferon or ribavirin. Additionally, any liver damage remains.

Created by Gilead Sciences, Inc., Sovaldi™ received a US Food and Drug Administration (FDA) Priority Review and Breakthrough Therapy designation. This designation is granted when a new drug demonstrates a significant improvement over other therapies in at least one aspect of treatment outcomes. In this way, a promising drug can move more quickly to market. Sovaldi™ evidenced several improvements over the standard treatment: reduction of treatment time to twelve weeks, reduction or elimination of interferon for most patients, and a cure rate of up to 90%. On December 6, 2013, the FDA approved Sovaldi™ for treatment of chronic Hepatitis C.

Despite its efficacy, access to Sovaldi™ is limited by its price. It is most expensive in the U.S. where drug companies determine the price for their products. At $1000.00 per pill, the twelve-week course of treatment costs $84,000. Many insurers are unwilling to add Sovaldi™ to their formularies because of the sheer number of those with Hepatitis C. Express Scripts, the country’s largest pharmacy benefit manager, tried for a year to negotiate with Gilead for discounts, but to no avail. Stating that Gilead’s price was too high. Express Scripts no longer includes Sovaldi™ in its formulary, including instead a less expensive drug from AbbVie that was recently approved by the FDA.

Gilead announced that it would allow pharmaceutical companies in 91 developing countries to make low-cost versions of Sovaldi™. Still, affordability remains an issue, even when Gilead offers deep discounts. For example, although Gilead offered India a 99% discount, the $840 cost of treatment exceeds India’s per capita annual income ($616 in 2012). In January 2015, India’s patent office denied patent protection to Sovaldi™, stating that the drug did not evidence an improvement over existing treatments. The decision allows local pharmacists to make cheaper generic versions of the drug.

Some accuse Gilead of making a cost-prohibitive drug that sick people desperately need. Dr. Andrew Hill of Liverpool University estimates that the cost of producing Sovaldi™ is somewhere in the range of $68–$136 per pill. Critics note that Solvadi™ brought Gilead over $10 billion in its first year on the market.
Others defend Gilead’s actions. Pharmaceutical companies like Gilead create and bring new drugs to market. Research, development, and clinical trials are expensive, and drug companies need to be able to profit from their efforts. A 2013 study by Forbes places the cost at about $5 billion for each new drug that comes to market, a cost that reflects the failure of 95% of experimental drugs for reasons either of safety or effectiveness. Profits provide incentive for further research and development. Companies have an obligation to provide return on their investment to shareholders. Supporters of Gilead’s pricing policy point out that even at $84,000 for a course of treatment, the cost savings compared with a lifetime of traditional treatment are significant. Sovaldi™ costs significantly less than a liver transplant or treating complications of liver failure.

Critics express a further concern. They worry that a black market will develop for Sovaldi™, both within individual countries and internationally, with people from countries where Sovaldi™ costs more buying the drug from countries where the cost is less.
10. What’s in a Name?

After Freddie Gray died in police custody April 19, 2015, rioters burned buildings and looted stores in some Baltimore neighborhoods. Both President Obama and Baltimore Mayor Stephanie Rawlings-Blake described the violent rioters as thugs. Both received scathing criticism for their insensitivity in using what some consider a racially derisive term.

The word “thug” is derived from “Thuggee,” a secret criminal cult that operated in India from the thirteenth century until its defeat by the British in the 1830s. Devotees of the goddess Kali, the Thuggee befriended travelers, then ritually strangled and robbed them.

Since its first recorded use in 1810 (Merriam-Webster), “thug” has been used to describe brutish behavior. In film noir, the thug was a requisite criminal character who provided the brute force to extort victims of protection rackets. The term “thug” has also long been associated with the Mafia, even featured in Disney’s Bugs and Thugs. In the Looney Tunes animated short film, Bugs Bunny foils Rocky and Mugsy, two mob-caricatured bank robbers. On January 3, 2005, President George W. Bush, speaking of terrorist threats to undermine free elections in Iraq, praised the Iraqi people for refusing to be “intimidated by thugs and assassins.” In his radio broadcast of November 7, 2008, Rush Limbaugh stated that, “Obama is a good old-fashioned Chicago thug.” When a listener complained that “thug” has a racial subtext, Limbaugh responded angrily that he’d been using the term for years in reference to unions, and it was not a racial slur.

The word was thrust into the spotlight after a January 19, 2014, altercation between San Francisco 49ers wide receiver Michael Crabtree and Seattle Seahawks cornerback Richard Sherman. iQ Media reported that the word “thug” was used—based on close-captioned analysis—625 times in broadcasts the following day. Two days later Sherman lambasted the media for referring to him as a thug, asserting that, “The only reason it bothers me is because it seems like it’s the accepted way of calling somebody the N-word nowadays.”

“Thug” definition creep dates to the mid-1990s. A segment of rap and hip-hop music culture began using the word sympathetically to refer to life in an environment so hostile to black men that, even after relentless struggle, there is little to show for their efforts. The hip-hop group Thug Life disbanded in 1996, following the drive-by shooting death of its founder, Tupac. A best-selling rapper, Tupac is credited with redefining the word “thug.”

The Urban Dictionary adopted Tupac’s definition: “…a thug is someone who is going through struggles, has gone through struggles, and continues to live day by day with nothing for them. That person is a thug. And the life they are living is the thug life. A thug is NOT a gangster.” The Merriam-Webster Dictionary does not agree with the Urban Dictionary’s assertion that a thug is not a gangster. The dictionary defines thug as “a brutal ruffian or assassin: gangster, tough,” and uses as an example “the Mob boss regularly sent his thugs after people who were slow to pay their debts.”

The Washington Post attempted to reclaim the word “thug” from the milieu of rap music and reestablish its race-neutral use in the mainstream vernacular. In a January 29, 2014, article entitled No, Michael Grimm Is a Thug, the newspaper suggested that the rowdy post-game
behavior of Michael Crabtree and Richard Sherman did not qualify them as thugs. Rather, they asserted, Congressman Michael Grimm is a thug. When reporter Michael Scotto asked Grimm about the twenty-count federal indictment and the allegations of campaign finance fraud he was facing, Grimm threatened to throw Scotto off a balcony. When Scotto tried to ask the question a second time, Grimm interrupted him and again threatened bodily harm.

Language evolves and words take on new meanings over time. Some words, “condescend” for example, even morph into a meaning that is the opposite of what the word meant at an earlier point in time.

Some agree with the assertion that the word “thug” has become a racial slur and its use is offensive. Even some who believe the word is not pejorative none-the-less argue that it should not be used, knowing that it is hurtful to some.

Others allege that hip-hop culture imbued the word with negative racial undertones, and then accused those who used it of racism. Not everyone who uses the word “thug” intends it as a racial aspersion. Most people are probably unaware that the word has become racially charged.
11. Mind, the Gap

After September 11, 2001, and the subsequent invasion of Afghanistan and Iraq, the Bush administration initiated an aggressive program of interrogating detainees. Some “enhanced” interrogation techniques struck critics as inhuman treatment or torture. Methods included forced standing, sleep deprivation, exposure to cold, waterboarding, and threat of harm from dogs. In conducting such interrogations, interrogators sought the services of psychologists, psychiatrists, and medical doctors.

The Code of Medical Ethics, promulgated by the American Medical Association and accepted by the American Psychiatric Association, strictly forbids doctors to participate in any way with torture, since that practice runs counter to the primary stricture to “do no harm.” In 1999, the Council on Ethical and Judicial Affairs had issued Opinion E-2.067 (which still applied), which says, in part, “[p]hysicians must oppose and must not participate in torture for any reason. Participation in torture includes, but is not limited to, providing or withholding any services, substances, or knowledge to facilitate the practice of torture. Physicians must not be present when torture is used or threatened.” Furthermore, “[p]hysicians may treat prisoners or detainees if doing so is in [the prisoners’] best interest, but physicians should not treat individuals to verify their health so that torture can begin or continue.”

The Code of Ethics for the American Psychological Association (APA) advises its members to seek to “safeguard the welfare and rights of those with whom they interact professionally and other affected persons.” Clearly, the values expressed in the code conflicted with the requirements placed on psychologists by interrogators. To remedy this conflict, in 2002, the APA amended section 1.02 of the Principles of Psychologists and Code of Conduct, entitled “Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority” to read, “[i]f psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict. If the conflict is irresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority.” Thus, the code permits psychologists to set aside ethical considerations when these put them at odds with government or military interrogators.

Critics of the new wording say that the APA has abandoned the lessons learned during the Nuremberg Trials, particularly Principle IV, the which states, “The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.”

Defenders of the new wording insist that if psychologists do not attend interrogations they cannot influence or deter interrogators from going too far. They point to the need for an independent party to oversee the situation and perhaps act as an advocate for interest of the detainee.

In October, 2015, the ACLU filed suit on behalf of two surviving detainees and the estate of a deceased third against two psychologists, James Elmer Mitchell and John “Bruce” Jessen, who were allegedly “contracted by the CIA to design, implement, and oversee the agency’s post-9/11 torture program.” According to the ACLU, the plaintiffs are suing Mitchell and Jessen under the
Alien Tort Statute for their commission of torture; cruel, inhuman, and degrading treatment; non-consensual human experimentation; and war crimes.
12. Cuba Libre?

Many cheered when Fidel Castro’s 1959 Cuban Revolution cast out the brutal dictator Batista. But within a few years, Washington broke off diplomatic relations with Havana in response to Castro’s nationalization of US businesses, human rights abuses, as well as nuclear collaboration and political alliance with the USSR. A US trade embargo established in 1962 first drove Cuba to align with the USSR, then inhibited economic recovery after the USSR collapse in the late 1980s. US laws enforcing the embargo have come under increasing criticism for violating international law. In December, 2014, President Obama announced his intent to reestablish diplomatic relations, loosen remittance and travel restrictions, remove Cuba from the US list of countries that sponsor terrorism, and encourage collaboration between Cuba and the US in the telecommunications industry.

Opinion about normalizing relations is divided in both countries. Some Americans see an opened Cuba as a ripe economic market and a nice place to vacation. Others condemn Cuba’s human rights violations against dissidents and free speech. Even the many Cuban Americans living in the US are of split opinions. Some oppose normalization because they remain angry at having had to leave loved ones and to relinquish property to the Cuban government. Some agree that human rights violations preclude normalization, yet other Cuban Americans just want to move on and reconnect with their heritage and families.

In Cuba, some people fear that Cuban culture and economy will be overrun by their powerful northern neighbor, but even many among those also welcome the possibility of increased access to modern communication and goods. Yoani Sanchez, a Havana dissident frequently in trouble with her government, publishes frequent reports of life in today’s Cuba on her Generation Y blog. Her March 25, 2015, posting, entitled “The day peace broke out,” summarizes many of the remaining issues following Obama’s announcement.

Jonathan B. Wight, in a December 2014 posting on the Economics and Ethics blog, presents an interesting argument for lifting the embargo:

John Stuart Mill in a different context wrote that: “[T]he economical advantages of commerce are surpassed in importance by those of its effects which are intellectual and moral. It is hardly possible to overrate the value, in the present low state of human improvement, of placing human beings in contact with persons dissimilar to themselves, and with modes of thought and action unlike those with which they are familiar. Commerce is now what war once was, the principal source of this contact.”

And further: “[I]t may be said without exaggeration that the great extent and rapid increase of international trade, in being the principal guarantee of the peace of the world, is the great permanent security for the uninterrupted progress of the ideas, the institutions, and the character of the human race.”

Setting up embassies and some normalization fall within the purview of the US Executive Branch. These actions do not mean the embargo is lifted. Removing the embargo requires Congress to repeal or change the laws.
13. Auto Autos

Self-driving cars are being tested, and the results look good. For a few years now, auto manufacturers have been developing a variety of crash-prevention features for new cars, such as forward-collision warning systems (which alert the driver and even brake the car when it gets too close to the car in front), blind-spot monitoring systems, and lane-departure warnings. Such technologies most likely will be integrated into fully automated cars when they are developed.

Since a vast majority of current accidents are caused by human errors, many advantages will probably accrue as more and more cars become self-driving. Traffic congestion should also be eased as the new cars will not hesitate or become confused, they will maintain a steady and safe speed, and they will select alternate routes to avoid heavy traffic, accidents, or construction.

Some issues remain murky, however. If a self-driving car does get into an accident, who is liable, the driver or the automaker? Arguably, the driver may still be at fault were he or she to fail to override the car’s actions manually when possible. The manufacturer could also be in an especially vulnerable position if a death were found to be caused by a decision programmed into the car. If a car, for example, swerves to avoid hitting another car and hits a pedestrian instead, the car will have done so because it was programmed to save the driver’s life at the expense of a pedestrian’s.

Besides legal dilemmas, there are knotty ethical ones as well. Were every car on the road to drive itself, there would still be hazards caused by cyclists, pedestrians, pets, road conditions, and obstructions. Such hazards call for value-based decisions and someone has the task of selecting those values that will determine the car’s actions. Obviously, if a car cannot brake in time to avoid hitting either a person or a dog, the car will hit whichever one it has been programmed to hit. As cars are programmed to be better able to identify and categorize objects around them, even more nuanced action alternatives may be available. If killing one or another person is unavoidable, should both persons be rated identically, or should children be favored over adults? Women over men? People in suits over people in jeans? Asians over Hispanics? People in the car’s address book over all others? The car itself over every non-human?
14. Well Spotted!

Within a week after graduation from Marin County College Prep, John, eleven of his friends, and a school chaperone, Charles, flew from San Francisco to Auckland to begin a two-week yacht cruise from New Zealand to Australia. Their ship carried a maximum of one hundred passengers, most assigned to four-person cabins.

John had a particularly rough time on the twenty-two hour flight, and, after slogging from the airport to the port of call, retired to his cabin as soon as he was allowed. John hoped to sleep off the nausea and jet lag and then rejoin his friends, full-throttle, in their exciting adventure. In the meantime, his friends, along with many of the other passengers, spent the hours before embarking exploring the port, its shops, and some maritime treasures.

But things did not get better for John, even after the cruise got underway, so he stayed in his cabin another full day. On the third day of the cruise, John received an email from his parents telling him that his little brother Jimmy had just been diagnosed with the measles, and reminding him that he had not been vaccinated. John, who had spent quite a bit of time with Jimmy at the graduation festivities, should pay special attention to his health. But by that time, John didn’t need a reminder about his health: he already knew he was ill. He just didn’t know what he had. But to John, a bigger concern was what to tell his cabinmates, his other pals, and Charles. He didn’t want to be blamed for getting them sick, and he reasoned that there was a good chance he hadn’t as they had probably been vaccinated.

Another day passed and Charles became suspicious that John’s malaise was more than a result of youthful over-indulgence, simple jet lag, or teenage ennui. John must be ill, Charles reasoned, maybe with a contagious disease. After confirming that John had an elevated temperature, and learning of little Jimmy’s measles, Charles instructed John, as well as John’s three cabinmates, to stay in their cabin for the next three days. He also and forbade all twelve of the students from leaving the ship at the next day’s port of call. Only six of the twelve complied. The other six insisted that they felt fine and that, because they probably had been vaccinated as children, they could neither contract measles nor spread it to others. Further, even if they were contagious, they wanted to enjoy as much of this vacation as possible.

Upon realizing that many of his charges wouldn’t limit their activities on their own, Charles grappled with whether he should report John’s illness to the ship’s medic. Charles knew that the presence of even one passenger with an infectious disease such as measles, is sufficient ground for denying the ship permission to land. Charles knew this would likely ruin the vacation of every passenger on the ship, even those who had been vaccinated and posed no risk to others.
15. Nonhuman Persons

In May 2015, Justice Barbara Jaffe of the Manhattan Supreme Court ordered Stony Brook University to show cause and writ of habeas corpus in a case involving two chimpanzees, Hercules and Leo, whom Stony Brook was using for medical research. The ruling, while not explicitly granting legal personhood to the chimps, arguably implied legal personhood by granting them a right to appear in court. The Nonhuman Rights Project (NhRP) which filed the suit on behalf of the chimps, claimed a major victory in a news release with the headline, “Judge Recognizes Two Chimpanzees as Legal Persons, Grants them Writ of Habeas Corpus.” The next day, however, Justice Jaffe amended the order to remove any reference to habeas corpus.

In 2013, the NhRP had embarked on a mission of filing civil lawsuits, state by state and as funding allows, with the goal of getting certain animals recognized as legal persons. While there are many groups dedicated to animal welfare, the NhRP, according to its website, is “the only organization working through the common law to achieve actual LEGAL rights for members of species other than our own.” The group believes that a legal person is a being capable of possessing certain rights, such as the right to bodily integrity and the right to bodily liberty. A case can be made against animal research if the animals involved have the right to bodily integrity; a case can be made against captivity if the animals have a right to bodily liberty. But none of these cases can get off the ground unless animals are recognized as legal persons.

The NhRP has developed a practical-autonomy scale by which it classifies various species. The animals at the top of the scale, the so-called Class One species, are those for which the strongest cases for personhood can be made. Class One species demonstrate an awareness of oneself, complex communication skills, and a “theory of mind” (that is, a recognition that there may be a difference between what they see and think and what another animal sees and thinks). This class includes chimps and other non-human members of the Hominidae family, as well as dolphins, orcas, and elephants.

The NhRP’s strategy is similar to that once used to secure the freedom of slaves before the passage of the Thirteenth Amendment. It consists of identifying some particular animals in captivity and suing on behalf of those animals for their release. The strategy has a better chance of success in some states than in others, and the NhRP’s website explains the legal issues involved in each of the fifty states.

The animal rights movement has made significant headway in countries outside the United States. In February 2007, the parliament of the Balearic Islands, an autonomous province of Spain, became the first legislative body to grant legal rights to all members of the Hominidae family.