

# Center for Professional Ethics, Volume 4, Issue 2, 2003

Case Western Reserve University

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A Publication from the Center for Professional Ethics at Case Western Reserve University

## “Waiting for the Courage to Die” *The Role of Live Theatre in Medical Education*

by Fran Heller

“I am waiting for the courage to die,” says feisty hospital patient Joseph Parmigian, who has advanced cancer.

Parmigian is not a “real” patient but a character from a play entitled “Cold Storage” by Ronald Ribman, about two cancer patients, one in denial, the other facing certain death.

Voices of Diversity, a five year old theatre troupe, and the brainchild of Marvin Rosenberg, actor and Associate Professor of Social Work at CWRU, uses live theatre to explore health issues, like cancer and Parkinson’s disease, in diverse professional settings, including medical schools, nursing homes, and other community venues.

Hosted by the Department of Bioethics, nearly 70 people attended a 30 minute excerpt from the play performed by ensemble members Rosenberg, and acclaimed Cleveland actors, Reuben and Dorothy Silver, Oct. 2. Audience members included medical students and faculty, nurses, religion and philosophy students and their teachers and miscellaneous others, all of whom responded in a great variety of ways.

Though the play was first produced in 1977, many of the medical and ethical issues it raises still apply, including the high cost of hospital care and whether or not to tell patients the truth about their illness still apply. Another issue is “gallows” humor and how it is used in the seriocomic drama to illuminate and tolerate the difficult subject of cancer and terminal illness.

In the discussion period that followed, the idea of using humor in crisis situations aroused the reaction of a female nurse in the audience who movingly described how humor served a vital

purpose with a friend who had died of breast cancer. Paralyzed from the neck down, all her friend had left was the gift of laughter in response to an ironic card the nurse gave her to celebrate her 40th birthday.

The subject eliciting the most response concerned lying or telling the truth to terminally ill patients. In the play, the seasoned Parmigian tells the new cancer patient, Landau, “Don’t tell them (the doctors) the truth. They always lie to you.”

“We used to lie to patients as a policy,” noted Dr. Stuart Youngner, Chair of the Department of Bioethics, who was taught in medical school that the way to deal with people who had fatal illnesses was to lie to them. “Now the culture is that you don’t lie to people. You tell them the truth,” added the department head. While telling the truth is never easy or simple, Dr. Youngner believes that in general, truth allows communication while lying denies it.

Drawing a distinction was anesthesiologist and Professor of Psychiatry, Dr. Helmut Cascorbi, who felt that there are times when telling people the truth can be the most cruel thing you can do. “It relieves the doctor, but not the patient,” he said. One must deal with truth in a merciful manner, added the physician, who thinks the pendulum has swung too far to the other side today.

Assisted suicide is another hot button topic the play touches upon. Parmigian tries to goad Landau into pushing him off the rooftop, but in reality, it’s a charade, masking real fear. “I need someone to make the decision for me,” the character admits.

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“The play has great currency,” said Dr. Richard E. Christie, director of an internal medicine residency program at St. Vincent Charity Hospital. “These are issues that young medical students and nurses need to hear and reflect on. Humor is also a wonderful way to bring out these issues that are not always easy to raise.”

What the play demonstrated for Dr. Joseph Foley, Professor Emeritus and former Chair of the Department of Neurology, is how often it is the clown, like Parmigian, who masks his suffering with buffoonery as a cover up for real pain.

“The play has great currency,” said Dr. Richard E. Christie, director of an internal medicine residency program at St. Vincent Charity Hospital. The principal issue the program addressed that very week dealing with communication skills was what to do about the patient in denial. “These are issues that young medical students and nurses need to hear and reflect on. Humor is also a wonderful way to bring out these issues that are not always easy to raise.”

Kristen Stoner and Beth Summers are first year medical students who opted to attend because of their personal interest in the subject of life and death and ethics. Both found the play very engrossing. “For us as first year medical students,” added Stoner, “it raises the question that we should help them, but we don’t really know how.”

In the play, the cynical, wisecracking Parmigian advises the new cancer patient that the only way to get the doctors’ attention when making rounds is to fabricate some new symptom to “keep them interested in you.” For the future physicians, the challenge lies in learning how to deal with someone who is going to lie to you to be interesting, and at the same time make them feel that they don’t have to fake their symptoms to remain interesting.

Dr. Youngner firmly believes that there is a symbiotic relationship between the theatre arts and health professionals. “It so effectively portrays,

and in this case, it is the humor that portrays, the indignity, powerlessness, and suffering that people go through and that’s something we in the health field need to understand from their perspective.” There is a distinct difference between theatre, which teaches symbolically and a training play, which teaches directly and concretely. “This is not a training play,” emphasized Rosenberg, “but theatre and art, and you have to bounce off it.”

Dolores L. Christie, Ph.D., Executive Director of the Catholic Theological Society of America, stressed that art speaks for itself and is much more educative than giving a lecture on how to treat patients. For Dr. Amasa B. Ford, Professor Emeritus of the Department of Epidemiology and Biostatistics, the presentation was a good illustration of how theatre is being used to deal with problems that people have trouble coping with. “As we find medicine being depersonalized by managed care as a business, we begin to realize that we’re losing the humanistic values. We’ve got to do something about protecting that,” emphasized Dr. Ford.

*Fran Heller is a Cleveland-based freelance writer.*

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# Building Bridges with Jonathan Sadowksy: A Reprint from the CWRU Observer

It was a wise man that said, “Everything, but in moderation.” So while we offer you pieces on pediatric research ethics in the community and the growing problems with IRBs this issue, we also think some light-heartedness is in order. What follows is a reprint of “Building Bridges with Jonathan Sadowksy” from the *CWRU Observer* by Samer Korkor, Contributing Reporter. Professor Sadowksy is a 1997 Ethics Fellow as well as an associate professor of history and adviser for the College Scholars Program. Enjoy!

Samer Korkor: It seems as though over the years you have shown that you are a person with many interests because of the programs and initiatives you have been a part of. What exactly is it that stimulates your intellectual appetite?

Jonathan Sadowksy: I find that whatever creativity I have is enhanced by juxtaposing disparate areas of knowledge and experience. Sometimes learning about something very far from my areas of greatest knowledge helps me to see my specialties in new ways.

But true as that is, it’s a somewhat rationalized answer. For reasons I can’t fully explain, I have for a long time wanted to be involved in many different things.

SK: You are the head of the “College Scholars Program.” What exactly is it, other than a secret underground society dictating the fate of the city of Cleveland?

JS: I assure you that CSP’s secret reach ranges way beyond Cleveland. It has powerful influence as far away as Ashtabula.

Now that that secret is out: CSP is an undergraduate program with several emphases. It is a challenging interdisciplinary undergraduate program, with an emphasis on student-directed learning. It tries to encourage social responsibility and ethical leadership. Classes are together for three years, and this gives their members the opportunity to constitute a more intense learning community than is possible in most other programs.

SK: We all need outlets. What are yours? What kind of hobbies do you have?

JS: I like to run, and I’m in the early stages of training for my first marathon. I am not fast, but

I love to be outside running, and can do this for hours without getting bored. I love to read fiction and poetry, and sometimes try writing both. I watch the NBA and Major League Baseball, and still root for the Mets and Knicks, the teams I grew up with. My music tastes are mostly in post-bop era jazz and classic rock; I also like “world music,” especially African.

SK: How do you eat Oreo cookies?

JS: You really do ask the tough questions. The temptation to separate is, of course, very strong. But then you’re left, usually, with a dry side. This dilemma causes too much anxiety, so I stick to chocolate chip cookies.

SK: If you could decide one book that every college student is required to read, what would it be?

JS: I’d really like to answer that, but I don’t think I can. Different students have different intellectual needs. Kafka’s *The Metamorphosis* and Dostoyevsky’s *Crime and Punishment* were probably the books that did the most to inspire me to a life of reading when I was a teenager. A few years later, when my interest in history and politics grew, Immanuel Wallerstein’s *The Modern World-System* was formative, but it’s a little dated. *One Hundred Years of Solitude* by Gabriel Garcia Marquez and *To the Lighthouse* by Virginia Woolf are other favorite books. I believe there is still a lot to be learned from reading two authors that are unfashionable now, namely Sigmund Freud and Karl Marx, though I’ll admit that both made a lot of mistakes. Then again, we all do.

SK: Do you have a favorite TV show? A favorite film?

JS: My favorite current television show is HBO’s “Six Feet Under.” My all-time favorite television shows include “Star Trek: The Next Generation,” and “Get Smart.” Do you think I could get a “cone of silence” on e-Bay? Movie favorites include *North by Northwest*, *2001: A Space Odyssey*, *Monty Python and the Holy Grail*, *Annie Hall*, *The Return of the Secaucus Seven*, *The Tin Drum*, *Do the Right Thing*, *The Usual Suspects*, *Fearless*, *The Secret Garden*, and *Being John Malkovich*. I just recently saw *Fearless* again; Jeff Bridges stars as a plane crash survivor. It’s amazing. John Sayles and Agnieszka Holland are probably my favorite current directors. I’ll see anything they make.

In December of 2002, the Cuyahoga County Board of Health, The City of Cleveland Department of Health, and The City of Lakewood Division of Health announced that would conduct a door-to-door survey in Cuyahoga County over a two week period to determine the percentage of people who may have been exposed to West Nile virus. "West Nile virus is spread by the bite of an infected mosquito. Most people who become infected with West Nile virus will have either no symptoms or only mild ones. However, on rare occasions, West Nile virus infection can result in severe and sometimes fatal illnesses. In the U.S. in 2002, there were 4,156 cases of West Nile virus with 284 of those resulting in death," according to the CDC website. The West Nile survey in the Cleveland area involved taking blood samples and answering some questions. While it wasn't specifically stated if children would be asked to participate in this survey, what would change if they were? What is the protocol when using children as subjects: is the consent of parents enough, or should children have a say in whether or not they want to opt in? In the West Nile project, obtaining a blood sample was necessary – so what do you tell a child about the needle and pain? And afterwards, do you share in the information gathered with the children, whether or not they understand fully?

Questions such as these and many others were raised and debated during the *CWRU Conversations on Children in Research and Policy* presentation entitled "Ethics and Research on Children in the Community: Finding the Right Balance." This one in a colloquia series that extends into 2003, sponsored by the Schubert Center for Child Development and the CWRU Consortium for Children, Families and Communities. This discussion was led by ethics fellow Eric D. Kodish, MD, an associate professor at Case Western Reserve University's School of Medicine, where he holds academic appointments in biomedical ethics, pediatrics, and oncology and is director of the Rainbow Center for Pediatric Ethics. For this talk, Dr. Kodish drew on material from a paper commissioned by the National Academy of Sciences entitled "Finding the Right Balance," as well as his own experiences working with children in the clinical research environment.

While the pillars of pediatric ethics reflect that of medical ethics (respect, beneficence [do no harm], justice); beneficence is by far the most

crucial principle of pediatric ethics. Dr. Kodish explained that the Academy of Pediatrics thinks about children having "inherent worth, as they are legacies and the future, and we should always to be thoughtful about how we treat children." Despite this, Dr. Kodish believes that pediatric ethics has been left behind in the overall focus on bioethics.

In 1979, the face of subject research was changed forever by the publication of the Belmont Report. The report was written when the decades-long unethical and terrible treatment of research subjects came to light. The Belmont Report helped to map out the now well-known building blocks of research ethics: informed consent, risk/benefit assessment, and acknowledgement of justice.

Post-Belmont, there has been work done to protect subjects even more thoroughly. Dr. Kodish calls an important piece of this "The Three Is:" investigator integrity, IRB (Institutional Review Board) approval, and informed consent. "I believe informed consent is the least effective way to protect human subjects," he said. "The most effective way to ensure protection is investigator integrity, but this is also the hardest to enforce. However, seminars like these go a long way toward assuring investigator integrity." Solid investigator integrity could also go a long way toward protecting important issues from political and bureaucratic hijacking.

There are important distinctions to make when it comes to research in the community and research in the hospital. For example, explained Dr. Kodish, while beneficence is always important in a research setting, in a community setting, maybe justice is even more important. By justice one can mean respect for the subject. "Participant selection is a component of this," said Dr. Kodish. "Are we looking at a vulnerable population like the elderly, pregnant women or children? How does justice get played out in the selection process? We need to pay close attention to this for both potential benefits and potential risks. In research ethics, risk and benefit is tricky. There's always risk to the subject, sure, but benefit can mean anything: benefit to the subject, but also to a drug company, to the investigator, to the health insurance company."

When it comes to researching children, the usual rules tend to change.

How an investigator manages data, privacy, and the balance between, is vital when it comes to children. “Adults are free to make their own decisions (like ‘I want to benefit others’), but a child is vulnerable,” he explained. Even if a child’s parents give the OK, investigators need to trust, but verify, especially when money is being offered.” He added, “Children are not the property of their parents.”

While many investigators and IRBs are careful when it comes to children and research, some have forgone the study of children at all because of the risk associated. As a result, Dr. Kodish explained, “There is a Catch-22. Children have been understudied and overprotected.” But Dr. Kodish believes it doesn’t have to be that way.

One of the important keys to “keeping the balance” is making sure a child faces “no more than minimal risk” when doing school-based or door-to-door research. “Minimal risk” is the risk a child encounters in their day-to-day life, *i.e.*, at school, or at the pediatrician’s office. “Keeping in mind the probability and magnitude of harm if discomfort is involved,” added Dr. Kodish.

But investigators need to be very careful about how they measure what that risk is. Recently, Dr. Kodish was part of an advisory committee sub-group that helped to explore the inherent wrongness in the idea that if the day-to-day life of some children has more risk associated with it, you can subject them to more risk in research than you would other children. “We need a more aspirational model of what normal childhood ought to be. We should not use that condition to justify more exposure to more risk – especially in research in the community.”

How a researcher approaches a community is as important as the data he/she will gather. With research in the community, a good starting point is understanding -- people need to be made aware that their participation in a community research project is purely their own decision; they can opt in or out of being used as subjects in research. Dr. Kodish added, “Parents and adults have a hard enough time understanding that they can choose not to participate in research, let alone realizing that the same understanding applies to their children.” Ideally, researchers and the community they will be studying should have an active, working partnership. “The community needs to understand all the components of the research,” explained Dr. Kodish, “and researchers

have an important ethical obligation to share the results of their research with the subjects who participated; or at least *offer* to share the results. And anything that a researcher can do to help the subjects and their families understand what is being done to benefit others will help in strengthening the partnership.”

Kodish believes that low risk research involving children in the community offers an excellent opportunity to—not only get children involved—but to study the results of letting the children be involved. “Right now, for some projects, there is a push to involve children by getting their assent—this would be from the ages 8-14; and then after the age of 14, informed consent could be given,” said Dr. Kodish. “Assent” means an affirmative agreement. “Informed consent” means the agreement is given only after a complete explanation is made and understood by the patient/research subject. However, there are pitfalls to using something as arbitrary as age as a barometer to gauge kids’ readiness. “You shouldn’t generalize; kids are all different. It’s better to see what types of questions children ask; in fact, whether they are asking questions at all is at least one good indicator of what the children understand, or if they feel comfortable with the investigator — children are able to express a lot, if they feel willing,” he added.

When gathering the information that comes from children in the community, investigators need to be aware of breaches of confidentiality. “These can lead,” Dr. Kodish believes, “to stigmatization and discrimination. You can stigmatize a child by stigmatizing their neighborhood, ethnicity, age group, or gender.” Dr. Kodish explained that IRBs need to see a good plan in place before researchers begin their studies. Part of this means explaining things, in detail, to the people of the community. “To be really ethical, you do not want to add to the perception that there are unfulfilled promises,” he said. “There is a concept called ‘therapeutic misconception.’ It occurs when people in a hospital are approached to be involved in research and assume it is for their own good. Unfortunately, the concept of ‘therapeutic misconception’ can be translated to community research, too. Do people in the community think they are going to benefit from all sorts of research, and then have their expectations unfulfilled?”

Any community research, but especially in research involving children, demands that

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# A Glance at Professor Philip C. Bobbitt

## The Ends and Means of a Stimulating Discussion

At first glance, the choice of Professor Philip C. Bobbitt as the keynote presenter for the Center for Professional Ethics' contribution to the Provost-funded CWRU series entitled "America's Role in the World" seems obvious merely because of his C.V. He holds an A.B. in Philosophy from Princeton University; a J.D. from the Yale Law School; a Ph.D. in Modern History from Oxford University, and is currently the A.W. Walker Centennial Chair in Law at the University of Texas where he has been a member of the faculty since 1976. But that's only the beginning: he's also served in the U.S. government under both parties and in all three branches, and until mid-June of 1999, he was the Senior Director for Strategic Planning at the Nation Security Council. Don't forget his latest book, *The Shield of Achilles*. It has been widely acclaimed because of its depth and scope, as well as the seamless way it intertwines art, literature, politics and philosophy – all while talking about...war.

War is the word on everyone's lips right now, just as it was on November 18, 2002, when the CPE held the forum *Ends and Means in the War against Terrorism* at the CWRU School of Law. Professor Bobbitt, along with CWRU Professors Ken Grundy (Political Science) and Michael Scharf (Law), gave the large group gathered more than just food for thought. In the words of CPE Director Robert Lawry, moderator of the forum, "The challenge of what Professor Bobbitt is talking about is that the world is changing and the world continues to change. The reason I think Professor Bobbitt is so important to us is because he's trying to say, 'Look, I don't know for sure what's going to happen, but the world constantly changes and we can't use the same concepts and we can't use the same strategy that we did yesterday to fight what is a new kind of problem.'"

Lately, the soft-spoken and erudite Professor Bobbitt has challenged quite a few preconceived notions. In a book review, Fred Siegel of the *Weekly Standard* writes, "Bobbitt's book (*The Shield of Achilles: War, Peace and the Course of History*) has evoked a bitterly hostile response from the *bien pensants* of academia, who brand him a war monger." Yet, in Bobbitt's *Ends and Means* speech to the CWRU community, he says, "I think

that cloaking policies within the mantle of war, although it's something that shrewd politicians can do, is very unethical. And calling people unpatriotic [for disagreeing with the government] is shameful. It is tempting to conduct a 'perpetual war' just so you can cloak all these things in patriotism while wrapping the flag around the other policies." Michael Knox Beran was on the money when he called Bobbitt, "a rare combination of philosopher and public servant."

While neither Professor Scharf nor Professor Grundy fully agreed with all of what Professor Bobbitt had to say, they did agree that Professor Bobbitt was "a great sparring partner" and "stimulating," respectively. As well, Professor Lawry brought Philip Bobbitt to speak at CWRU not because he agreed on all issues with Professor Bobbitt, or because Professor Bobbitt was uncontroversial; it was because Professor Bobbitt had something new and thought-provoking to say. In the last part of his keynote speech, Professor Bobbitt said, "We must develop rules that define what terrorism is; who is a terrorist; and what states can lawfully do to fight them. Unless we do this, it will bring our alliances to ruin, as we appear to rampage around the world, declaring our enemies to be terrorists and ourselves to be above the law in retaliating against them. We will become, in the eyes of others, the supreme rogue state and will have no moral basis on which to justify our actions and the simple assertion of our power. At the same time, we must preserve our open society by careful appreciation of the threat that terrorism poses to it and not by trying to minimize it, or to appease people who wish it would go away."

Pretty stimulating....

*The Ends and Means forum was co-sponsored by the Center for Professional Ethics, the Center for Public Policy and the Frederick K. Cox International Law Center.*

# Industry-Sponsored Research -- What's Wrong?

## Professor Andrew Trew Talks About IRBs, Ethics and Patients

On February 12, 2003 the Department of Bioethics at CWRU series, *Conversation in Bioethics* featured friend of the CPE, Professor Andrew Trew. Andrew Trew is a professor of bioethics, and the director of the Tuohy Program on Science and Religion at John Carroll University in Cleveland, Ohio. His talk, "IRBs vs. Industry: Who's Controlling the Ethics of Biomedical Research?" touched on some subjects which are central to Professor Trew's expertise: legal issues in bioethics (he holds a J.D. from the University of Bristol, England) and practical issues confronting IRBs (Institutional Review Boards). He is the only non-institutional member presently holding a seat on the Cleveland Clinic's IRB.

Independence of researchers; conflicts of interest; treatment of patients without adequate consent – these are just a few of the serious problems IRBs around the country have been dealing with now more than ever. Professor Trew believes the problem springs, not from how the research is being done, but from the sheer volume of medical research institutions are trying to do, ever since the commercial industry began sponsoring them. "Institutions feel pressure to acquire as many of these prestigious contracts as they can," said Professor Trew. "There has been such increase in industry-sponsored research that these IRBs are overburdened with the ethical problems which have increased dramatically in the last few years."

The Bayh-Dole Act of 1980 led to the commercialization of federally funded inventions, which led, added Professor Trew, "to large degrees of technology transfer between universities and the commercial sector." He believes within these partnerships lie some enormous benefits, as well as enormous pressures and many traps and temptations.

The "business" of medical research has grown dramatically in the last 20 years. "In terms of dollars, this is a huge industry, and the growth shows no signs of slowing down. Between 1980 and 2000, the dollar amounts go from 1.5 billion in 1980, to 24.5 billion in 2000." He added, "And the revenue generated from the actual outcome from this type of research is 130 billion dollars a year. In essence, you have to look at the ethics of healthcare in a business environment."

Professor Trew wonders how well the patients' and consumers' watchdogs – institutional review boards – are able to, not only resist the pressures from a commercial healthcare industry, but stay abreast of all facets of the medical research going at their institutions. More importantly, can a balance be struck between the realities of this industry and the adequate protection of the vulnerable? "There have been deaths in healthy volunteers in studies. IRBs are taking a closer look, not just at conflict of interest, but the complexity of the research environment today," said Professor Trew.

But are IRBs the only ones who should be 'taking a closer look?' "Perhaps we need bigger watchdogs," said Professor Trew. "Maybe we need stronger oversight by the federal government, including regulation of ethical standards. Recent legal actions have shown that lawyers have become another sort of watchdog for patients and subjects — lawyers are looking at challenges to the question of whether informed consent has been obtained, and whether conflicts of interest have been adequately disclosed."

While oversight is important, there needs to be a way of preventing these problems from occurring at all. "The lack of accreditation for bioethicists is a problem. What the underpinning philosophy of bioethics is in the 21st century remains remarkably vague." Traditional ideas of what healthcare ethics entail are now being merged into business and legal issues. "Now contractual legal considerations are overshadowing and dominating what used to be the individual relationship between doctor and patient, and it is threatening the nature of the Hippocratic ideal; a notion which is based on trust, personal relationships and equal treatment for rich and poor," he explained.

Traditionally, IRBs have struggled to reflect traditional principles of bioethics. Nowadays, they need to be fluent in not only traditional medical ethics and bioethics, but the ethics of business, technology, law...and the list keeps on growing. "Members of these boards have to deal with unseen pressures and review complex studies over which they may have little expertise. "For example," said Professor Trew, "in these

days of high technology in medical institutions, what we 'can do' should not take the place of what we 'ought to do.' In regard to business and finances, where do you start with total financial disclosure – with the investigator/researcher? Should researchers get a payment at all? Or, should there be a limit to how many studies an investigator can work on?"

Those are not the only serious issues. In a piece entitled *Science for Sale* shown on Bill Moyers' program *Now*, it was shown that advertisers are collaborating with sponsors to produce their own private research activities. "These activities are very much skewed toward the corporate agenda," said Professor Trew. "Sponsors have also been trying, through back door activities using IRB's in-house lawyers, to acquire information about research subjects, using the idea that they hold ownership over the research data."

Professor Trew believes there are simple ways to help ensure that an institutional review board is sound, ethically. "The IRB should always be bending over backwards *not* to be a lapdog of the institution, but a watchdog for patients and subjects," he said. "I believe the independence of the IRB is key — 25% of the board should be non-institutional, including, perhaps, an independent bioethicist or healthcare lawyer. In looking at the individual interests of each of the members: do they have any undue interest in the sponsoring companies; do they hold shares in sponsoring companies?"

However, change from the outside has already begun. In 2000, the Department of Health and Human Services released an interim guidance provision which focused on the structure of both the boards and the research. "This helped to improve awareness of commercially credited research and forced a greater exchange of information between conflict of interest committees and IRBs. There are now training courses for IRB members and investigators, and full disclosure of financial interest on the parts of all parties. All of this done to raise ethics standards in the institution."

In 2001, the AAMC (Association of American Medical Colleges) produced a report that gave priority to patient welfare and asked for transparency of financial interests. Professor Trew believes that focusing on patients' and/or subjects' rights should always be the first priority. "Patients have a right to know whether their doctor has a relationship, or connection to, a

sponsor," he said. "In regard to research, many people think that rather than being *subjects*, they are *patients* who are being treated. Sick people are vulnerable and enrollment in a research study is, many times, a last chance. People need to know exactly what all of this means, and where they stand."

*Andrew Trew was last featured in the Center for Professional Ethics newsletter in Summer 1999. The piece is called "Regulating Ethics." To view the article go here: (<http://www.cwru.edu/groups/cpe/cpe.html>) — click on Spring/Summer 1999).*

## Children

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research institutions, researchers, principal investigators, and IRBs work together to make sure mistakes are not made at any step of the process. The Kennedy-Krieger study and subsequent case is a good example of what can happen when there is a breakdown. "The Kennedy-Krieger case involved a lead study in Baltimore," explained Dr. Kodish. "In the course of this study about different methods of lead abatement (more expensive vs. less expensive) in inner-city Baltimore. While the researchers found that some kids had elevated levels of lead in their systems—they never informed the parents. Parents sued Kennedy-Krieger saying they should have been told about these elevated lead levels." What makes this case especially controversial is that it was dismissed by the lower court because the lawyers for Kennedy-Krieger argued that "they have no obligation or duty to subjects because they are not patients; there is no duty of care to a research subject." Dr. Kodish added, "This was a big mistake! The plaintiffs appealed to the highest court in Maryland, and they issued a vicious condemnation of that approach saying, 'Of course these researchers have an obligation to children, and moreover, you shouldn't be doing any research on children which can potentially harm them at all.'" Dr. Kodish agreed with this, and added, "Perhaps the duty of care regarding a researcher is different than a doctor to her patients, but it is a duty of care nonetheless."

*Dr. Eric Kodish is on staff at Rainbow Babies and Children's Hospital. He was a fellow of the Center for Professional Ethics during the summer of 1996. He has received funding from the National Institutes of Health as well as the National Cancer Institute as Principal Investigator of a grant to study informed consent. In addition to compiling a growing list of publications in his own right, he is a peer-reviewer for several journals.*

# The Aftermath of War

In my judgment, the war in Iraq was morally unjustified. Among other reasons, it did not meet the important just war principle of being “necessary,” a last resort, rather than a mere strategic choice. War brings so much death and destruction, intended and unintended. It must not be anything other than the last option of decent and rational people.

The war was also a violation of basic principles of international law. (And the moral and the legal here, as often is the case, are closely linked). It was not a legitimate act of self-defense. Neither the United States nor any other country was under imminent—or even remote—threat of attack by Iraq; nor was the war sanctioned by the United Nations.

Finally, the war was a foreign policy and strategic blunder. Not only have allies been alienated, but enemies—including terrorists and rogue states—have been hardened in their hatred and/or fear of us. As I write (April 29, 2003), the fact that about a dozen would-be demonstrators in a city near Baghdad were reportedly killed by our soldiers is emblematic of the problems ahead.

Now, it would take more than a few paragraphs in a newsletter column to set forth all of the arguments that led me to the conclusions set forth above. I know there are honest and honorable people who would disagree with one or more of those conclusions. I would like to debate those who disagree, but I am not going to do so at this time. I judge it more important to engage now with the aftermath of war. We have choices to make in the weeks and months ahead that will have important and long-term implications, as the war itself did. However, the war is over. That choice was made. It cannot be undone. I want to examine where it is we go from here. Of course, the thinking and the policy decisions that helped to propel us into the Iraqi conflict must be examined and challenged anew as we move ahead; so there is a clear linkage of past and future in this discussion. Moreover, I will examine only the moral implications of what we might do, although it is not possible to disengage the moral issues from those that are issues of international law, or, in the broadest sense, strategic.

The two most prominent features of our stated

foreign policy doctrine are: unilateralism and pre-emption. The first, unilateralism, sets the tone for all that follows. My understanding of the term amounts to this:

(1) The United States is the sole super-power in the world; and it is the biggest and strongest military and economic force in the world.

(2) The United States will determine what we will do to protect our own interests and the interests of others, even if any of those others disagree with our methods or our goals.

Although (1) is undoubtedly true as a factual matter, when linked to (2), it is a dangerous form of moral arrogance. It is disrespectful of others in the extreme. It relies upon our military and economic power to push others around. It is the attitude of a bully. Indeed, it is the perception of much of the rest of the world that this is what the United States has become: a bully. I do not deny that the United Nations is an imperfect international institution. It is often frustrating to deal with others through that institution. Yet the U.N. was conceived in the aftermath of WW II as the political instrument by which future wars would be curtailed or averted. Moreover, outside the U.N., few of our own allies have joined with us in the Iraqi conflict. Of course, countries like France posture, acting sometimes in transparently self-serving ways. Nevertheless, it is essential in this ever-shrinking world that we talk and argue, not just simply demand, and then act defiantly when others disagree. If we are truly interested in winning the peace, we cannot do it alone. There is much uneasiness in the world over the attitude the United States has struck about its occupation of Iraq, and the rebuilding of that country. Are we truly going to go it alone? Do we intend no continued military presence there; only assistance to that country to rebuild it? And do we truly believe we can transform this Arab state into a flourishing democracy without help from others? Or will we treat the Iraqi people the way we currently treat even our allies—with disdain if they disagree? This is moral arrogance merging into hubris—with all the tragic consequences that the word has built into it since we learned it from the Greeks.

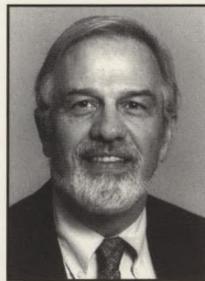
All of the above would be bad enough if the issues were less momentous. However, the doctrine of preemption together with unilateralism is an ominous thing. We attacked Iraq preemptively. Before we began our siege, that country was relatively weak, both economically and militarily. Not only did Iraq not present any imminent danger to the United States or even any other country in the Middle East, it posed no real long term threat either. Inspectors were on the ground looking for weapons of mass destruction. None have yet been found, even now. The suggestion that Iraq had anything close to nuclear weaponry was dismissed by all intelligence sources—although the White House said otherwise in the course of arguing for the war. What chemical and biological weapons it may have had is unknown. If something is eventually found, is it seriously to be argued that they posed a threat in the foreseeable future to anyone else? So the basic argument advanced by the administration had no foundation.

There is no evidence that Saddam Hussein's regime was linked to al-Qaeda or to the destruction of the twin towers of the World Trade Center. Again, this linkage was subtly but unmistakably made by the U.S. government. Nearly half of the U.S. population reportedly still believes in this linkage. All that has happened with Iraq was fueled by the awful terrorist attacks on 9/11. In that sense, the terrorists have begun to win their war against us. 9/11 has made us knee-jerk shooters in the dark with bloody consequences for too many.

Remember, the decision was made solely by the U.S.A., on evidence that was thin or non-existent that we should release our awesome fire-power on a weak country that posed no discernable threat to anyone. As a result, many people died, many were wounded, devastating destruction was wrought. Much of the suffering was born by innocents, of which I include not just Iraqi innocents, but those who so gallantly fought for the allied armies. Is a world where this kind of decision can and is made by one nation a world we want to be responsible for building? No plausible theory of self-defense or the defense of others can be made from such materials. Admittedly, Saddam Hussein was/is a very bad man, ruthless and hurtful to his own people. But he was being squeezed by the international community. With diplomacy and patience, perhaps the rest of the civilized world would have taken more steps to effectuate regime change. We will never know. What we do know is that, fueled by "success" against a hapless nation, U.S. leaders are looking to do the same elsewhere. They have said so. Is there any doubt they mean to do so, as soon as the smoke

of this campaign settles, and we can determine who is next. At first, it seemed Syria might be the chosen foe. Now a high level administration official was quoted the other day as saying, "Anyone can go to Baghdad. Real men go to Tehran."

Any full moral analysis takes account of motives. Frankly, the motives of those who are responsible for our foreign policy are not clear to me. No doubt, they are inevitably mixed. Because the justification for the Iraqi war is so weak, it is no wonder there are lots of guesses by lots of people as to the "real" motives of our leaders. I will not indulge in that guessing game. For, no matter their motives, their actions and policy statements lead to the conclusion that we embarked on an immoral enterprise. I have not yet mentioned the economic costs of this dangerous journey, and the lack of attention we are evidencing regarding all things domestic, whether it is the economy in general or the scandalous health care crisis in particular. I am now just pleading that we think hard and debate carefully; and engage in whatever meaningful political activity possible to stop the United States of America from becoming carelessly imperialistic. We are clearly on the brink.



*Robert P. Lawry is the Director of the Center for Professional Ethics and a Professor of Law at Case Western Reserve University School of Law. His column, Director's Corner, appears in each issue.*

## Sadowsky

*continued from page 3*

SK: If you had to choose a time period to live in, when would it be and where would you live?

JS: I could live in any era, but would want to live in one of the biggest cities of the time. I love cities.

SK: Plain and simple: If you had the choice to be batman or superman, which would you be, and why?

JS: I grew up reading Marvel Comics, not DC. Daredevil was my favorite character, and I am appalled that Ben Affleck, who has shown no signs of being an actor, has been cast to play him in the movie. That said: of course Superman has tremendous abilities. But Batman has a cooler costume, and that settles it.

# News, Notes, and Future Events

## Ethics Fellows News

Ethics fellow William Deal was featured in both the *Campus News* and *CWRU Magazine* recently.

The CWRU *Campus News* reports that **Professor Deal** and Brian Ruppert will be collaborating on a book about medieval Japanese Buddhism because of the generous support of the Baker-Nord Center for the Humanities' Visiting Collaborators' Program.

**Professor Deal**, his students, and his "Ethics in Local Perspective" course are featured in an issue of the CWRU Magazine. You can view it here: <http://www.cwru.edu/pubs/cwrumag/winter2003/departments/classacts/index.shtml>

Ethics fellow **Tim Shuckerow** and the beautiful, "new" art education and art studio building is also featured in the publication. You can view it here: <http://www.cwru.edu/pubs/cwrumag/winter2003/features/picture/index.shtml>

## The Center for Professional Ethics

**Robert P. Lawry**  
*Director*

**Jeanmarie Gielty**  
*Writer and Editor*

The Center for Professional Ethics at Case Western Reserve University provides opportunities for students, faculty, administrators and professionals to explore more fully the foundations of personal and professional ethics. To join, please fill out the membership form on the back page of this newsletter. This newsletter is printed four times yearly. All rights reserved.

## Center for Professional Ethics News

The Center for Professional Ethics has finally updated its website! You can catch up on newsletters (issues from 1998 through 2003 are archived), read about the history of the CPE, or send us comments.

<http://www.cwru.edu/groups/cpe/cpe.html>

## HEC Forum on Bioethics Consultation in the Private Sector

The past three to four decades have witnessed bioethics consultation in the academy and the hospital setting as well as in the courts and on government panels. Today, the biotechnology industry is also calling upon bioethicists for input or advice. The extent to which bioethicists can provide consultations in the private sector and maintain their integrity is of concern to many in the field. As a result, the American Society for Bioethics and Humanities and the American Society for Law, Medicine and Ethics convened a task force to study the issue of bioethics consultation in the private sector. The task force prepared a report, published in the *Hastings Center Report* (volume 23, number 3, May-June, 2002, pages 14-20). The Report addresses a number of issues relevant to such consultation and identifies factors bioethicists should consider before engaging in private sector consulting as well as during and after providing such services.

Papers are sought for a thematic issue of HEC Forum on bioethics consultation in the private sector. Papers should offer critical commentary on the Task Force report and address issues of bioethics consultation in the private sector. Papers should not exceed 30 typed, double-spaced pages. Papers will be subject to blind peer review. Submissions may be submitted electronically to: [iltisas@slu.edu](mailto:iltisas@slu.edu)

Submissions may also be sent to:  
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