# Rape Survivors PIC

## 1nc

### 1nc – proper

#### Counterplan Text: Public colleges and universities in the United States ought to only restrict constitutionally protected speech in order to grant survivors of sexual harassment control over information disseminated in school newspapers about the details of sexual harassment cases.

Tyler-March 16 Mary, reporter at the Student Press Law Center, an advocate for student First Amendment rights, for freedom of online speech, and for open government on campus. The SPLC provides information, training and legal assistance at no charge to student journalists and the educators who work with them. “University of Kentucky victims seek to join lawsuit against student newspaper” November 17, 2016. SA-IB 12/22/16

KENTUCKY—Two of the [survivors] ~~victims~~ reportedly detailed in a sexual assault and harassment investigation at the University of Kentucky are seeking to join the university in its lawsuit against the school’s student newspaper. The case follows a months-long open records battle between the university and its independent student newspaper, the Kentucky Kernel, over documents relating to sexual misconduct accusations against former associate professor, James Harwood. The [survivors] ~~victims~~, labeled Jane Doe 1 and Jane Doe 2 in a brief filed Monday in Fayette Circuit Court, say that news stories covering the case have already sufficiently informed the public about Harwood and his reported sexual misconduct. “Although the [survivor] ~~victims~~ believe that sufficient information should be disclosed to warn about Harwood’s actions (facts that are now publicly known), the [survivors] ~~victims~~ adamantly oppose the disclosure of additional highly personal records about them that may lead the media or other interested persons to discover their identities,” the brief says. “As the media’s interest in the victims’ story has persisted, the line between the laudable goal of transparency and the blatant invasion of privacy has been crossed.” Tom Miller, the Kernel’s attorney, said he will oppose the motion, but it will likely pass at the discretion of the judge. In an objection filed Tuesday, Miller wrote that the motion involves a question strictly of law and whether the records were public records — not necessarily a matter of who was impacted. “There is neither any basis nor necessity for granting what is effectively a motion to intervene,” he wrote. In the brief, Miller also noted concerns surrounding a potential conflict of interest between the victims’ attorney and the University of Kentucky. The victims, according to the Lexington Herald Leader, are being represented for free by Daniel A. Cohen, an Atlanta-based attorney with the Washington law firm Baker Donelson. Cohen specializes in assisting universities with Title IX and campus sexual assault investigations. The firm, the brief notes, also represents the University of Kentucky, though information regarding the university and the firm’s ties appeared to have been removed from Baker Donelson’s website just prior to Miller’s filing of the motion. The brief cites a July 2015 Ethics Reporter issued by the Kentucky Legislative Ethics Commission which found that the UK Research Foundation had ended a nine-month, $108,000 lobbying contract with Baker Donelson. According to the Center for Responsive Politics, the university paid Baker Donelson $50,000 in 2015 for lobbying efforts done on behalf of UK. Cohen did not respond to requests for comment. While Miller says the university is already ably represented, UK spokesperson Jay Blanton said he supported the victims’ motion to join the suit. “The university’s steadfast belief has been — and continues to be — that only victim-survivors should be able to choose when, how much, or even if to tell their stories,” he said in an email to the Student Press Law Center. “We hope the Office of the Attorney General and the Kernel will agree with this motion, which is customary in cases like these, to allow the voices of victim-survivors to be heard in this case. We should all want to hear their stories — directly from them in an unfiltered manner of their choosing. That has always been what is at stake in this litigation.”

#### Restrictions on student journalists violate the first amendment.

Schuman 16 Rebecca, columnist for Slate and the author of Schadenfreude, A Love Story and Kafka and Wittgenstein. “Student Journalists Are Under Threat: Universities are increasingly cracking down on their speech. That’s bad news for them and very bad news for democracy.” December 08, 2016. SA-IB 12/22/16

Well, here’s some great news to cheer you up: **The American student press is under siege**! Apparently, we’ve been too busy blowing gaskets over professor watch lists and “safe spaces” to recognize the actual biggest threat to free speech on college campuses today. According to a new report by the American Association of University Professors, in conjunction with three other nonpartisan free-speech advocacy organizations, a disquieting trend of administrative censorship of student-run media has been spreading quietly across the country—quietly, of course, because according to the report, those censorship efforts have so far been successful. The report finds that recent headlines out of Mount St. Mary’s University, for example, may be “just the tip of a much larger iceberg.” Indeed, “it has become disturbingly routine for student journalists and their advisers to experience overt hostility that threatens their ability to inform the campus community and, in some instances, imperils their careers or the survival of their publications.” The report chronicles more than 20 previously unreported cases of media advisers “suffering some degree of administrative pressure to control, edit, or censor student journalistic content.” Furthermore, this pressure came “from every segment of higher education and from every institutional type: public and private, four-year and two-year, religious and secular.” It gets worse. In many of the cases in the report, administration officials “threatened retaliation against students and advisers not only for coverage critical of the administration but also for otherwise frivolous coverage that the administrators believed placed the institution in an unflattering light,” including an innocuous listicle of the best places to hook up on campus. In many cases, the student publications were subject to prior review from either an adviser who reported directly to the administration or the administration itself. Prior review means getting what’s in your newspaper signed off on by someone up top before it can be published. It is—to use the parlance of my years of professional journalistic training that began with my time as features editor of the Vassar College Miscellany News in the mid-’90s—absolute bullshit. (At public universities, it’s also illegal.) First, and most obviously, this is **because a free student press is a hallmark of the American higher education system, and any threat to that freedom is on its face worrying**. But there’s also this: **The last thing we need right now**, in the creeping shadow of American authoritarianism, is an entire generation of fledgling journalists **who’ve come up thinking censorship is acceptable**

#### Survivor-based control over information released by journalists is key to solve massive public shaming and backlash.

NAESV 17 National Alliance to End Sexual Violence. “Naming Victims in the Media” 2017. SA-IB 1/14/17

Some people argue that journalists should identify [survivors] victims of rape or sexual assault in news stories because they should be treated like any other crime victims. This position ignores important and unique aspects of the crimes of rape and sexual assault. Although rape and sexual assault occur at an alarming rate in our society, the vast majority of these crimes remain unreported. Victims [Survivors] remain silent because they fear being subjected to the intense public scrutiny and blame that often follow being named in the media. Our culture continues to condemn the [survivor] victim for rape and, as a result, an extraordinary amount of shame and silence follow the crime. Publicizing the name of a rape complainant under these conditions only deters more [survivors] victims from coming forward. As a result, the NAESV urges members of the news media to adopt the following policy on publishing the names of persons who come forward with a change of rape or sexual assault. It is the policy of this news organization not to publish the names of minors who come forward with allegations of sexual abuse or rape and to avoid reporting stories in such a way that these minors are identifiable. Barring extraordinary circumstances, it is also the policy of this news organization not to publish the names of adults who come forward with allegations of sexual abuse or rape unless those individuals are willing to be named in the media. Members of this news organization will report these stories with sensitivity toward the stigma associated with being publicly named.

### 1nc – kant

#### Controlling dissemination of one’s own information is a right under the will.

Judith DeCew 15 and Edward N. Zalta. “Privacy” The Stanford Encyclopedia of Philosophy. Spring 2015 Edition. https://plato.stanford.edu/archives/spr2015/entries/privacy/ SA-IB

A more common view has been to argue that privacy and intimacy are deeply related. On one account, privacy is valuable because intimacy would be impossible without it (Fried, 1970; Gerety 1977; Gerstein, 1978; Cohen, 2002). Fried, for example, defines privacy narrowly as control over information about oneself. He extends this definition, however, arguing that privacy has intrinsic value, and is necessarily related to and fundamental for one's development as an individual with a moral and social personality able to form intimate relationships involving respect, love, friendship and trust. Privacy is valuable because it allows one control over information about oneself, which allows one to maintain varying degrees of intimacy. Indeed, love, friendship and trust are only possible if persons enjoy privacy and accord it to each other. Privacy is essential for such relationships on Fried's view, and this helps explain why a threat to privacy is a threat to our very integrity as persons. By characterizing privacy as a necessary context for love, friendship and trust, Fried is basing his account on a moral conception of persons and their personalities, on a Kantian notion of the person with basic rights and the need to define and pursue one's own values free from the impingement of others. Privacy allows one the freedom to define one's relations with others and to define oneself. In this way, privacy is also closely connected with respect and self respect. Gerstein (1978) argues as well that privacy is necessary for intimacy, and intimacy in communication and interpersonal relationships is required for us to fully experience our lives. Intimacy without intrusion or observation is required for us to have experiences with spontaneity and without shame. Shoeman (1984) endorses these views and stresses that privacy provides a way to control intimate information about oneself and that has many other benefits, not only for relationships with others, but also for the development of one's personality and inner self. Julie Inness (1992) has identified intimacy as the defining feature of intrusions properly called privacy invasions. Inness argues that intimacy is based not on behavior, but on motivation. Inness believes that intimate information or activity is that which draws its meaning from love, liking, or care. It is privacy that protects one's ability to retain intimate information and activity so that one can fulfill one's needs of loving and caring.

## 2nr

### pic outweighs

#### The NAESV impact outweighs all of their offense –

#### Public shaming and backlash causes psychological violence to survivors which outweighs attempting to put the perpetrators picture in the paper

#### Outing in the media causes survivor-blaming which delegitimizes and diminishes their experience

### a2 censorship

#### 1. Survivor based control solves their offense – the university does zero content discrimination at all, rather the survivors have control over what information is released. Cross-apply NAESV – it should always be up to the survivor what information is released regardless of what we think.

#### 2. Spillover claims are nonsense – spillover involves the policy of the counterplan being used to justify other policies, but they’ve yet to explain how that happens

#### 3. CP fiats that this is the only instance in which colleges restrict speech – the text of the counterplan is that colleges only restrict speech in order to do the counterplan – means if the aff can solve, so can the counterplan.

#### 4. The survivors will let the public be informed of the sexual misconduct and the professor who did it, all they want is for their identities to remain secret which means they won’t excessively limit journalists – that’s Tyler-March 16.

### a2 new 1/25

#### 1] This evidence misunderstands the context in which the counterplan employs the case – the original Kentucky case was started when the newspaper requested records from the university, which the university didn’t provide. That’s a privacy law case. The counterplan is different – it establishes survivor based control over journalists which means if they survivors say so; the journalists can’t release information – that definitely violates their First amendment rights.

#### 2] Even if they win that the actual case was a privacy based case, the counterplan is obviously different enough to compete – that was explained above.

#### 3] If radical aff authors like Frank Lomonte agree with the competition, then they have to defend it – the counterplan definitely restricts speech.

Saul 16 Stephanie, winner of the 1995 Pulitzer Prize and 2010 Society of Professional Journalists Award for Science Reporting, a University of Mississippi graduate, investigative reporter for the New York Times since 2008, investigations focus on science and technology issues in various fields, including those related to pharmaceuticals, psychology, health and fertility innovations. “Campus Press vs. Colleges: Kentucky Suit Highlights Free-Speech Fight” December 02, 2016. The New York Times. http://www.nytimes.com/2016/12/02/us/kentucky-student-journalism-free-speech.html IB

Campus Press vs. Colleges: Kentucky Suit Highlights Free-Speech Fight The confidential informant had an explosive tip for the University of Kentucky’s campus newspaper: An associate professor of entomology had been accused of groping students, and the college, after an investigation, had permitted him to leave quietly. On the trail of a hot story, the paper, The Kentucky Kernel, requested files from the university. Officials turned over some documents, but they contained few details. Months later, though, in August, a 122-page dossier about the accusations was leaked to the newspaper, which reported the specifics, including one woman’s claim that the professor had grabbed her buttocks, crotch and breast during an off-campus conference in 2013. Now The Kernel is being sued by the university in a continuing battle over whether records in the case should be disclosed. And it is just one of several disputes between universities and student newspapers, which are pushing administrations to become more transparent about sexual assault, a defining issue on campuses around the country. With cuts at traditional news organizations, student journalists see their role as increasingly important in shedding light on the subject and are becoming more dogged in ferreting out information about sexual assault cases, particularly when faculty or student perpetrators could simply find other jobs or transfer to another university. Some are demanding that the student body be given details when a college confirms wrongdoing, particularly of a violent nature, by students, faculty or staff members. Universities, though, often invoke privacy concerns in refusing to make details of inquiries public. “The critical question is whether we are able to continue protecting the confidentiality and privacy of victim-survivors who courageously come forward to report details of their victimization,” wrote the University of Kentucky’s president, Eli Capilouto, in a universitywide email. “The protection of victim-survivor privacy,” the email continued, “requires more than the redaction of names. It requires the redaction of any information that might reasonably lead to the identification of victim-survivors as well as the intimate details of the sexual assault.” Frank LoMonte, executive director of the Student Press Law Center, a nonprofit organization, sees it another way. With state funding reductions and increasing competition for top students, colleges are more motivated than ever, he suggested, to maintain their reputations. “The stakes have increased for colleges to keep secrets,” Mr. LoMonte said. “They’re getting more aggressive.” His group has helped student journalists fight to get documents and other information, and has worked to fend off funding cuts that students believe were in retaliation for controversial articles.

### a2 hides 9/22

#### 1] if you think this card is fire, then I don’t want to see what you think is bad – the part of the card that they’re using is quoting the student journalists that are being sued, not the authors opinion and the student journalists aren’t really qualified.

#### 2] be skeptical of any position that doesn’t come directly from the survivors – what they want is what we should do, even if the poor journalists would have their first amendment dreams shattered, what the survivor wants comes first.

#### 3] they may be correct that Kentucky wanted to cover up sexual assault, but the counterplan uses Kentucky to establish competition, but what the counterplan actually does is quite different. Under the counterplan, the university imposes a rule on journalists that they must listen to the survivor’s wishes over information released – the university does ZERO CONTENT DISCRIMINATION.

#### 4] Their only argument here is that we wouldn’t find out about sexual harassment. This may be true if the university could discriminate, but the counterplan is different – it gives control to survivors who will let the public be informed of the sexual misconduct and the professor who did it, all they want is for their identities to remain secret which means they won’t excessively limit journalists – that’s Tyler-March 16.

#### 5] their card proves competition because it uses the phrase “open-records” and “limit the public’s ability to question its behavior” which proves a limit on the newspaper’s ability to say something is competitive with the aff.