## Chronicle AC

### Part 1: Framing

#### The starting point of government deliberation has to be the individual and how they relate to the social world around them. Rules only gain their force if they are open to public criticism. This means we need a procedural democracy that transcends the exact content of any moral rule. Adorno:

Adorno, Theodor. “Education after Auschwitz,” *Critical Model*

Since the possibility of changing the objective—namely societal and political— conditions is extremely limited today, **attempts to work against the repetition of Auschwitz are necessarily restricted to the subjective dimension.** By this I also mean essentially the psychology of people who do such things. I do not believe it would help much to appeal to eternal values, at which the very people who are prone to commit such atrocities would merely shrug their shoulders. I also do not believe that enlightenment about the positive qualities possessed by persecuted minorities would be of much use. The roots must be sought in the persecutors, not in the victims who are murdered under the paltriest of pretenses. What is necessary is what I once in this respect called the turn to the subject. One must come to know the mechanisms that render people capable of such deeds, must reveal these mechanisms to them, and strive, by awakening a general awareness of those mechanisms, to prevent people from becoming so again. It is not the victims who are guilty, not even in the sophistic and caricatured sense in which still today many like to construe it. Only those who unreflectingly vented their hate and aggression upon them are guilty. One must labor against this lack of reflection, must dissuade people from striking outward without reflecting upon themselves. The only education that has any sense at all is an education toward critical self-reflection. But since according to the findings of depth psychology, all personalities, even those who commit atrocities in later life, are formed in early childhood, education seeking to prevent the repetition must concentrate upon early childhood. I mentioned Freud’s thesis on discontent in culture. Yet the phenomenon extends even further than he understood it, above all, because the pressure of civilization he had observed has in the meantime multiplied to an unbearable degree. At the same time the explosive tendencies he first drew attention to have assumed a violence he could hardly have foreseen. The discontent in culture, however, also has its social dimension, which Freud did not overlook though he did not explore it concretely. One can speak of the claustrophobia of humanity in the administered world, of a feeling of being incarcerated in a thoroughly societalized, closely woven, netlike environment. The denser the weave, the more one wants to escape it, whereas it is precisely its close weave that prevents any escape. This intensifies the fury against civilization. The revolt against it is violent and irrational. A pattern that has been confirmed throughout the entire history of persecutions is that the fury against the weak chooses for its target especially those who are perceived as societally weak and at the same time—either rightly or wrongly—as happy. Sociologically, I would even venture to add that our society, while it integrates itself ever more, at the same time incubates tendencies toward disintegration. Lying just beneath the surface of an ordered, civilized life, these tendencies have progressed to an extreme degree. **The pressure exerted by the prevailing universal upon everything particular,** upon the individual people and the individual institutions, **has a tendency to destroy the particular and the individual** together with their power of resistance. **With the loss of** their identity and **power of resistance, people** also **forfeit those qualities by** virtue of **which they are able to pit themselves against what** at some moment **might lure them again to commit atrocity.** Perhaps **they are hardly able to offer resistance when the established authorities once again give them the order, so long as it is in the name of some ideal in which they half or not at all believe.** When I speak of education after Auschwitz, then, I mean two areas: first children’s education, especially in early childhood; then general enlightenment that provides an intellectual, cultural, and social climate in which a recurrence would no longer be possible, a climate, therefore, in which the motives that led to the horror would become relatively conscious. Naturally, I cannot presume to sketch out the plan of such an education even in rough outline. Yet I would like at least to indicate some of its nerve centers. Often, for instance, in America, the characteristic German trust in authority has been made responsible for National Socialism and even for Auschwitz. I consider this explanation too superficial, although here, as in many other European countries authoritarian behavior and blind authority persist much more tenaciously than one would gladly admit under the conditions of a formal democracy. Rather, one must accept that fascism and the terror it caused are connected with the fact that the old established authorities of the Kaiserreich decayed and were toppled, while the people psychologically were not yet ready for self-determination. They proved to be unequal to the freedom that fell into their laps. For this reason the authoritarian structures then adopted that destructive and, if I may put it so, insane dimension they did not have earlier, or at any rate had not revealed. If one considers how visits of potentates who no longer have any real political function induce outbreaks of ecstasy in entire populations, then one has good reason to suspect that the authoritarian potential even now is much stronger than one thinks. I wish, however, to emphasize especially that the recurrence or non-recurrence of fascism in its decisive aspect is not a question of psychology, but of society. I speak so much of the psychological only because the other, more essential aspects lie so far out of reach of the influence of education, if not of the intervention of individuals altogether. **Very often well-meaning people,** who don’t want it to happen again, **invoke the concept of bonds. According to them, the fact that people no longer had any bonds is responsible for what took place**. In fact, the loss of authority, one of the conditions of the sadistic-authoritarian horror, is connected with this state of affairs. To normal common sense it is plausible to appeal to bonds that check the sadistic, destructive, and ruinous impulse with an emphatic “You must not.” Nevertheless **I consider it an illusion to think that the appeal to bonds**—let alone the demand that everyone should again embrace social ties so that things will look up for the world and for people— **would help in any serious way.** One senses very quickly the untruth of bonds that are required only so that they produce a result—even if it be good—without the bonds being experienced by people as something substantial in themselves. It is surprising how swiftly even the most foolish and naive people react when it comes to detecting the weaknesses of their betters. **The so-called bonds** easily become either a ready badge of shared convictions—one enters into them to prove oneself a good citizen—or they produce spiteful resentment, psychologically the opposite of the purpose for which they were drummed up. They **amount to** heteronomy, **a dependence on rules,** on norms that cannot be justified by the individual’s own reason. W**hat psychology calls the superego, the conscience, is replaced in the name of bonds by external, unbinding, and interchangeable authorities**, as one could observe quite clearly in Germany after the collapse of the Third Reich. **Yet the very willingness to connive with power and to submit outwardly to what is stronger, under the guise of a norm, is the attitude of the tormentors that should not arise again. It is for this reason that the advocacy of bonds is so fatal. People who adopt them more or less voluntarily are placed under a kind of permanent compulsion to obey orders. The single genuine power standing against the principle of Auschwitz is autonomy**, if I might use the Kantian expression: **the power of** reflection, of self-determination, of **not cooperating.** I once had a very shocking experience: while on a cruise on Lake Constance I was reading a Baden newspaper, which carried a story about Sartre’s play Morts sans s ´epulchre, a play that depicts the most terrifying things.3 Apparently the play made the critic uneasy. But he did not explain this discontent as being caused by the horror of the subject matter, which is the horror of our world. Instead he twisted it so that, in comparison with a position like that of Sartre, who engages himself with the horror, we could maintain—almost maintain, I should say—an appreciation of the higher things: so that we could not acknowledge the senselessness of the horror. To the point: by means of noble existential cant the critic wanted to avoid confronting the horror. Herein lies, not least of all, the danger that the horror might recur, that people refuse to let it draw near and indeed even rebuke anyone who merely speaks of it, as though the speaker, if he does not temper things, were the guilty one, and not the perpetrators. With the problem of authority and barbarism I cannot help thinking of an idea that for the most part is hardly taken into account. It comes up in an observation in the book The SS State by Eugen Kogon, which contains central insights into the whole complex and which hasn’t come near to being absorbed by science and educational theory the way it deserves to be.4 Kogon says that the tormentors of the concentration camp where he spent years were for the most part young sons of farmers. The cultural difference between city and country, which still persists, is one of the conditions of the horror, though certainly neither the sole nor the most important one. Any arrogance toward the rural populace is far from my intentions. I know that one cannot help having grown up in a city or a village. I note only that probably debarbarization has been less successful in the open country than anywhere else. Even television and the other mass media probably have not much changed the state of those who have not completely kept up with the culture. It seems to me more correct to say this and to work against it than to praise sentimentally some special qualities of rural life that are threatening to disappear. I will go so far as to claim that one of the most important goals of education is the debarbarization of the countryside. This presupposes, however, a study of the conscious and unconscious of the population there. Above all, one must also consider the impact of modern mass media on a state of consciousness that has not yet come anywhere close to the state of bourgeois liberal culture of the nineteenth century. In order to change this state of consciousness, the normal primary school system, which has several problems in the rural environment, cannot suffice. I can envision a series of possibilities. One would be—I am improvising here—that television programs be planned with consideration of the nerve centers of this particular state of consciousness. Then I could imagine that something like mobile educational groups and convoys of volunteers could be formed, who would drive into the countryside and in discussions, courses, and supplementary instruction attempt to fill the most menacing gaps. I am not ignoring the fact that such people would make themselves liked only with great difficulty. But then a small circle of followers would form around them, and from there the educational program could perhaps spread further. However, there should arise no misunderstanding that the archaic tendency toward violence is also found in urban centers, especially in the larger ones. Regressive tendencies, that is, people with repressed sadistic traits, are produced everywhere today by the global evolution of society. Here I’d like to recall the twisted and pathological relation to the body that Horkheimer and I described in The Dialectic of Enlightenment. Everywhere where it is mutilated, consciousness is reflected back upon the body and the sphere of the corporeal in an unfree form that tends toward violence. One need only observe how, with a certain type of uneducated person, his language—above all when he feels faulted or reproached—becomes threatening, as if the linguistic gestures bespoke a physical violence barely kept under control. Here one must surely also study the role of sport, which has been insufficiently investigated by a critical social psychology. Sport is ambiguous. On the one hand, it can have an anti-barbaric and anti-sadistic effect by means of fair play, a spirit of chivalry, and consideration for the weak. On the other hand, in many of its varieties and practices it can promote aggression, brutality, and sadism, above all in people who do not expose themselves to the exertion and discipline required by sports but instead merely watch: that is, those who regularly shout from the sidelines. Such an ambiguity should be analyzed systematically. To the extent that education can exert an influence, the results should be applied to the life of sport. All this is more or less connected with the old authoritarian structure, with modes of behavior, I could almost say, of the good old authoritarian personality. But what Auschwitz produced, the characteristic personality types of the world of Auschwitz, presumably represents something new. On the one hand, those personality types epitomize the blind identification with the collective. On the other hand, they are fashioned in order to manipulate masses, collectives, as Himmler, H¨oss, and Eichmann did. I think **the most important way to confront the danger of a recurrence is to** work against the brute predominance of all collectives, to **intensify** the **resistance to** it by concentrating on the problem of **collectivization**. That is not as abstract as it sounds in view of the passion with which especially young and progressively minded people desire to integrate themselves into something or other. One could start with the suffering the collective first inflicts upon all the individuals it accepts. One has only to think of one’s own first experiences in school. One must fight against the type of folkways [Volkssitten], initiation rites of all shapes, that inflict physical pain—often unbearable pain—upon a person as the price that must be paid in order to consider oneself a member, one of the collective.6 The evil of customs such as the Rauhn¨achte and the Haberfeldtreiben and whatever else such long-rooted practices might be called is a direct anticipation of National Socialist acts of violence.7 It is no coincidence that the Nazis glorified and cultivated such monstrosities in the name of “customs.” Science here has one of its most relevant tasks. It could vigorously redirect the tendencies of folk-studies [Volkskunde] that were enthusiastically appropriated by the Nazis in order to prevent the survival, at once brutal and ghostly, of these folk-pleasures. This entire sphere is animated by an alleged ideal that also plays a considerable role in the traditional education: the ideal of being hard. This ideal can also, ignominiously enough, invoke a remark of Nietzsche, although he truly meant something else.8 I remember how the dreadful Boger during the Auschwitz trial had an outburst that culminated in a panegyric to education instilling discipline through hardness. He thought hardness necessary to produce what he considered to be the correct type of person.9 This educational ideal of hardness, in which many may believe without reflecting about it, is utterly wrong. The idea that virility consists in the maximum degree of endurance long ago became a screen-image for masochism that, as psychology has demonstrated, aligns itself all too easily with sadism. Being hard, the vaunted quality education should inculcate, means absolute indifference toward pain as such. In this the distinction between one’s own pain and that of another is not so stringently maintained. Whoever is hard with himself earns the right to be hard with others as well and avenges himself for the pain whose manifestations he was not allowed to show and had to repress. This mechanism must be made conscious, just as an education must be promoted that no longer sets a premium on pain and the ability to endure pain. In other words: education must take seriously an idea in no wise unfamiliar to philosophy: that anxiety must not be repressed. When anxiety is not repressed, when one permits oneself to have, in fact, all the anxiety that this reality warrants, then precisely by doing that, much of the destructive effect of unconscious and displaced anxiety will probably disappear. **People who blindly slot themselves into the collective already make themselves into something like inert material, extinguish themselves as self-determined beings.** **With this comes the willingness to treat others as an amorphous mass.** I called those who behave in this way “the manipulative character” in the Authoritarian Personality, indeed at a time when the diary of H¨oss or the recordings of Eichmann were not yet known.10 My descriptions of the manipulative character date back to the last years of the Second World War. Sometimes social psychology and sociology are able to construct concepts that only later are empirically verified. The manipulative character—as anyone can confirm in the sources available about those Nazi leaders—is distinguished by a rage for organization, by the inability to have any immediate human experiences at all, by a certain lack of emotion, by an overvalued realism. At any cost he wants to conduct supposed, even if delusional, Realpolitik. He does not for one second think or wish that the world were any different than it is, he is obsessed by the desire of doing things [Dinge zu tun], indifferent to the content of such action. He makes a cult of action, activity, of so-called efficiency as such which reappears in the advertising image of the active person. If my observations do not deceive me and if several sociological investigations permit generalization, then this type has become much more prevalent today than one would think. What at that time was exemplified in only a few Nazi monsters could be confirmed today in numerous people, for instance, in juvenile criminals, gang leaders, and the like, about whom one reads in the newspapers every day. If I had to reduce this type of manipulative character to a formula—perhaps one should not do it, but it could also contribute to understanding—then I would call it the type of reified consciousness. People of such a nature have, as it were, assimilated themselves to things. And then, when possible, they assimilate others to things. This is conveyed very precisely in the expression “to finish off” [“fertigmachen”], just as popular in the world of juvenile rowdies as in the world of the Nazis. This expression defines people as finished or prepared things in a doubled sense. According to the insight of Max Horkheimer, torture is a manipulated and somewhat accelerated adaptation of people to collectives.11 There is something of this in the spirit of the age, though it has little to do with spirit. I merely cite the saying of Paul Val ´ery before the last war, that inhumanity has a great future.12 It is especially difficult to fight against it because those manipulative people, who actually are incapable of true experience, for that very reason manifest an unresponsiveness that associates them with certain mentally ill or psychotic characters, namely schizoids.

#### Consequentially, Free speech is a gateway to every other impact. D’Souza 96

(Frances, Prof. Anthropology Oxford, http://www.europarl.europa.eu/hearings/19960425/droi/freedom\_en.htm?textMode=on)

In the absence of freedom of expression which includes a free and independent media, it is impossible to protect other rights, including the right to life. Once governments are able to draw a cloak of secrecy over their actions and to remain unaccountable for their actions then massive human rights violations can, and do, take place. For this reason alone the right to freedom of expression, specifically protected in the major international human rights treaties, must be considered to be a primary right. It is significant that one of the first indications of a government's intention to depart from democratic principles is the ever increasing control of information by means of gagging the media, and preventing the freeflow of information from abroad. At one end of the spectrum there are supposedly minor infringements of this fundamental right which occur daily in Western democracies and would include abuse of national security laws to prevent the publication of information which might be embarrassing to a given government: at the other end of the scale are the regimes of terror which employ the most brutal moves to suppress opposition, information and even the freedom to exercise religious beliefs. It has been argued, and will undoubtedly be discussed at this Hearing, that in the absence of free speech and an independent media, it is relatively easy for governments to capture, as it were, the media and to fashion them into instruments of propaganda, for the promotion of ethnic conflict, war and genocide. 2. Enshrining the right to freedom of expression The right to freedom of expression is formally protected in the major international treaties including the United Nations Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, Article 10 of the European Convention on Human Rights. In addition, it is enshrined in many national constitutions throughout the world, although this does not always guarantee its protection. Furthermore, freedom of expression is, amongst other human rights, upheld, even for those countries which are not signatories to the above international treaties through the concept of customary law which essentially requires that all states respect the human rights set out in the Universal Declaration of Human Rights by virtue of the widespread or customary respect which has been built up in the post World War II years. 3. Is free speech absolute? While it is generally accepted that freedom of expression is, and remains the cornerstone of democracy, there are permitted restrictions encoded within the international treaties which in turn allow for a degree of interpretation of how free free speech should be. Thus, unlike the American First Amendment Rights which allow few, if any, checks on free speech or on the independence of the media, the international treaties are concerned that there should be a balance between competing rights: for example, limiting free speech or media freedom where it impinges on the individual's right to privacy; where free speech causes insult or injury to the rights and reputation of another; where speech is construed as incitement to violence or hatred, or where free speech would create a public disturbance. Given that these permitted restrictions are necessarily broad, the limits of free speech are consistently tested in national law courts and, perhaps even more importantly, in the regional courts such as the European Commission and Court of Human Rights. In recent years several landmark cases have helped to define more closely what restrictions may be imposed by government and under what circumstances. In particular, it has been emphasised by the European Court that any restriction must comply with a three-part test which requires that any such restriction should first of all be prescribed by law, and thus not arbitrarily imposed: proportionate to the legitimate aims pursued, and demonstrably necessary in a democratic society in order to protect the individual and/or the state. 4. Who censors what? Despite the rather strict rules which apply to restrictions on free speech that governments may wish to impose, many justifications are nevertheless sought by governments to suppress information which is inimical to their policies or their interests. These justifications include arguments in defence of national and/or state security, the public interst, including the need to protect public morals and public order and perfectly understandable attempts to prevent racism, violence, sexism, religious intolerance and damage to the indi-vidual's reputation or privacy. The mechanisms employed by governments to restrict the freeflow of information are almost endless and range from subtle economic pressures and devious methods of undermining political opponents and the independent media to the enactment of restrictive press laws and an insist-ence on licensing journalists and eventually to the illegal detention, torture and disappearances of journalists and others associated with the expression of independent views. 5. Examples of censorship To some the right to free speech may appear to be one of the fringe human rights, especially when compared to such violations as torture and extra-judicial killings. It is also sometimes difficult to dissuade the general public that censorship, generally assumed to be something to do with banning obscene books or magazines, is no bad thing! It requires a recognition of some of the fundamental principles of democracy to understand why censorship is so immensely dangerous. The conditon of democracy is that people are able to make choices about a wide variety of issues which affect their lives, including what they wish to see, read, hear or discuss. While this may seem a somewhat luxurious distinction preoccupying, perhaps, wealthy Western democracies, it is a comparatively short distance between government censorship of an offensive book to the silencing of political dissidents. And the distance between such silencing and the use of violence to suppress a growing political philosophy which a government finds inconvenient is even shorter. Censorship tends to have small beginnings and to grow rapidly. Allowing a government to have the power to deny people information, however trivial, not only sets in place laws and procedures which can and will be used by those in authority against those with less authority, but it also denies people the information which they must have in order to monitor their governments actions and to ensure accountability. There have been dramatic and terrible examples of the role that censorship has played in international politics in the last few years: to name but a few, the extent to which the media in the republics of former Yugoslavia were manipulated by government for purposes of propaganda; the violent role played by the government associated radio in Rwanda which incited citizens to kill each other in the name of ethnic purity and the continuing threat of murder issued by the Islamic Republic of Iran against a citizen of another country for having written a book which displeased them. 6. The link between poverty, war and denial of free speech There are undoubted connections between access to information, or rather the lack of it, and war, as indeed there are between poverty, the right to freedom of expression and development. One can argue that democracy aims to increase participation in political and other decision-making at all levels. In this sense democracy empowers people. The poor are denied access to information on decisions which deeply affect their lives, are thus powerless and have no voice; the poor are not able to have influence over their own lives, let alone other aspect of society. Because of this essential powerlessness, the poor are unable to influence the ruling elite in whose interests it may be to initiate conflict and wars in order to consolidate their own power and position. Of the 126 developing countries listed in the 1993 Human Development Report, war was ongoing in 30 countries and severe civil conflict in a further 33 countries. Of the total 63 countries in conflict, 55 are towards the bottom scale of the human development index which is an indicator of poverty. There seems to be no doubt that there is a clear association between poverty and war. It is reasonably safe to assume that the vast majority of people do not ever welcome war. They are normally coerced, more often than not by propaganda, into fear, extreme nationalist sentiments and war by their governments. If the majority of people had a democratic voice they would undoubtedly object to war. But voices are silenced. Thus, the freedom to express one's views and to challenge government decisions and to insist upon political rather than violent solutions, are necessary aspects of democracy which can, and do, avert war. Government sponsored propaganda in Rwanda, as in former Yugoslavia, succeeded because there weren't the means to challenge it. One has therefore to conclude that it is impossible for a particular government to wage war in the absence of a compliant media willing to indulge in government propaganda. This is because the government needs civilians to fight wars for them and also because the media is needed to re-inforce government policies and intentions at every turn.

#### Epistemic humility demands free speech. Dalmia, 9/22

(Shikha, Senior Analyst/Award winning Journalist http://reason.com/blog/2016/09/22/debating-nyus-jeremy-waldron-on-free-spe)

One: Hate speech bans make us impatient and dogmatic The main reason that libertarians like me are partisans of free speech is not because we believe that a moral laissez faire, anything goes attitude, is in itself a good thing for society. Rather, it stems from an epistemic humility that we can't always know what is good or bad a priori – through a feat of pure Kantian moral reasoning. Moral principles, as much as scientific ones, have to be discovered and developed and the way to do so is by letting competing notions of morality duke it out in what John Stuart Mill called the marketplace of ideas. Ideas that win do so by harmonizing people's overt moral beliefs with their deeper moral intuitions or, as Jonathan Rauch notes, by providing a "moral education." This is how Mahatma Gandhi, Martin Luther King and Frank Kamney, the gay rights pioneer, managed to open society's eyes to its injustices even though what they were suggesting was so radical for their times. But this takes time. With free speech, societies have to play the long game. It takes time to change hearts and minds and one can't be certain that one's ideas will win out in the end. One has to be willing to lose. The fruits of censorship -- winning by rigging the rules and silencing the other side -- seem immediate and certain. But they unleash forces of thought control and dogmatism and repression and intolerance that are hard to contain, precisely what we are seeing right now on campuses.

#### Plan Text: Public colleges and universities in the United States ought not restrict any constitutionally protected journalist speech.

### Advantage 1: Stop The Press

#### Administrators model Trump’s anti-press platform and censor specifically political and socially controversial student journalism. Peters 1-23

Jonathan Peters,, 1-23-2017, "Student journalists especially vulnerable to Trump's press-as-enemy rhetoric," Columbia Journalism Review, http://www.cjr.org/united\_states\_project/trump\_students\_press\_media.php?Newsletter&ct=t(Top\_Stories\_CJR\_new\_Jan\_26\_1\_25\_2017)

In some ways, student journalists will face the same challenges as professionals. First, through executive orders and the Department of Justice, Trump will be able to shape the Freedom of Information Act’s implementation and the substantive arguments the government makes in FOIA litigation. Professionals may be heavier FOIA users than students, but the burdens of any FOIA changes will fall on both groups. Second, Trump could crack down on public affairs reporting, most likely in the national security area—if the DOJ, for example, prosecuted leakers under the Espionage Act and subpoenaed journalists to supply information. This would disparately impact professional journalists, easily the primary source of US national security reporting. But these efforts, along with Trump’s ceaseless condemnation of the press as the enemy, could create or feed an environment in which press and speech restrictions are seen as acceptable or even desirable, eroding the legal and cultural independence the press needs to play its democratic role. The student press is especially vulnerable to that kind of erosion. In public schools at the K-12 level, it’s settled law that student journalists have lesser First Amendment protection than, say, adults in non-school settings. The 1988 case Hazelwood v. Kuhlmeier is the main reason. The Supreme Court ruled in Hazelwood that a school newspaper produced as part of a class may be regulated by administrators if three conditions are met: the regulation is neutral with regard to viewpoint, there is a reasonable educational justification for it, and there’s no policy/practice establishing the paper as a public forum for student expression, which effectively means that administrators have allowed students to make unrestricted use of the paper for journalistic and expressive purposes. Since Hazelwood was handed down, schools have used it to legitimize all manner of press restrictions, and it’s not hard at all to imagine an administrator finding inspiration in Trump’s anti-press rhetoric—and lo, here’s a case readymade to restrict student press coverage of controversial issues. That’s a big problem because student journalists have filled in gaps created by the traditional media’s decline, playing a vital role in meeting their communities’ news needs. Just last week, Michigan high schoolers pressed Gov. Rick Snyder about his endorsement of Betsy DeVos for education secretary. And looking back, to note a few other examples, New Jersey high schoolers once revealed serious misconduct complaints against a superintendent, and national outlets at first relied on coverage by student journalists during the Mizzou protests. At the college level, the headache here is that as student journalists are making increasingly important contributions through their reporting (in at least four states, there are more students covering state legislatures than professionals), the federal courts are curtailing their speech and press rights. And, once again, Hazelwood is the main reason. Although it involved high school student speech, recently it has been applied to college student speech as well. Four federal appeals courts, covering 16 states, have extended Hazelwood to college campuses. Meanwhile, the Supreme Court hasn’t clarified whether it’s proper to apply Hazelwood to college journalists, and it’s unclear how Trump’s yet-to-be-named nominee, expected to be highly conservative, will affect the vote in student-speech cases generally. On the one hand, the nominee will replace Scalia, who supported school authority in such cases, and the rest of the conservative bloc is unchanged from the court’s last student-speech case, in 2007, in which the bloc voted together. On the other hand, that case involved speech at a school-supervised event that allegedly promoted the use of illegal drugs. In a case involving speech of a higher order, there’s a chance of winning over certain justices, perhaps Roberts, whose free speech record is otherwise strong, or Alito, who wrote a concurring opinion in the 2007 case stressing that it didn’t apply to broader social or political speech. The same thinking would apply to the court’s new member, who might be reachable in the right case. At any rate, fulfilling a community’s news needs means covering a range of public issues that might upset university administrators, and Hazelwood is a complicating factor. The case says that administrators may censor articles that “associate the school with any position other than neutrality on matters of political controversy.” That’s clearly irreconcilable with much of public affairs reporting and commentary. But the problems don’t stop with Hazelwood. There’s another reason the student press is especially vulnerable to erosions of independence: the reporter’s privilege. A recent study I conducted with my University of Kansas colleagues Genelle Belmas and Peter Bobkowski found that most states do allow journalists to shield confidential sources and unpublished information in some circumstances, but those protections usually do not apply to student journalists—either because students don’t qualify for them, or because the qualifying criteria are unclear enough that student journalists couldn’t claim protection with any confidence. All told, we have a student press being asked to do more with less—to produce stories that inform their communities, while hamstrung by Hazelwood and lacking privilege protections—at a time when the president talks about journalists as if they’re incarnations of Kylo Ren. That’s untenable, but what can be done? If student journalists are to continue making significant contributions, federal courts must stop curtailing their First Amendment rights, and state legislatures need to repair damage already done by the courts. They should follow the lead of states that have enacted laws, some of them long ago, to protect student journalists by granting them rights beyond those guaranteed in Hazelwood. Right now, in fact, the Student Press Law Center campaign New Voices USA is lobbying nationwide for such legislation, and four state bills have been filed just since the start of 2017. (Disclosure: I occasionally represent student journalists through the SPLC, but I’m not involved in the New Voices campaign.)

#### The legal justification for newspaper censorship is a 7th circuit decision that applied Hazelwood to universities-this allows unchecked arbitrary censorship by administrators. Goodman 05

( S. Mark Goodman, Michael C. Hiestand, Student Press Law Center 2005 WL 2736314 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY, Jeni S. Porche, and Steven P. Barba, Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 20, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief of Amici Curiae Student Press Law Center, Associated Collegiate Press, College Media Advisers, Community College Journalism Association, Society for Collegiate Journalists, Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, National Newspaper Association, Newspaper Association of America, Society of Professional Journalists, Associated Press Managing Editors, College Newspaper Business and Advertising Managers, National Federation of Press Women, National Lesbian and Gay Journalists Association and the Independent Press Association/Campus Journalism Project in Support of Petition of Margaret L. Hosty, Jeni S. Porche, and Steven P. Barba for Writ of Certiorari Of Counsel: S. Mark Goodman, Michael C. Hiestand, Student Press Law Center, 1101 Wilson Blvd., Ste 1100, Arlington, VA 22209-2211, (703) 807-1904. Richard M. Goehler, (Counsel of Record), Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, (513) 651-6800, Counsel for Amici Curiae.)

In contrast to many high school censorship incidents, public college administrators today are less likely to be successful in their efforts to restrict the student press. This is usually (and perhaps only) because of the First Amendment protections that courts have consistently accorded college journalists. That circumstance would surely change were Hazelwood extended to limit the rights of college student journalists. Among some of the stories in college student publications that could be subject to censorship under the Hazelwood standard: • An opinion piece opposing an upcoming referendum that would have provided the college with revenue collected from property taxes. University officials, claiming the paper contained typographical and grammatical errors, confiscated and destroyed 10,000 copies of the paper. After students threatened legal action, the school agreed to reprint the newspaper.14 • An article detailing the incoming university president’s expenditure of state funds, including more than $100,000 spent to remodel the president’s home and pay for \*17 his inauguration. Following publication, the president transferred the newspaper’s adviser to another position at the school, an act that generated considerable public attention. The president later resigned after being questioned by state legislators regarding the spending that had been reported in the student newspaper. The adviser was remstated.15 • A yearbook story reporting that members of the school’s volleyball team were removed for bringing alcohol on a team trip and a feature spread on sex and relationships. Following publication, the yearbook editor lost his job. After the editor sued, the school agreed to a settlement in which it paid the editor $10,000 and agreed to a publications policy that prohibited administrative interference with the content of student publications.16 • An editorial cartoon, featuring cartoon figures as university officials, commenting on a U.S. Department of Education report that found the school had misused public funds when it paid for a trip to Disney World by students and school officials. One of those portrayed, the vice president of student affairs, temporarily halted printing of the issue - but released them after students objected.17 If Hazelwood is allowed to determine the level of First Amendment protection to which America’s college student media are entitled, there is no doubt university administrators are poised to take advantage of their new \*18 censorship powers. Word has already begun to spread that the standard “hands-off student media” policies recognized by college officials in the past may no longer be required. In California, for example - 2,000 miles west of the Governors State University campus and far beyond the jurisdiction of the Seventh Circuit - administrators at California State University system schools received a memo from the system’s legal counsel on June 30, 2005 - ten days after the Seventh Circuit handed down its decision - informing them that “[Hosty] appears to signal that CSU campuses may have more latitude than previously believed to censor the content of subsidized student newspapers….”18 Extending Hazelwood to the university setting is a recipe for encouraging censorship that would dramatically hinder the production of good journalism and the training of good journalists. Amici do not believe this Court intended the censorship of college and university student newspapers to be the legacy of Hazelwood.

#### Regulation of newspapers is a crucial precedent used to justify widespread campus censorship-it uniquely empowers and protects administrators to censor. Lukianoff 05

(George, Samantha Harris, Foundation for Individual, Rights in Education, 2005 WL 2736313 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY et al., Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 19, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief Amici Curiae of the Foundation for Individual Rights in Education; The Coalition for Student & Academic Rights; Feminists for Free Expression; The First Amendment Project; Ifeminists.Net; National Association of Scholars; Accuracy in Academia; Leadership Institute; The Individual Rights Foundation; The American Council of Trustees and Alumni; and Students for Academic Freedom in Support of Petitioners)

Commentators from across the political spectrum, while often disagreeing on the source, the scale, and the cause of the chilling of free speech on campus, have described the current campus environment as one where the “marketplace of ideas” is under siege.13 Whether in the name of “ tolerance,” \*17 risk management, or merely peace and quiet, hundreds (if not thousands) of universities have enacted policies and engaged in practices hostile to free and open discourse over the past few decades.14 Starting in the 1980s, colleges enacted “speech codes” under a variety of creative legal theories. Despite numerous decisions ruling these codes unconstitutional15 and this Court's decision in R.A. E v. City of St. Paul, 505 U.S. 377 (1992), which indicated that viewpoint-based speech codes would be unconstitutional, the number of university speech codes actually increased through the 1990s, see Jon Gould, The Precedent that Wasn't, 35 Law & Soc'y Rev. 345 (2001). Over the past twenty years, numerous books have been written alleging an illiberal, intolerant, and/or partisan atmosphere on campus16 in which dissenting viewpoints and unpopular groups are repressed through a variety of measures. More recently, universities have adopted highly restrictive, and sometimes absurd “speech \*18 zone” policies restricting speech from all but small comers of the university.17 Thus far, the law has served to protect the collegiate marketplace of ideas from overreaching administrations, requiring policies and practices in keeping with the First Amendment and academic freedom. For example, in Rosenberger, this Court granted religious student groups equal access to student fee funding. In Bait v. Shippensburg University, 280 F. Supp. 2d 357 (M.D. Pa. 2003), a federal court in Pennsylvania ruled Shippensburg University's speech code was unconstitutionally overbroad, and in Roberts v. Haragan, 346 F. Supp. 2d 853 (N.D. Tex. 2004), a federal court in Texas dismissed a speech zone policy as unconstitutionally overbroad. The Hosty decision, however, is a step in the opposite direction. College administrators have already demonstrated a tenacious will to censor even when the law clearly limited their ability to do so. The legal ambiguity that Hosty creates, the unparalleled discretion it grants college administrators, and the legal protection it provides to administrators who censor all threaten to dramatically worsen the campus free speech crisis. If allowed to stand, Hosty will have numerous, specific, predictable, and far reaching negative consequences for free speech and robust debate on America's college campuses. It is no exaggeration to say that the Hosty opinion threatens the existence of the independent collegiate media. Universities have not shown great tolerance for the free press. If there is no longer a presumption of independence or of public forum status when a public university establishes a student newspaper, \*19 there should be no doubt that administrators who wish to censor will take advantage of this ambiguity. Public universities will be able to argue that any paper that receives any kind of benefit - whether financial support or simply the use of office space - from the university is subject to administrative control. If past experience is any guide, colleges will pay lip service to the importance of student press freedom, but they will quickly take advantage of any legal means available to punish or control student newspapers that anger or offend students or administrators. For example, in a memorandum to all California State University presidents written only ten days after the Hosty decision, California State University General Counsel Christine Helwick wrote that: [w]hile the Hosty decision is from another jurisdiction and, as such, does not directly impact the CSU, the case appears to signal that CSU campuses may have more latitude than previously believed to censor the content of subsidized student newspapers, provided that there is an established practice of regularized content review and approval for pedagogical purposes.18 In this same way, Hosty threatens the existence of independent student groups. If the primary question under Hosty is whether a student group is in some way “subsidized,” any group that receives any sort of benefit or student fees could be threatened with administrative control. The possibility that a court might later determine that the student group or publication was entitled to some form of public forum status would hardly protect the overwhelming majority of these groups that are neither willing nor affluent enough to mount a legal defense. \*20 This case also re-opens issues relating to collegiate liability for student media and student groups formerly considered settled. It also allows administrators virtually unlimited freedom to experiment with censorship above and beyond even the broad discretion granted to them under Hosty. Finally, there is no reason to believe this holding will remain limited to public colleges - private colleges that promise free speech to their students tend to base their own speech policies on First Amendment standards.19 Hosty v. Carter will have reverberations from the community college to the Ivy League. Administrators will impose the “intellectual strait jacket” that this Court has long feared, and the consequences will be profound. As FIRE co-founder Alan Charles Kors once said, “A nation that does not educate in freedom will not survive in freedom, and will not even know when it is lost.”20

#### These restrictions disempower young people, crush fruitful debate and education. Majeed ’09

AZHAR MAJEED - Robert H. Jackson Legal Fellow, Foundation for Individual Rights in Education (FIRE). B.A., 2004, University of Michigan; J.D., 2007, University of Michigan Law School. “Defying the Constitution The Rise, Persistence, And Prevalence Of Campus Speech Codes.” 2009. <https://www.thefire.org/pdfs/aff11d01bb5af6e9d8e2f8303832c301.pdf> JJN

In clear contravention of these principles, speech codes teach college students all the wrong lessons—to quickly claim offense, to censor individuals espousing views with which they disagree, to interpret expression which is even remotely controversial or offensive as “hate speech” or “politically incorrect” speech, and to stifle expression which questions and challenges the prevailing orthodoxy. Speech codes have “‘cast a pall of orthodoxy’ over university classrooms and campus life.”165 The regrettable result is that “[i]nstead of learning how to think and reason independently, students are taught that the act of questioning should be punished....A university education then becomes indoctrination rather than development of the mind to challenge what is and to discover what ought to be.”166 The consequences are ultimately felt in society’s ability to develop a capable citizenry. Colleges and universities are vital parts of the educational system which “is ‘in most respects the cradle of our democracy’”167 and “essential to the maintenance of ‘our vigorous and free society.’”168 Commentators have recognized that our system of education must aim for “the creation of autonomous citizens, capable of fully participating in the rough and tumble world of public discourse,”169 because “[d]emocratic government works better when independent-thinking individuals become active in lawmaking” and public debate.170 We as a society must therefore remain committed to maintaining an open atmosphere for debate, discussion, and disagreement. Deviation from this commitment will only lead to a society “composed of individuals lacking the skill or educational background to challenge governmental authority and improve the functioning of a free society.”171 Because speech codes “teach individuals to think of government and authority with Orwellian fear,”172 they represent a significant threat to the development of capable citizens. Moreover, speech codes hinder the development of effective leaders for the future. In the Supreme Court’s words, “[t]he Nation’s future depends upon leaders trained through wide exposure to [the] robust exchange of ideas.”173 One commentator echoes that “[a] limited education for the next generation will cause far-reaching problems because the leaders of tomorrow will be unable to adequately address the problems facing them,” making freedom of speech on campus “vital to the survival and success of our country and the world.”174 Rather than insulate students with speech codes and protect them from even slight offenses, we should allow them the freedom to make intelligent decisions for themselves when confronted with various viewpoints and modes of expression—and to gain the sheer experience of doing so. Students “will eventually have to do this every day of their lives and protecting them from unpopular ideas through the regulation of speech will only serve to ill-prepare them for the world after graduation.”175 Speech codes have precisely this coddling effect and therefore should be eradicated from the college environment.

#### Campus free speech solves extinction. Lukianoff 05

(George, Samantha Harris, Foundation for Individual, Rights in Education, 2005 WL 2736313 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY et al., Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 19, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief Amici Curiae of the Foundation for Individual Rights in Education; The Coalition for Student & Academic Rights; Feminists for Free Expression; The First Amendment Project; Ifeminists.Net; National Association of Scholars; Accuracy in Academia; Leadership Institute; The Individual Rights Foundation; The American Council of Trustees and Alumni; and Students for Academic Freedom in Support of Petitioners)

This Court has long emphasized and understood the importance of free and open expression on campus: The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation … Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die. Sweezy v. New Hampshire, 354 U.S. 234, 250 (1957). \*6 In the nearly fifty years since Sweezy, this Court and lower courts have repeatedly reaffirmed the special importance of robust free expression in higher education.3 In Healy v. James, 408 U.S. 169 (1972), this Court made clear that students are an important part of the collegiate marketplace of ideas when it ruled that a college, acting “as the instrumentality of the State, may not restrict speech … simply because it finds the views expressed by any group to be abhorrent.” Healy at 187-88. See also Papish v. Bd. of Curators of the Univ. of Mo., 410 U.S. 667, 670 (1973) (“the mere dissemination of ideas - no matter how offensive to good taste - on a state university campus may not be shut off in the name alone of ‘conventions of decency.’ ”).

### Advantage 2: Civic Engagement

#### Civic engagement low now due to lack of political forums – newspapers key. The Contemporary 4-5

Contemporary, 4-5-2017, "Contemporary Thought Leaders: A Civic Engagement Symposium," Rivard Report, https://therivardreport.com/contemporary-thought-leaders-a-civic-engagement-symposium/

Without forums that encourage respectful debate across the political aisle, our communities and country will become ever more divided. The need for dialogue on public affairs has never been more important. With such pressing issues in mind, we founded The Contemporary, a nationwide current affairs publication that unifies and empowers collegiate journalists. The news media’s fragmentation represents one of the most critical challenges our democracy faces. In a recent interview we published with Ethan Zuckerman, the director of the Center for Civic Media at the Massachusetts Institute of Technology, Zuckerman stressed the importance of media ecosystems that challenge readers’ preconceived notions rather than pushing sensationalist conspiracies. For this reason, The Contemporary hopes to bring the next generation of leaders in academia, government, and business from across college campuses together into one community in order to engage deeply on the most pressing issues we face. The team has collaborated with more than 20 publications nationwide, interviewed prominent figures, and competed in the final round of the Stumberg entrepreneurship competition. We have greatly benefited from the knowledge and guidance of entrepreneurs throughout San Antonio through our connection to the Trinity University Center for Innovation and Entrepreneurship. Last summer, we had the opportunity to develop our organization with the center’s support. Our organization would not exist in its current form without the intellectual and emotional support of Dr. Luis Martinez and Carmen Aramanda. The Contemporary celebrates the variety of voices from across college campuses. The diversity of our team and platform has been the cornerstone of our organization’s accomplishments. We value perspectives of all of our members, and hope to expand our efforts to be more representative of all students. Our goal is to build a sustainable media organization that will remain at Trinity for years to come. We believe that mobilizing a movement of Millennials who engage at the center – not just the left or the right – is the only political strategy that has a chance to represent us in this new era. An alternative future for engagement exists, and The Contemporary is the space to advance it. Indeed, this is an ambitious project. But with our growing network, we are gradually building a movement. All that we ask is this: join us.

#### Newspapers are key to establishing civic engagement in college students. Nudelman and Hecker 08

Felice Nudelman, Director of Education, and Don Hecker, Training Editor for Staff Editors, The New York Times, “The Role of Newspapers in the First Year of College” in “First-Year Civic Engagement: Sound Foundations for College, Citizenship and Democracy”, The New York Times National Resource Center for the First-Year Experience and Students in Transition University of South Carolina, 2008

It is the first year of college, and every first-year student finds each day brings a new world and new marvels. For each new student the experience is a profoundly individual one. Students see their own experiences as unique; it is educators and mentors who see — and encourage — the commonalities. By including newspapers in curricula and co-curricula, educators can nurture reading habits, create shared readings and discussions, and establish a culture of engagement. Newspapers can help students make connections — to their courses, their campus, their studies, their lives, the contemporary world Habits of Mind, New Connections The first year of college will establish the pattern and habit of involvement that brings success in students’ college careers (and beyond, the optimist hopes). This is when individual students develop the living connection with their peers, the faculty and the institution itself. This is a time to encourage, if not impose, structure. Reading a nationally circulated, high-quality newspaper creates a shared environment based on contemporary events and issues. As with many other experiences of first-year students, the regular reading of a newspaper is likely a new habit. Newspapers are chroniclers of current events. Some of those events will be familiar to students, but others will not. The newspaper leads its novice readers from the familiar to the new, encouraging an understanding outside their own “bubble.” But the newspaper also enriches and enlarges that more focused world of the individual. The newspaper is the natural extension of the textbook, providing the new chapters on events that develop after the book is printed. And as students use their growing academic learning to examine the larger world with greater sophistication, the newspaper provides them with timely information on national and global issues, matters of law, and social and political topics. Readers find debates about the environment, the evolving scientific landscape, government rulings, corporate ethics, civil liberties, terrorism, and a wide array of constitutional issues. As students are exposed to diverse arguments, they learn to intellectually challenge and defend ideas, to sift through conflicting presentations in the search for conclusions. They become more critical thinkers. Engaged Readers and College Success In “Bowling Alone,” Robert D. Putnam posited the importance of associational activity in an effective democracy, and he found a direct connection between newspaper readership and good citizenship. The newspaper helps students develop patterns of civic responsibility by providing a front row seat from which to explore current events and issues; informed awareness leads to engagement. Through the newspaper, students gain a critical knowledge of issues and needs. Novice newspaper readers grow into skilled analytical readers. They also become more skilled as writers since they are introduced in the newspaper’s pages to sophisticated and creative exposition and analysis of issues. Newspaper-reading students find common ground with their peers and faculty in their growing ability to discuss the critical issues of the day. They see connections between what they learn in the classroom and the world around them. This makes that all-important first year of college more coherent and more comprehensible and instills in students greater self-confidence. Here, then, is a powerful tool to promote student success, and through a body of successful students, to promote institutional success. Generating Civic Engagement with Newspapers: Cases Within this monograph are some excellent examples of how the newspaper and news information can be integrated into firstyear courses and activities. These colleges demonstrate the value and importance of the newspaper in creating a culture of civic engagement. Allegheny College uses The Times to create a cohort of engaged first-year students, many of whom have not read a newspaper before entering the college. They hone their verbal and analytical skills by first leading a discussion in class and then moving beyond discussion to the exploration and analysis of long-held beliefs. Their newfound awareness encourages them to explore the world beyond their bubble, to reflect on their role in the community. At The Richard Stockton College, students utilize The Times to research environmental issues for their Environmental Citizenship course. A key component of the course is engagement with the community through council meetings, issue briefs, and events on campus. Because the newspaper is integrated into the course, students s&)2349%!2#)6)#%.'!'%-%.4 become more informed and participate at a higher level. An example of student engagement fostered by a culture focused on intellectual inquiry is represented by the Fort Hays State University Times Talks initiative. Each week a student or faculty member volunteers to lead a presentation and discussion on a topic of interest using Times articles as the springboard. The co-curricular program has become a staple at FHSU. Indianapolis University-Purdue University, Indianapolis assigns reading of local newspapers to explore issues in its “Discover Indianapolis” First-Year Seminar. These programs are a few examples of the resources that newspapers and news information bring to building a civically engaged freshman year experience. Our so-called “millennials” are the largest college generation since the 1960s and the most racially and ethnically diverse. They are digital natives, experiential learners and adept users of many forms of media. So the question is whether the habit of reading newspapers will take hold with this generation of students. The answer, from current research about the millennial generation (Magid, Pew), points in a positive direction: the students are receptive to reading the print edition of the paper and are at ease navigating between print and Web without seeing them as competitive. The print edition provides a serendipitous learning experience; students find articles that are relevant to them and their educational goals and new connections as they turn the pages. They find articles about the environment in the business section, stories about the nature of leadership in the science section and articles that focus on citizenship and community throughout. They also discover new interests, their eyes and curiosity caught by a headline, graph, or picture. They find reference to the newspaper’s Web site and additional and interactive features. Many read newspapers online, but in doing so, they are usually seeking information in already established areas of interest, and they are not participating in a shared-reading community. They may not be part of “the Conversation” — the intellectual community that questions causes and authority and its own beliefs. William V. Costanzo writes of how television’s moving images and radio’s interviews and editorials rarely digest large amounts of data or address intricate arguments. In The Writer’s Eye\*, he asserts, “For more comprehensive coverage and multiple perspectives, we need newspapers, magazines, or some other printed form of media. We … need more time to select and read the details” (8). Newspapers on campus can create a lively intellectual community and engagement with issues on and off campus. In the first year of college, newspapers can establish a shared culture of informed students and engaged citizens.

#### Civic engagement is the vital internal link to solving every existential problem- its try or die for the affirmative. Small 06

(Jonathan, former Americorps VISTA for the Human Services Coalition, “Moving Forward,” The Journal for Civic Commitment, Spring, http://www.mc.maricopa.edu/other/engagement/Journal/Issue7/Small.jsp)

What will be the challenges of the new millennium? And how should we equip young people to face these challenges? While we cannot be sure of the exact nature of the challenges, we can say unequivocally that humankind will face them together. If the end of the twentieth century marked the triumph of the capitalists, individualism, and personal responsibility, the new century will present challenges that require collective action, unity, and enlightened self-interest. Confronting global warming, depleted natural resources, global super viruses, global crime syndicates, and multinational corporations with no conscience and no accountability will require cooperation, openness, honesty, compromise, and most of all solidarity – ideals not exactly cultivated in the twentieth century. We can no longer suffer to see life through the tiny lens of our own existence. Never in the history of the world has our collective fate been so intricately interwoven. Our very existence depends upon our ability to adapt to this new paradigm, to envision a more cohesive society. With humankind’s next great challenge comes also great opportunity. Ironically, modern individualism backed us into a corner. We have two choices, work together in solidarity or perish together in alienation. Unlike any other crisis before, the noose is truly around the neck of the whole world at once. Global super viruses will ravage rich and poor alike, developed and developing nations, white and black, woman, man, and child. Global warming and damage to the environment will affect climate change and destroy ecosystems across the globe. Air pollution will force gas masks on our faces, our depleted atmosphere will make a predator of the sun, and chemicals will invade and corrupt our water supplies. Every single day we are presented the opportunity to change our current course, to survive modernity in a manner befitting our better nature. Through zealous cooperation and radical solidarity we can alter the course of human events. Regarding the practical matter of equipping young people to face the challenges of a global, interconnected world, we need to teach cooperation, community, solidarity, balance and tolerance in schools. We need to take a holistic approach to education. Standardized test scores alone will not begin to prepare young people for the world they will inherit. The three staples of traditional education (reading, writing, and arithmetic) need to be supplemented by three cornerstones of a modern education, exposure, exposure, and more exposure. How can we teach solidarity? How can we teach community in the age of rugged individualism? How can we counterbalance crass commercialism and materialism? How can we impart the true meaning of power? These are the educational challenges we face in the new century. It will require a radical transformation of our conception of education. We’ll need to trust a bit more, control a bit less, and put our faith in the potential of youth to make sense of their world. In addition to a declaration of the gauntlet set before educators in the twenty-first century, this paper is a proposal and a case study of sorts toward a new paradigm of social justice and civic engagement education. Unfortunately, the current pedagogical climate of public K-12 education does not lend itself well to an exploratory study and trial of holistic education. Consequently, this proposal and case study targets a higher education model. Specifically, we will look at some possibilities for a large community college in an urban setting with a diverse student body. Our guides through this process are specifically identified by the journal Equity and Excellence in Education. The dynamic interplay between ideas of social justice, civic engagement, and service learning in education will be the lantern in the dark cave of uncertainty. As such, a simple and straightforward explanation of the three terms is helpful to direct this inquiry. Before we look at a proposal and case study and the possible consequences contained therein, this paper will draw out a clear understanding of how we should characterize these ubiquitous terms and how their relationship to each other affects our study. Social Justice, Civic Engagement, Service Learning and Other Commie Crap Social justice is often ascribed long, complicated, and convoluted definitions. In fact, one could fill a good-sized library with treatises on this subject alone. Here we do not wish to belabor the issue or argue over fine points. For our purposes, it will suffice to have a general characterization of the term, focusing instead on the dynamics of its interaction with civic engagement and service learning. Social justice refers quite simply to a community vision and a community conscience that values inclusion, fairness, tolerance, and equality. The idea of social justice in America has been around since the Revolution and is intimately linked to the idea of a social contract. The Declaration of Independence is the best example of the prominence of social contract theory in the US. It states quite emphatically that the government has a contract with its citizens, from which we get the famous lines about life, liberty and the pursuit of happiness. Social contract theory and specifically the Declaration of Independence are concrete expressions of the spirit of social justice. Similar clamor has been made over the appropriate definitions of civic engagement and service learning, respectively. Once again, let’s not get bogged down on subtleties. Civic engagement is a measure or degree of the interest and/or involvement an individual and a community demonstrate around community issues. There is a longstanding dispute over how to properly quantify civic engagement. Some will say that today’s youth are less involved politically and hence demonstrate a lower degree of civic engagement. Others cite high volunteer rates among the youth and claim it demonstrates a high exhibition of civic engagement. And there are about a hundred other theories put forward on the subject of civic engagement and today’s youth. But one thing is for sure; today’s youth no longer see government and politics as an effective or valuable tool for affecting positive change in the world. Instead of criticizing this judgment, perhaps we should come to sympathize and even admire it. Author Kurt Vonnegut said, “There is a tragic flaw in our precious Constitution, and I don’t know what can be done to fix it. This is it: only nut cases want to be president.” Maybe the youth’s rejection of American politics isn’t a shortcoming but rather a rational and appropriate response to their experience. Consequently, the term civic engagement takes on new meaning for us today. In order to foster fundamental change on the systemic level, which we have already said is necessary for our survival in the twenty-first century, we need to fundamentally change our systems. Therefore, part of our challenge becomes convincing the youth that these systems, and by systems we mean government and commerce, have the potential for positive change. Civic engagement consequently takes on a more specific and political meaning in this context. Service learning is a methodology and a tool for teaching social justice, encouraging civic engagement, and deepening practical understanding of a subject. Since it is a relatively new field, at least in the structured sense, service learning is only beginning to define itself. Through service learning students learn by experiencing things firsthand and by exposing themselves to new points of view. Instead of merely reading about government, for instance, a student might experience it by working in a legislative office. Rather than just studying global warming out of a textbook, a student might volunteer time at an environmental group. If service learning develops and evolves into a discipline with the honest goal of making better citizens, teaching social justice, encouraging civic engagement, and most importantly, exposing students to different and alternative experiences, it could be a major feature of a modern education. Service learning is the natural counterbalance to our current overemphasis on standardized testing. Social justice, civic engagement, and service learning are caught in a symbiotic cycle. The more we have of one of them; the more we have of all of them. However, until we get momentum behind them, we are stalled. Service learning may be our best chance to jumpstart our democracy. In the rest of this paper, we will look at the beginning stages of a project that seeks to do just that.

### Underview

#### Problematic speech shouldn’t be suppressed- that magnifies the impacts-prefer my evidence because it has internal weighing. Alexander 13

(Larry, Is Freedom of Expression a Universal Right San Diego Law Review Summer, 2013 San Diego Law Review 50 San Diego L. Rev. 707)

1. Gives authority to determine hate speech 2. Discourse allows error correction – leads to better solutions than censorship 3. Reverse enforcement 4. Doesn’t stop hateful attitudes – just makes masks them 5. Forces it underground where it can’t be challenged

One commentator has characterized the consequentialist considerations for freeing up some speech that might be suppressed because of two-step harms in the following way: First, being able to speak our minds makes us feel good. True, we tailor our words to civility, persuasion, kindness, or other purposes, but that is our choice. Censors claim the right to purge other people's talk - all the while insisting that it is for our own good. Second, much censorship appears irrational and alarmist in retrospect because the reasons people choose and use words are vastly more interesting than the systems designed to limit them. It's not hard to make a list of absurdities - I'm particularly fond of a rash of state laws that forbid the disparagement of agricultural products - but simplistic explanations and simple-minded responses are as dangerous as they are ditzy. In one of the few places that postmodern theory and common sense intersect, it is obvious that the meaning and perception of words regularly depend on such variables as speaker and spoken to, individual experience and shared history, and the setting, company, and spirit in which something is said. To give courts or other authorities the power to determine all this is, to put it mildly, mind-boggling. Third, censorship is inimical to democracy. Cloaking ideas and information in secrecy encourages ignorance, corruption, demagoguery, a corrosive distrust of authority, and a historical memory resembling Swiss cheese. Open discussion, on the other hand, allows verities to be examined, errors to be corrected, disagreement to be expressed, and anxieties to be put in perspective. It also forces communities to confront their problems directly, which is more likely to lead to real solutions than covering them up. Fourth, censorship backfires. Opinions, tastes, social values, and mores change over time and vary among people. Truth can be a protean thing. The earth's rotation, its shape, the origins of humankind, and the nature of matter were all once widely understood to be something different [\*719] from what we know today, yet those who challenged the prevailing faith were mocked and punished for their apostasy. Banning ideas in an attempt to make the world safe from doubt, disaffection, or disorder is limiting, especially for people whose lives are routinely limited, since the poor and politically weak are the censor's first targets. Finally, censorship doesn't work. It doesn't get rid of bad ideas or bad behavior. It usually doesn't even get rid of bad words, and history has shown repeatedly that banning the unpalatable merely drives it underground. It could be argued that that's just fine, that vitriolic or subversive speech, for example, shouldn't dare to speak its name. But hateful ideas by another name - disguised as disinterested intellectual inquiry, or given a nose job like Ku Klux Klansman David Duke before he ran for governor of Louisiana - are probably more insidious than those that are clearly marginal. n22 Let me close with a couple of examples. So-called hate speech - speech that disparages ethnic, racial, or religious groups - is generally prohibited in most Western countries but not in the United States, where it is constitutionally protected as a matter of freedom of speech. If we leave aside the one-step harm of offense and focus on the two-step harms of inciting others to violence or to discrimination against members of the disparaged groups, we can understand why some countries, given their history and culture, would be quite fearful of the effects hate speech might have. For example, think of Germany and anti-Semitic speech. On the other hand, in the twenty-first-century United States, the dangers of hate speech pale in comparison to the dangers of suppressing it. Suppression drives haters underground, where they may be more dangerous than if they were more visible. Suppression is frequently not evenhanded: disparagement of some favored groups is punished, but disparagement of other groups is not. Frequently, suppression of hate speech is an expression of power wielded by some groups over other groups rather than an expression of concern about violence or discrimination. Sometimes, suppression of hate speech is just partisan politics. In the United States, some groups have tried to label messages such as opposition to racial preferences as racist hate speech. And political correctness surely infects enforcement of hate speech laws. Consider the prosecution of Mark Steyn in British Columbia because of his book expressing political concerns over [\*720] the ever-increasing percentage of Muslims in Europe. n23 So whether hate speech laws are a good or bad thing will undoubtedly vary with the country, its history, its culture, and its politics. The same point can be made with respect to restrictions on culture-coarsening expression - pornography, violent video games, public profanity, and so forth. Culture coarsening is a real harm, and its baleful effects may even prove catastrophic. On the other hand, whether legal restrictions on expression that contributes to coarsening is a good idea will vary with the place, the time, the institutions, the current state of the culture, and so forth. Governments are generally pretty ham-fisted when it comes to defining culture-coarsening messages. The history in the United States of attempts to ban pornography is not reassuring. Other countries with other institutions may do a better job.

#### Speech codes tradeoff with more effective measures like financial assistance. Strossen 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Now I will comment on yet another reason why censoring hate speech may well undermine, rather than advance, equality causes: its diversionary nature. Focusing on biased expression diverts us from both the root causes of prejudice-of which the expression is merely one symptom-and from actual acts of discrimination. The track record of campus hate speech codes highlights this problem, too, just as it highlighted the previous problem I discussed, of discriminatory enforcement. Too many universities have adopted hate speech codes at the expense of other policies that would constructively combat bias and promote tolerance. In fact, some former advocates of campus hate speech codes have become disillusioned for this very reason. One example is the minority student who was initially a leading advocate of one of the earliest campus hate speech codes, at the University of Wisconsin, Victor DeJesus. After the ACLU successfully challenged that code under the First Amendment, Mr. DeJesus opposed the University's efforts to rewrite the code in the hope of coming up with something that would pass constitutional muster. As the New York Times reported: Victor DeJesus, co-president of the Wisconsin Student Association, said that he initially supported the hate speech rule, but that he had changed his mind because he felt the regents were using it as an excuse to avoid the real problems of minority students. "Now they can finally start putting their efforts into some of our major concerns like financial aid, student awareness, and recruitment retention," Mr. DeJesus said. n76

#### PICS snowball-create an incentive to promote violence, and progressives will be the deciders- expand into political speech. Morrissey 15

(Edward, 5-7 http://www.thefiscaltimes.com/Columns/2015/05/07/Coming-Demise-Free-Speech-America)

None of these cases is particularly esoteric, especially for those like Cuomo who are both lawyers and journalists. The ignorant arguments that arose in the media this week is problematic enough and might help explain why Americans are so uninformed about free speech in the US. The problem goes deeper than that, however. Media figures like Cuomo seem to be actively pushing for government controls on speech based on subjective notions of “hate.” McClatchy featured a story in response to the Garland shooting by Lindsay Wise and Jonathan Landay that openly asked whether the government should put limits on speech. Wise and Landay wrote, while getting the legal concepts of “fighting words” completely wrong, that public safety may have to trump the First Amendment and require regulation of “provocative” speech. Let’s leave aside the fact that this policy would incentivize the use of violence to prompt government intervention to silence critics – and we’d have even more violence as a result. The more fundamental question and danger is this: Who would get to decide what constitutes “provocative” speech that cannot be exercised? Who decides which opinions are “hate” and cannot bear the light of day? The answer appears to be the cultural elite who keep getting free speech wrong – and not just in the media. We have seen political correctness expand into stultifying speech codes on college campuses, pushed by progressive groups and enabled by administrators that have made a mockery out of higher education. That cone of silence has begun to extend into politics in general, ironically as more and more activists demand “conversations” on controversial topics but then demand that the opposing side be silenced or forced into byzantine processes to avoid “triggers.” All of this amounts to an attempt to control the political sphere by either silencing dissent or demonizing it as “bullying,” “bigoted,” and worse. The same applies in other First Amendment freedoms as well, especially the freedom of religious expression. The same pattern holds when people wish to live their faith in the entirety of their lives. Whether it comes from the government in contraception mandates or forced participation in same-sex marriage events, the media and political elites have decided that the liberty guaranteed in plain English in the Constitution no longer applies – as long as they can redefine the language to suit their purposes.

#### PICS violate content neutrality- the bedrock of the first amendment

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

The ACLU staunchly supports the traditional, strictly speech-protective, FirstAmendment standards concerning hate speech, and opposes any relaxation even in thealleged service of such laudable goals as promoting equality and reducing discrimination. As I already noted, though, the traditional standards do not provide that all speech is absolutely protected. Thus, in the campus context, we would not oppose a code that simply reflected longstanding, legitimate limits on speech that the ACLU never has opposed in any other context-for example, prohibitions on threats. On this point, the relevant ACLU policy reads as follows: This policy does not prohibit colleges and universities from enacting disciplinary codes aimed at restricting acts of harassment, intimidation and invasion of privacy. Although these are imprecise terms susceptible of impermissibly overbroad application, each term defines a type of conduct which is legally proscribed in many jurisdictions when directed at a specific individual or individuals and when intended to frighten, coerce, or unreasonably harry or intrude upon its target. Threatening telephone calls to a minority student's dormitory room, for example, would be proscribable conduct under the terms of this policy. Expressive behavior which has no other effect than to create an unpleasant learning environment, however, would not be the proper subject of regulation.The fact that words may be used in connection with otherwise actionable conduct does not immunize such conduct from appropriate regulation. For example, intimidating phone calls, threats of attack, extortion and blackmail are unprotected forms of conduct which include an element of verbal or written expression. n20 A. Restricting Hate Speech Would Violate Cardinal Free Speech Principles To allow restrictions on hate speech beyond these traditional, contextual limitations on all speech in other words, to allow restrictions on hate speech because of its offensive content-would violate the two most fundamental principles underlying the First Amendment's free speech guarantee. The first [\*250] such principle specifies what is a sufficient justification for restricting speech,and the second prescribes what is not a sufficient justification. I already have touched on the first cardinal free speech principle, which isoften encapsulated by the phrase, "clear and present danger." It holds that a restriction on speech may be justified only when necessary to avert imminent harm to an interest of compelling importance, such as physical safety. As former Supreme Court Justice Oliver Wendell Holmes observed in a much-quoted opinion, consistent with this principle, the First Amendment would not protect someone who falsely shouted "Fire!" in a theater and caused a panic. n21 To be restricted consistent with this principle, the speech must clearly pose an imminent, substantial danger. Allowing speech to be curtailed on the speculative basis that it might indirectly lead to some possible harm sometime in the future would inevitably unravel free speech protection. All speech might lead to some potential danger at some future point. As Justice Holmes put it, "[e]very idea is an incitement." n22 Therefore, under such a watered-down approach, scarcely any idea would be safe, and surely no idea that challenged the status quo would be. Until the 1960s, the United States Supreme Court did apply this relaxed, so- called "bad tendency" approach to free speech. Over dissents by such respected Justices as Holmes and Brandeis, the Court allowed government to suppress any speech that might have a tendency to lead to some future harm. n23 This approach endangered all critics of government policy and advocates of political reform. For example, during the World War I era, thousands of Americans were imprisoned for peacefully criticizing United States participation in the war and other government policies. Likewise, at the height-or depth-of the Cold War, members of left-wing political groups were imprisoned for criticizing capitalism or advocating socialism. In light of this history, it is ironic that people toward the left of the political spectrum would now champion a return to the censorial standards that were so long used to suppress their ideas. Yet, that is precisely what the advocates of hate speech codes are doing. In the modern era, the Supreme Court has resoundingly repudiated this bad tendency rationale for suppressing controversial speech. In the modern era, moreover, the high Court has recognized the crucial distinction between advocacy of violent or unlawful conduct, which is protected, and intentional, [\*251] imminent incitement of such conduct, which is not. The Court enshrined thisdistinction in a landmark 1969 ACLU case, Brandenburg v. Ohio. n24 InBrandenburg, the Court unanimously upheld the First Amendment rights of a Ku KluxKlan leader who addressed a rally of supporters, some of whom brandished firearms and advocated violence and discrimination against Jews and blacks. n25 The Court held that this generalized advocacy was neither intended nor likely to cause immediate violent or unlawful conduct, and therefore could not be punished. n26 Notably, the Supreme Court consistently has applied Brandenburg's critical distinction between protected advocacy and unprotected incitement to shelter incendiary expression of every stripe-not only racist hate speech, but also fiery rhetoric in support of civil rights causes and protests. n27 Once again, the recent controversy surrounding Matthew Hale's case is instructive. The Illinois authorities denied his license to practice law because of his advocacy of white supremacist views, with no allegation-let alone evidence-that he had crossed the line between protected advocacy and prohibited incitement. If the United States Supreme Court had applied a similar standard in the important 1982 case of NAACP v. Claiborne Hardware, n28 the NAACP (National Association for the Advancement of Colored People) and its leaders would have faced severe penalties that would have threatened the ongoing viability of this leading civil rights organization. In stark contrast with the stance of Illinois bar officials and judges toward Matthew Hale, who was punished for advocating peaceful law reform to enshrine his racist views, the Supreme Court held that NAACP leaders had a First Amendment right to advocate not only violence, but indeed violence against African-Americans. Specifically, the Court protected the right of NAACP leaders to advocate violent reprisals against individuals who violated an NAACP-organized boycott of white merchants who allegedly had engaged in racial discrimination. n29 Even though some violence was subsequently committed against blacks who patronized white merchants, it occurred weeks or months after the inflammatory addresses. Accordingly, in a major victory for the civil rights cause, as well as for free speech principles, the Supreme [\*252] Court overturned a lower court ruling that had declared the boycott unlawful and heldthe NAACP responsible for white merchants' large financial losses. n30 TheCourt explained the fundamental free speech principles at stake as follows: The [NAACP leaders'] addresses generally contained an impassioned plea for black citizens to unify, to support and respect each other, and to realize the political and economic power available to them. In the course of those pleas, strong language was used . . . . Strong and effective extemporaneous rhetoric cannot be nicely channeled in purely dulcet phrases. An advocate must be free to stimulate his audience with spontaneous and emotional appeals for unity and action in a common cause . . . . To rule otherwise would ignore the "profound national commitment" that "debate on public issues should be uninhibited, robust, and wide- open." n31 The second fundamental free speech principle that would be violated by suppressing hate speech requires "content neutrality" or "viewpoint neutrality." It holds that government may never limit speech just because any listener-or even, indeed, the majority of the community-disagrees with or is offended by its content or the viewpoint it conveys. The Supreme Court has called this the "bedrock principle" of our proud free speech tradition under American law. n32 In recent years, the Court has steadfastly enforced this fundamental principle to protect speech that conveys ideas that are deeply unpopular with or offensive to many, if not most, Americans-for example, burning an American flag in a political demonstration against national policies, n33 or burning a cross near the home of an African- American family that had recently moved into a previously all-white neighborhood. n34 The viewpoint-neutrality principle was also essential to protect expression by pro-civil rights demonstrators during the Civil Rights Movement in the 1960s. In many Southern communities where Martin Luther King, Jr., and other civil rights activists demonstrated and aired their ideas, their views were seen as deeply offensive, abhorrent, and dangerous to traditional community mores and values concerning racial segregation and discrimination. Efforts [\*253] to censor and punish these expressions, though, were thwarted by court rulings enforcing the viewpoint-neutrality principle. n35 So this core principle is firmly entrenched in United States law. But it stillmeets a lot of public resistance, at least on first impression. I can illustrate this through a story about my own beloved father. After he retired, Dad moved to San Diego. About 15 years ago, I was invited to give a lecture there, following some well-publicized, ugly incidents of anti-Semitic and racist expression. I was asked to explain why the ACLU defends free speech even for racist and religious bigots, and why we win those cases. My father came to hear my talk. Now, mind you, he was not a card-carrying ACLU member! But he still came because he had not heard me give a speech since my high school commencement address-which, incidentally, he also disagreed with! Anyway, he listened very attentively. Afterwards, he came up to me and said: "I appreciate that excellent explanation of ACLU positions and constitutional law. I now understand that the ACLU is correctly interpreting the First Amendment. Thank you for making it clear to me that the problem is the First Amendment." I don't mean to pick on my dear Dad unfairly. To the contrary, his reaction was quite typical. Most people don't realize the importance of defending free speech for ideas that they find outrageous until or unless their own ideas are subject to censorship because other people find them outrageous.

#### Restrictions fail due to definition issues, and tradeoff with political challenges to egregious behavior. Malik 12

(Kenan, . NBB/history of science @Imperial College <https://kenanmalik.wordpress.com/2012/04/19/why-hate-speech-should-not-be-banned/> 4-19)

Peter Molnar: Would you characterize some speech as ‘hate speech’, and do you think that it is possible to provide a reliable legal definition of ‘hate speech’? Kenan Malik: I am not sure that ‘hate speech’ is a particularly useful concept. Much is said and written, of course, that is designed to promote hatred. But it makes little sense to lump it all together in a single category, especially when hatred is such a contested concept. In a sense, hate speech restriction has become a means not of addressing specific issues about intimidation or incitement, but of enforcing general social regulation. This is why if you look at hate speech laws across the world, there is no consistency about what constitutes hate speech. Britain bans abusive, insulting, and threatening speech. Denmark and Canada ban speech that is insulting and degrading. India and Israel ban speech that hurts religious feelings and incites racial and religious hatred. In Holland, it is a criminal offense deliberately to insult a particular group. Australia prohibits speech that offends, insults, humiliates, or intimidates individuals or groups. Germany bans speech that violates the dignity of, or maliciously degrades or defames, a group. And so on. In each case, the law defines hate speech in a different way. One response might be to say: Let us define hate speech much more tightly. I think, however, that the problem runs much deeper. Hate speech restriction is a means not of tackling bigotry but of rebranding certain, often obnoxious, ideas or arguments as immoral. It is a way of making certain ideas illegitimate without bothering politically to challenge them. And that is dangerous.

#### Only policy demands solve – exclusive focus on social demands gets coopted, and destroyed by the right wing. Uniqueness overwhelms the link – their alt’s movements exists in the squo and they’re losing – it’s try or die for the perm. Chomsky 16

Aviva Chomsky is professor of history and coordinator of Latin American studies at Salem State University in Massachusetts. Student Protest, the Black Lives Matter Movement and the Rise of the Corporate University, Truthout.org, May 22 2016 EE

During the past academic year, an upsurge of student activism, a movement of millennials, has swept campuses across the country and attracted the attention of the media. From coast to coast, from the Ivy League to state universities to small liberal arts colleges, a wave of student activism has focused on stopping climate change, promoting a living wage, fighting mass incarceration practices, supporting immigrant rights, and of course campaigning for Bernie Sanders. Both the media and the schools that have been the targets of some of these protests have seized upon certain aspects of the upsurge for criticism or praise, while ignoring others. Commentators, pundits, and reporters have frequently trivialized and mocked the passion of the students and the ways in which it has been directed, even as universities have tried to appropriate it by promoting what some have called "neoliberal multiculturalism." Think of this as a way, in particular, of taming the power of the present demands for racial justice and absorbing them into an increasingly market-oriented system of higher education. In some of their most dramatic actions, students of color, inspired in part by the Black Lives Matter movement, have challenged the racial climate at their schools. In the process, they have launched a wave of campus activism, including sit-ins, hunger strikes, demonstrations, and petitions, as well as emotional, in-your-face demands of various sorts. One national coalition of student organizations, the Black Liberation Collective, has called for the percentage of black students and faculty on campus to approximate that of blacks in the society. It has also called for free tuition for black and Native American students, and demanded that schools divest from private prison corporations. Other student demands for racial justice have included promoting a living wage for college employees, reducing administrative salaries, lowering tuitions and fees, increasing financial aid, and reforming the practices of campus police. These are not, however, the issues that have generally attracted the attention either of media commentators or the colleges themselves. Instead, the spotlight has been on student demands for cultural changes at their institutions that focus on deep-seated assumptions about whiteness, sexuality, and ability. At some universities, students have personalized these demands, insisting on the removal of specific faculty members and administrators. Emphasizing a politics of what they call "recognition," they have also demanded that significant on-campus figures issue public apologies or acknowledge that "black lives matter." Some want universities to implement in-class "trigger warnings" when difficult material is being presented and to create "safe spaces" for marginalized students as a sanctuary from the daily struggle with the mainstream culture. By seizing upon and responding to these (and only these) student demands, university administrators around the country are attempting to domesticate and appropriate this new wave of activism. In the meantime, right-wing commentators have depicted students as coddled, entitled, and enemies of free speech. The libertarian right has launched a broad media critique of the current wave of student activism. Commentators have been quick to dismiss student protesters as over-sensitive and entitled purveyors of "academic victimology." They lament the "coddling of the American mind." The Atlantic's Conor Friedersdorf has termed students "misguided" in their protests against racist language, ideas, and assumptions, their targeting of "microaggression" (that is, unconscious offensive comments) and insensitivity, and their sometimes highly personal attacks against those they accuse. One of the most vocal critics of the new campus politics, the Foundation for Individual Rights in Education, argues that such rampant "liberalism" and "political correctness" violate academic freedom and freedom of speech. (In this, they are in accord with the liberal American Civil Liberties Union. Free speech advocates Daphne Patai and the ACLU's Harvey Silvergate, for example, bemoan a new diversity requirement at the University of Massachusetts for its "politicization of education.") In a response that, under the circumstances, might at first seem surprising, college administrators have been remarkably open to some of these student demands -- often the very ones derided by the right. In this way, the commentators and the administrators have tended to shine a bright light on what is both personal and symbolic in the new politics of the student protesters, while ignoring or downplaying their more structural and economically challenging desires and demands. The Neoliberal University University administrators have been particularly amenable to student demands that fit with current trends in higher education. Today's neoliberal university is increasingly facing market pressures like loss of state funding, privatization, rising tuition, and student debt, while promoting a business model that emphasizes the managerial control of faculty through constant "assessment," emphasis on "accountability," and rewards for "efficiency." Meanwhile, in a society in which labor unions are constantly being weakened, the higher education labor force is similarly being -- in the term of the moment -- "flexibilized" through the weakening of tenure, that once ironclad guarantee of professorial lifetime employment, and the increased use of temporary adjunct faculty. In this context, universities are scrambling to accommodate student activism for racial justice by incorporating the more individualized and personal side of it into increasingly depoliticized cultural studies programs and business-friendly, market-oriented academic ways of thinking. Not surprisingly, how today's students frame their demands often reflects the environment in which they are being raised and educated. Postmodern theory, an approach which still reigns in so many liberal arts programs, encourages textual analysis that reveals hidden assumptions encoded in words; psychology has popularized the importance of individual trauma; and the neoliberal ideology that has come to permeate so many schools emphasizes individual behavior as the most important agent for social change. Add together these three strands of thought, now deeply embedded in a college education, and injustice becomes a matter of the wrongs individuals inflict on others at a deeply personal level. Deemphasized are the policies and structures that are built into how society (and the university) works. For this reason, while schools have downplayed or ignored student demands for changes in admissions, tuition, union rights, pay scales, and management prerogatives, they have jumped into the heated debate the student movement has launched over "microaggressions" -- pervasive, stereotypical remarks that assume whiteness as a norm and exoticize people of color, while taking for granted the white nature of institutions of higher learning. As part of the present wave of protest, students of color have, for instance, highlighted their daily experiences of casual and everyday racism -- statements or questions like "where are you from?" (when the answer is: the same place you're from) or "as a [fill in the blank], how do you feel about..." Student protests against such comments, especially when they are made by professors or school administrators, and the mindsets that go with them are precisely what the right is apt to dismiss as political correctness run wild and university administrations are embracing as the essence of the present on-campus movement. At Yale, the Intercultural Affairs Committee advised students to avoid racially offensive Halloween costumes. When a faculty member and resident house adviser circulated an email critiquing the paternalism of such an administrative mandate, student protests erupted calling for her removal. While Yale declined to remove her from her post as a house adviser, she stepped down from her teaching position. At Emory, students protested the "pain" they experienced at seeing "Trump 2016" graffiti on campus, and the university president assured them that he "heard [their] message... about values regarding diversity and respect that clash with Emory's own." Administrators are scrambling to implement new diversity initiatives and on-campus training programs -- and hiring expensive private consulting firms to help them do so. At the University of Missouri, the president and chancellor both resigned in the face of student protests including a hunger strike and a football team game boycott in the wake of racial incidents on campus including public racist slurs and symbols. So did the dean of students at Claremont McKenna College (CMC), when protest erupted over her reference to students (implicitly of color) who "don't fit our CMC mold." Historian and activist Robin Kelley suggests that today's protests, even as they "push for measures that would make campuses more hospitable to students of color: greater diversity, inclusion, safety, and affordability," operate under a contradictory logic that is seldom articulated. To what extent, he wonders, does the student goal of "leaning in" and creating more spaces for people of color at the top of an unequal and unjust social order clash with the urge of the same protesters to challenge that unjust social order? Kelley argues that the language of "trauma" and mental health that has come to dominate campuses also works to individualize and depoliticize the very idea of racial oppression. The words "trauma, PTSD, micro-aggression, and triggers," he points out, "have virtually replaced oppression, repression, and subjugation." He explains that, "while trauma can be an entrance into activism, it is not in itself a destination and may even trick activists into adopting the language of the neoliberal institutions they are at pains to reject." This is why, he adds, for university administrators, diversity and cultural competency initiatives have become go-to solutions that "shift race from the public sphere into the psyche" and strip the present round of demonstrations of some of their power. Cultural Politics and Inequality In recent years, cultural, or identity, politics has certainly challenged the ways that Marxist and other old and new left organizations of the past managed to ignore, or even help reproduce, racial and gender inequalities. It has questioned the value of class-only or class-first analysis on subjects as wide-ranging as the Cuban Revolution -- did it successfully address racial inequality as it redistributed resources to the poor, or did it repress black identity by privileging class analysis? -- and the Bernie Sanders campaign -- will his social programs aimed at reducing economic inequality alleviate racial inequality by helping the poor, or will his class-based project leave the issue of racial inequality in the lurch? In other words, the question of whether a political project aimed at attacking the structures of economic inequality can also advance racial and gender equality is crucial to today's campus politics. Put another way, the question is: How political is the personal? Political scientist Adolph Reed argues that if class is left out, race politics on campus becomes "the politics of the left-wing of neoliberalism." As he puts it, race-first politics of the sort being pushed today by university administrators promotes a "moral economy... in which 1% of the population controlled 90% of the resources could be just, provided that roughly 12% of the 1% were black, 12% were Latino, 50% were women, and whatever the appropriate proportions were LGBT people." The student movement that has swept across the nation has challenged colleges and universities on the basics of their way of (quite literally) doing business. The question for these institutions now is: Can student demands largely be tamed and embedded inside an administration-sanctioned agenda that in no way undermines how schools now operate in the world? Feminist theorist Nancy Fraser has shown how feminist ideas of a previous generation were successfully "recuperated by neoliberalism" -- that is, how they were repurposed as rationales for greater inequality. "Feminist ideas that once formed part of a radical worldview," she argues, are now "increasingly expressed in individualist terms." Feminist demands for workplace access and equal pay have, for example, been used to undermine worker gains for a "family wage," while a feminist emphasis on gender equality has similarly been used on campus to divert attention from growing class inequality. Student demands for racial justice risk being absorbed into a comparable framework. University administrators have found many ways to use student demands for racial justice to strengthen their business model and so the micro-management of faculty. In one case seized upon by free-speech libertarians, the Brandeis administration placed an assistant provost in a classroom to monitor a professor after students accused him of using the word "wetback" in a Latin American politics class. More commonly, universities employ a plethora of consulting firms and create new administrative positions to manage "diversity" and "inclusion." Workshops and training sessions proliferate, as do "safe spaces" and "trigger warnings." Such a vision of "diversity" is then promoted as a means to prepare students to compete in the "global marketplace." There are even deeper ways in which a diversity agenda aligns with neoliberal politics. Literary theorist Walter Benn Michaels argues, for example, that diversity can give a veneer of social justice to ideas about market competition and meritocracy that in reality promote inequality. "The rule in neoliberal economies is that the difference between the rich and the poor gets wider rather than shrinks -- but that no culture should be treated invidiously," he explains. "It's basically OK if economic differences widen as long as the increasingly successful elites come to look like the increasingly unsuccessful non-elites. So the model of social justice is not that the rich don't make as much and the poor make more, the model of social justice is that the rich make whatever they make, but an appropriate percentage of them are minorities or women." Or as Forbes Magazine put it, "Businesses need to vastly increase their ability to sense new opportunities, develop creative solutions, and move on them with much greater speed. The only way to accomplish these changes is through a revamped workplace culture that embraces diversity so that sensing, creativity, and speed are all vastly improved." Clearly, university administrators prefer student demands that can be coopted or absorbed into their current business model. Allowing the prevailing culture to define the parameters of their protest has left the burgeoning Millennial Movement in a precarious position. The more that students -- with the support of college and university administrations -- accept the individualized cultural path to social change while forgoing the possibility of anything greater than cosmetic changes to prevailing hierarchies, on campus and beyond, the more they face ridicule from those on the right who present them as fragile, coddled, privileged whiners. Still, this young, vibrant movement has momentum and will continue to evolve. In this time of great social and political flux, it's possible that its many constituencies -- fighting for racial justice, economic justice, and climate justice -- will use their growing clout to build on recent victories, no matter how limited. Keep an eye on college campuses. The battle for the soul of American higher education being fought there today is going to matter for the wider world tomorrow. Whether that future will be defined by a culture of trigger warnings and safe spaces or by democratized education and radical efforts to fight inequality may be won or lost in the shadow of the Ivory Tower. The Millennial Movement matters. Our future is in their hands.

# AFF Frontlines

# Plan Frontlines

## Generic

### College Papers Key

#### With decline of mainstream news college paper are more important than ever

Joint Statement of the AAUP et al., Dec 16

(A committee composed of representatives from the American Association of University Professors, the College Media Association, the National Coalition Against Censorship, and the Student Press Law Center formulated this joint statement in fall 2016. The document received the endorsement of all four sponsoring organizations. https://s3.amazonaws.com/media.spl/1398\_jointstatement\_aaupbulletin\_studentmedia\_finalo.pdf)

In response to such cases, the American Association of University Professors, the College Media Association, the National Coalition Against Censorship, and the Student Press Law Center agreed to prepare this report, which reaffirms and expands upon the basic principles of a free student press previously endorsed by the AAUP and other organizations in the 1967 Joint Statement on Rights and Freedoms of Students. 2 With widespread erosion in staffing at traditional news organizations, college and university journalists are today asked to bear more responsibility than ever before as front-line information providers for the entire community. It is therefore essential that they enjoy the protections of a free press.

### A2 Free Speech is Conservative

#### Portraying speech as “conservative” is a tactic to justify administrative cover ups

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Over the past two decades, the topic of censorship on campus has often been treated as a “conservative issue,” because the fact is that socially conservative opinions are the ones most likely to be stifled at colleges and universities today. While many attempts at censorship are apolitical, you are far more likely to get in trouble on campus for opposing, for example, affirmative action, gay marriage, and abortion rights than you are for supporting them. Political correctness has become part of the nervous system of the modern university and it accounts for a large number of the rights violations I have seen over the years. For decades, our universities have been teaching students that speech with a chance of offending someone should be immediately silenced; but the slope for offensiveness has proven remarkably slippery, and the concept of hurtful speech is often invoked by campus administrators in the most self-serving ways. The press has gotten so used to such cases that they are often shrugged off as the same old “political correctness” on campus. But the problem is much more serious than that dismissive definition. When students risk punishment for speaking their minds, something has gone very wrong in the college environment.(5-6)

#### It’s a smear

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Why is it odd that a liberal should fight for free speech rights? Isn’t freedom of speech a quintessentially liberal issue? Some members of the baby boomer generation may be horrified to learn that campus administrators and the media alike often dismiss those of us who defend free speech for all on campus as members of the conservative fringe. While I was once hissed at during a libertarian student conference for being a Democrat, it is far more common that I am vilified as an evil conservative for defending free speech on campus. I remember telling a New York University film student that I worked for free speech on campus and being shocked by his response: “Oh, so you’re like the people who want the KKK on campus.” In his mind, protecting free speech was apparently synonymous with advocating hatred. He somehow missed the glaring fact that the content of his student film could have been banned from public display if not for the progress of the free speech movement. The transformation of free speech on campus to a conservative niche issue is a method of dismissing its importance. Sadly, we live in a society where simply labeling something an evil conservative idea (or, for that matter, an evil liberal one) is accepted by far too many people as a legitimate reason to dismiss it. This is just one of the many cheap tactics for shutting down debate that have been perfected on our campuses and are now a common part of everyday life.

### A2 Fire is conservative

#### FIRE isn’t a conservative organization

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Because FIRE plays such an important role in this book, you should know a little about it. Founded by a conservative-leaning libertarian professor at the University of Pennsylvania (Kors) and a liberal-leaning civil rights attorney in Boston (Silverglate), FIRE is a unique organization in which liberals, conservatives, libertarians, atheists, Christians, Jews, Muslims have successfully worked together for the common cause of defending rights on campus. I am a Democrat and an atheist, our senior vice president is a Republican and Christian, while our legal director, a Democrat and former Green Party activist, works harmoniously alongside our other top lawyers including a Jewish libertarian and a Muslim-raised liberal. I have worked at nonprofits almost all my life and have never even heard of, let alone worked at, a cause-based organization successfully run by people with such different personal politics. But we all agree on free speech and basic rights without hesitation, and we live the benefits of having different perspectives in the office every day. True, it can get a little heated in the office around election season, but we wouldn’t have it any other way.(13)

### A2 “Trauma”

#### Trauma is a ploy to justify censorship

Shulevitz, SW, 3-21-15

(Judith, https://mobile.nytimes.com/2015/03/22/opinion/sunday/judith-shulevitz-hiding-from-scary-ideas.html)

Another reason students resort to the quasi-medicalized terminology of trauma is that it forces administrators to respond. Universities are in a double bind. They’re required by two civil-rights statutes, Title VII and Title IX, to ensure that their campuses don’t create a “hostile environment” for women and other groups subject to harassment. However, universities are not supposed to go too far in suppressing free speech, either. If a university cancels a talk or punishes a professor and a lawsuit ensues, history suggests that the university will lose. But if officials don’t censure or don’t prevent speech that may inflict psychological damage on a member of a protected class, they risk fostering a hostile environment and prompting an investigation. As a result, students who say they feel unsafe are more likely to be heard than students who demand censorship on other grounds.

### Censorship Worse

#### Censorship gives university administrators political cover to ignore student issues

Downes, Uchicago Student , 1-10-16

(Sophie, https://www.nytimes.com/2016/09/11/opinion/trigger-warnings-safe-spaces-and-free-speech-too.html)

The administration wants to appear as an intellectual force beating back destabilizing waves of political correctness that have rocked college campuses. But the focus of student protests hasn’t been the lack of trigger warnings and safe spaces. Instead, many protesters want the university to evaluate how it invests its money, improve access for students with mental illnesses and disabilities, support low-income and first-generation students, and pay its employees fair wages. They have been pushing for more transparency in the school’s private police force, which has resisted making most of its policies public in the face of complaints. The university is also under federal investigation over its handling of sexual assault cases. Yet, the administration has refused to meet with student groups who have asked to discuss these issues, and it has threatened to discipline students who staged a sit-in protest. The university even hired a provost who specializes in corporate crisis management and dealing with "activist pressure.” While the university' accuses students of silencing opposing voices, it continues to insulate itself against difficult questions. In this context, it’s hard to see the dean’s letter as anything other than a public relations maneuver. While students are being depicted as coddled and fragile, the administration is stacking bricks in its institutional wall to avoid engaging with their real concerns.

### A2 Your FW ev is about General Speech

#### They’ve conceded spillover- more evidence

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

Although the majority of the commentary on the Hosty decision has been negative—even alarmist—others are not as concerned. The decision in Hosty was based, in large part, on the INNOVATOR’s status as a limited public forum. Scholars have surmised that “a vast majority of college newspapers would be found to be public forums,” and, as such, have concluded that Hosty might not have a “great negative impact.”269 A determination of forum status might be much more difficult of other student-funded expressive activities.270 So, while most student media enjoy a history of operating as a public forum, “[a] student group that brings speakers or shows films on campus may not have easily demonstrated that same tradition.”271 The real fear then, is not what will happen to student-run newspapers on college campuses, but how Hazelwood might be expanded to censor all forms of speech.272(981-2)

### A2 Speech Codes Good

#### Speech codes result in animosity between groups, turns their hate speech impacts. Even the most seemingly reasonable speech codes get misapplied. Haidt and Lukianoff 17

Jonathan Haidt is a social psychologist at New York University and author of The Righteous Mind: Why Good People are Divided by Politics and Religion. Greg Lukianoff is a constitutional lawyer and president and CEO of the Foundation for Individual Rights in Education (FIRE). On U.S. Campuses, Free Inquiry Is Taking a Beating, Philanthropic Roundtable, January 2017, EE

There’s something called pluralistic ignorance, where essentially everyone thinks that everybody agrees on certain issues, but when you survey people individually, it actually turns out that the group is more intellectually diverse. But the illusion makes people feel they have to conform. We’re having a breakdown in production of interesting new ideas today, partially because of this perception that 99 percent of people agree, so I better not go beyond the pale and be controversial. A concerted effort to sanitize the public sphere has resulted in a situation where people are only talking to folks who they already agree with. We’re polarizing, and becoming more certain of what we believe, without good reason. And this can lead to isolation of different groups, because people are afraid to talk across lines of difference. Sometimes critics will say I’m just protecting hate speech. It’s easy to overwhelm this with counterexamples. One of the best known cases in FIRE history is from Indiana University-Purdue University Indianapolis, where a student was accused of racial harassment because he was reading a book called Notre Dame vs. the Klan. Even though the book was about a KKK march on Notre Dame that was thwarted, he was chastised because the book had the word “Klan” on the cover, which made some people uncomfortable. These kinds of cases are one reason we’re now getting more professors coming to us at FIRE. They are scared of their students right now. They realize how easy it has become to say the “wrong” thing.

#### Speech codes are an excuse to shut down dissent. Greenfield 1/18

Daniel Greenfield a Shillman Journalism Fellow at the Freedom Center, is a New York writer focusing on radical Islam, SAFE SPACES FOR FASCISTS, Front Page Mag, January 18 2017 EE

And dissent must be swiftly condemned. Safe space culture is just another term for fascism. Hitler and Mussolini sought to create safe spaces in which only their views could be heard. Safe spaces aren’t therapeutic. They’re not the outcry of the oppressed. Instead they are sanctuary spaces for fascism. Fascism begins with claims of oppression. The Nazis insisted that they were the victims. So did all their allies. But everyone can be a victim in their own narrative and victimhood provides unlimited license for abuses. It is not victimhood, but its rejection, that makes us strong and free. College administrators have turned over campuses to weeping thugs and social justice crybullies who screech about their pain even as they smash windows and wield hammers against their opponents. And free speech has been replaced with fascism. Free speech, like all our freedoms, cannot be taken for granted. Instead every generation has to fight for its right to free speech.

#### Hate speech codes get corrupted and lay the ground work for fascism. Greenwald 13

Glenn Greenwald, France's censorship demands to Twitter are more dangerous than 'hate speech', January 2, 2013, The Gaurdian EE

But there are no views that I hold which I think are so sacred, so objectively superior, that I would want the state to bar any challenge to them and put in prison those who express dissent. How do people get so convinced of their own infallibility that they want to arrogate to themselves the power not merely to decree which views are wrong, but to use the force of the state to suppress those views and punish people for expressing them? The history of human knowledge is nothing more than the realization that yesterday's pieties are actually shameful errors. It is constantly the case that human beings of the prior generation enshrined a belief as objectively, unchallengably true which the current generation came to see as wildly irrational or worse. All of the most cherished human dogmas - deemed so true and undeniable that dissent should be barred by the force of law - have been subsequently debunked, or at least discredited. How do you get yourself to believe that you're exempt from this evolutionary process, that you reside so far above it that your ideas are entitled to be shielded from contradiction upon pain of imprisonment? The amount of self-regard required for that is staggering to me. There's no scientific formula for determining what is "hate speech". It's inherently subjective. Every comment section on the internet - involving endless debates about which ideas should and should not be banned - proves that, including the comment section that quickly sprung up in response to Farago's pro-censorship column, where numerous conservative or "New Labour"-type Guardian readers opined that the real "hate speech" are the Guardian columns that criticize Israel, the US, and other western institutions they like. If "hate speech" is to be banned, those commenters predictably argued, we should start with left-wing Guardian columns. That's the same mindset that took this concept of "hate speech" and used it to criminally prosecute a British Muslim teenager for the "crime" of posting a Facebook message that said that "all soldiers should die and go to hell" - a message he posted out of anger over the killing of civilians as part of the war in Afghanistan. When you sow censorship theories, that's what you reap, because nobody has a lock on what ends up on the list of "hateful" and thus criminalized ideas. Personally, I regard the pro-censorship case - the call for the state to put people in cages for expressing prohibited ideas - as quite hateful. I genuinely consider pro-censorship arguments to be its own form of hate speech. In fact, if I were forced to vote on which ideas should go on the Prohibited List of Hateful Thoughts, I would put the desire for state censorship - the desire to imprison one's fellow citizens for expressing ideas one dislikes - at the top of that list. Nothing has been more destructive or dangerous throughout history - nothing - than the power of the state to suppress and criminalize opinions it dislikes. I regard calls for suppression of ideas as far more menacing than - and at least just as hateful as - bigoted Twitter hashtags and online homophobic jokes. Ultimately, the only way to determine what is and is not "hate speech" is majority belief - in other words, mob rule. Right now, minister Vallaud-Belkacem and Farago are happy to criminalize "hate speech" because majorities - at least European ones - happen to agree with their views on gay people and women's equality. But just a couple decades ago, majorities believed exactly the opposite: that it was "hateful" and destructive to say positive things about homosexuality or women's equality. And it's certainly possible that, tomorrow, majorities will again believe this, or believe something equally bad or worse.

## Plan/Inherency

### A2 Hosty limited to 7th circuit jurisdiction

#### 1. Decision effects wide reaching

Goodman, Director Student Press Law Center, 05

( S. Mark Goodman, Michael C. Hiestand, Student Press Law Center 2005 WL 2736314 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY, Jeni S. Porche, and Steven P. Barba, Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 20, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief of Amici Curiae Student Press Law Center, Associated Collegiate Press, College Media Advisers, Community College Journalism Association, Society for Collegiate Journalists, Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, National Newspaper Association, Newspaper Association of America, Society of Professional Journalists, Associated Press Managing Editors, College Newspaper Business and Advertising Managers, National Federation of Press Women, National Lesbian and Gay Journalists Association and the Independent Press Association/Campus Journalism Project in Support of Petition of Margaret L. Hosty, Jeni S. Porche, and Steven P. Barba for Writ of Certiorari Of Counsel: S. Mark Goodman, Michael C. Hiestand, Student Press Law Center, 1101 Wilson Blvd., Ste 1100, Arlington, VA 22209-2211, (703) 807-1904. Richard M. Goehler, (Counsel of Record), Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, (513) 651-6800, Counsel for Amici Curiae.)

For more than three decades, student journalists at public colleges and universities have enjoyed the full legal protections of the First Amendment. Following this Court’s lead, lower courts have held consistently that any attempt by school officials to censor or control constitutionally protected expression in a university student publication is prohibited even if that publication is sponsored by the school and part of a school-recognized activity. See Rosenberger, 515 U.S. 819; Kincaid v. Gibson, 236 F.3d 342 (6th Cir. 2001) (en banc); Antonelli v. Hammond, 308 F. Supp. 1329 (D. Mass. 1970); Bazaar v. Fortune, 489 F.2d 225 (5th Cir. 1973), affirming en banc, 476 F.2d 570 (5th Cir. 1973), cert. denied, 416 U.S. 1995 (1974); Joyner v. Whiting, 477 F.2d 456 (4th Cir. 1973); Stanley v. Magrath, 719 F.2d 279 (8th Cir. 1983); Schiff v. Williams, 519 F.2d 257 (5th Cir. 1975); Mississippi Gay Alliance v. Goudelock, 536 F.2d 1073 (5th Cir. 1973), cert. denied, 430 U.S. 982 (1977); Bazaar v. Fortune, 476 F.2d 570, aff’d en banc, 489 F.2d 225 (5th Cir. 1973) (per curiam), cert. denied, 416 U.S. 995 (1974); Lueth v. St. Clair County Community College, 732 F. Supp. 1410 (E.D. Mich. 1990); Sinn v. Daily Nebraskan, 638 F. Supp. 143, 148 (D. Neb. 1986) aff’d, 829 F.2d 662 (8th Cir. 1987); Milliner v. Turner, 436 So. 2d 1300 (La. Ct. App. 1983), cert. denied, 442 So. 2d 453 (La. 1983); \*6 Mazart v. State, 441 N.Y.S.2d 600, 605 (N.Y. Ct. Cl. 1981); Panarella v. Birenbaum, 32 N.Y.2d 108, 343 N.Y.S.2d 333 (N.Y. 1973); State Board for Community Colleges v. Olson, 687 P.2d 429 (Colo. 1984). The Seventh Circuit’s decision is in direct conflict with law that has long been regarded as settled. The ruling will have far-reaching consequences for student and faculty speech on college and university campuses within its jurisdiction and beyond.

#### 2. Lukianoff 1 explicitly states a spillover into other colleges including private schools – read the bottom of the card.

### A2 Appeal Denied by SC

#### The Supreme Court denying an appeal does not affirm constitutionality – they’re overburdened with cases so they arbitrarily selection certain ones. LII no date

Legal Information Institute, Cornell University, “Centiorari.” No date.

Definition¶ A word from Law Latin, meaning "to be more fully informed." In the United States, certiorari is most commonly associated with the writ that the Supreme Court of the United States issues to review a lower court's judgment. An appellate court may use certiorari as the formal instrument by which to review cases at its discretion. A case cannot, as a matter of right, be appealed to the U.S. Supreme Court; therefore, a party seeking to appeal from a lower court decision may file a petition to a higher court for a writ of certiorari. The appellate court may then order a lower court to deliver its record in a case so that the higher court may review it. ¶ Overview¶ The Supreme Court of the U.S. gives full consideration to but a small fraction of the cases it has authority to review. With many important categories of cases, the party seeking Supreme Court review does so by "petitioning" the Court to issue a "writ of certiorari." (See, e.g., 28 U.S.C. §§ 1254, 1257, 2350.) (Note: Some state appeals courts -- e.g., Ala., Ark., Colo., Conn., Fla., Ga., La., N.J. -- employ the same terminology.) If the Court decides to review one or more issues in such a case, it grants certiorari (often abbreviated as "cert."); if the Court decides not to review the case, it denies certiorari. A decision to deny certiorari lets the lower court's ruling stand. The Supreme Court will only grant certiorari for compelling reasons, including but not limited to the circumstances listed in Supreme Court Rules, Rule 10.¶ The decision to grant or deny certiorari is discretionary. A decision to deny certiorari does not necessarily imply that the higher court agrees with the lower court's ruling; instead, it simply means that fewer than four justices determined that the circumstances did not warrant a review by the Supreme Court according to long-standing internal Court practice. The Court's orders granting or denying certiorari are issued as simple statements of actions taken, without any explanations given for denial. It has been suggested that the Court indicate its reasons for denial. In Maryland v. Baltimore Radio Show, Inc., however, the Court explained that because of practical considerations (to allow the Court to carry out its indispensable duties), Congress has allowed the control of the Court's business to remain within the Court's discretion.

### Inhernecy -Constitution

#### College journalists act in a legal grey zone –level of protection unclear

Joint Statement of the AAUP et al., Dec 16

(A committee composed of representatives from the American Association of University Professors, the College Media Association, the National Coalition Against Censorship, and the Student Press Law Center formulated this joint statement in fall 2016. The document received the endorsement of all four sponsoring organizations. https://s3.amazonaws.com/media.spl/1398\_jointstatement\_aaupbulletin\_studentmedia\_finalo.pdf)

Student journalists and their faculty advisers work in a gray zone of legal uncertainty. While the Supreme Court has been generally protective of First Amendment rights at public colleges and universities, the justices have never squarely addressed whether college and university journalists have rights comparable to those of nonstudent professionals or whether they have only the minimal rights afforded to high school journalists under the Court’s 1988 ruling in Hazelwood School District v. Kuhlmeier. 22 In the absence of clear guidance from the Supreme Court, lower courts have struggled to adapt First Amendment principles to the unique setting of a college or university news organization and have reached unsettlingly disparate results.23 Although a handful of states have clarified and fortified the rights of college and university journalists by way of state statute, few extend that enhanced protection to faculty advisers. While all public employees are at heightened risk of retaliation as a result of court rulings diminishing protection for speech in the course of official duties, media advisers are in special peril because of the intrinsically adversarial role between watchdog journalists and government.24 The First Amendment protects only against “state action” by government agents and therefore offers no relief for those enrolled in or employed by private institutions. But even at public institutions, federal courts have not reliably treated campus journalism as worthy of constitutional protection. Where state laws protect journalism advisers against retaliation, wrongfully discharged educators can meaningfully vindicate their rights. At Chicago State University, fired student media adviser Gerian S. Moore won reinstatement after a US District Court—applying Illinois’s College Campus Press Act, an antiretaliation statute enacted in 2007—found that the university removed Moore as punishment for unflattering coverage in the student-run newspaper, Tempo. 25 Illinois, however, is one of only three states, along with California and Maryland, with statutes explicitly protecting college and university media advisers against adverse personnel actions in response to their students’ journalistic work. Without statutory protection, advisers have struggled to convince the courts to entertain retaliation claims. In 2015, First Amendment challenges to the removal of faculty advisers under circumstances strongly indicative of content-based retaliation were brought at Northern Michigan University and at Iowa’s Muscatine Community College. In both cases, federal courts accepted uncritically the institutions’ counterarguments that factors other than editorial content motivated the removals, disregarding substantial contrary evidence that institutional decision makers had expressed animus (at Northern Michigan) over the aggressive use of public-records laws and (at Muscatine) over coverage of an administrator’s threats to a student editor in reaction to an unflattering photograph. The judges’ refusal to grant relief in either case dramatizes the practically insurmountable burden that a wrongfully discharged journalism adviser faces in obtaining vindication through the federal courts.

### Inherency- Censorship Widespread/High

#### Censorship of critical journalism is widespread- faculty are told prior restraint is a requirement of the job

Joint Statement of the AAUP et al., Dec 16

(A committee composed of representatives from the American Association of University Professors, the College Media Association, the National Coalition Against Censorship, and the Student Press Law Center formulated this joint statement in fall 2016. The document received the endorsement of all four sponsoring organizations. <https://s3.amazonaws.com/media.spl/1398_jointstatement_aaupbulletin_studentmedia_finalo.pdf>) \*\*”the movement” is referencing on campus BLM protests

The movement also shone light on the status of student journalists and their faculty and staff advisers, as demonstrated by an incident involving a faculty member and a student videographer at the University of Missouri and by one involving the student newspaper at Wesleyan University.1 While unusual for the attention they garnered, these incidents were by no means unique or even rare. 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, as the sampling of cases discussed in this report demonstrates. Administrative efforts to subordinate campus journalism to public relations are inconsistent with the mission of higher education to provide a space for intellectual exploration and debate. But publicly reported cases may just be the tip of a much larger iceberg. A March 2016 survey of college and university media advisers affiliated with the College Media Association revealed that over a threeyear period more than twenty media advisers who had not previously shared their stories reported suffering some degree of administrative pressure to control, edit, or censor student journalistic content. This pressure was reported from every segment of higher education and from every institutional type: public and private, four-year and two-year, religious and secular. None of the cases has been made public, in most instances because the advisers feared for their jobs, regardless of whether the adviser was a staff or faculty member and regardless of his or her tenure status. In many cases, college and university 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. For example, administrators at one four-year public university demanded that the adviser begin conducting prepublication review after the newspaper published a story about the “top ten places to hook up on campus.” And it is not only administrators who apply this pressure. In the 2016 survey, one media adviser reported that a representative of graduate student government threatened to cut the newspaper’s funding if the newspaper did not cover more graduate student events. In some cases, advisers were told that conducting “prior review”—turning the adviser into a gatekeeper with the ability to overrule the editors’ judgments—was a requirement of employment.

#### Newest reports find university administrators want to censor student press. Kovacs ‘12/1

Kasia Kovacs is Inside Higher Ed's fall 2016 reporting intern. She is a graduate student at the University of Missouri, where she’s studying investigative journalism. She covered the Mizzou campus protests while working at a projects reporter for the Columbia Missourian. She has also worked for Investigative Editors and Reporters, the American Press Institute and the Kansas City Star. She graduated in 2013 from William Jewell College, where she studied English literature and wrote for the Hilltop Monitor. “Student Press Under Pressure.” Inside Higher Ed. December 1, 2016. <https://www.insidehighered.com/news/2016/12/01/student-reporters-face-retaliation-university-administrators-new-report-says> JJN

Student news organizations face threats of censorship and intimidation from university administrators, sometimes in the form of budget cuts in the wake of unflattering articles and sometimes with the firings of faculty advisers who encourage aggressive student journalism. These are the findings of a report released today called “Threats to the Independence of Student Media.” The report aggregated instances of administrative pressure on student media organizations from incidents gathered by the Student Press Law Center and surveys from the College Media Association. The study is a joint effort of those two groups, the American Association of University Professors and the National Coalition Against Censorship. The publication is not meant to be a quantitative measure of threats to student press freedom, but rather a list that shines light on the sometimes confrontational relationships between student media and university administrations, said Hank Reichman, professor emeritus of history at California State University at East Bay and chair of the AAUP's Committee A on Academic Freedom and Tenure. The report cites seven examples in which faculty advisers of student news organizations lost their jobs after reporters pursued controversial stories. For instance, last year at Northern Michigan University, the student newspaper's board of directors ousted its adviser, Cheryl Reed, and denied the promotion of a student from managing editor to editor in chief. According to the report, these decisions followed “attempts by student journalists to aggressively cover the administration.” As The Detroit Free Press reported at the time, the ouster of Reed followed open records requests from the student journalists on contracts for a coffee shop at the university and reporting on board members' spending on travel. But Derek Hall, assistant vice president of marketing and communications at Northern Michigan, said the university's decisions were not made in retaliation for coverage. “It basically came down to the fact that people on the board could not communicate and were not getting along,” Hall said. The newspaper board, which is made up of students, the adviser, a community member, a faculty representative and the vice president of student services, was divided, Hall said, which was the reason for the ouster. Hall denied that the decision amounted to censorship. At another institution, Fairmont State University, in West Virginia, administrators removed a newspaper adviser in 2015 after the paper published a two-part story investigating mold on campus, the report asserts. The report also states that the university's president asked students to cover less controversial stories, but a spokeswoman for the university denied this. “No member of the administration at Fairmont State University has ever asked the student newspaper not to print a story or not to cover a story," Amy Baker, a Fairmont State official, said via email. Those examples are part of a larger trend, the report notes. In a poll conducted by the CMA last spring, nearly two dozen advisers said administrators had pressured them to control or censor content. Constraining or firing newspaper advisers is not the only form of administrative pressure. According to the report, the University of Redlands cut funding for a student newspaper after a story included a quote from a student who was concerned that funds from a $35 million donation would go to “rich, white males.” However, a university spokesman said the funding was not suspended because of one specific quote, but because of concerns about "journalistic ethics, accurate reporting, student representation, the advisory structure of the Bulldog Weekly and the fact that nearly $40,000 -- the full cost of the newspaper, funded completely by student activity fees -- was spent yearly on a print newspaper with low readership." The University of Kansas student government association halved the budget for The University Daily Kansan, a move that was ratified by administrators. The student newspaper then sued the university's chancellor, claiming the funding was slashed in retaliation for unfavorable editorial coverage by the Kansan. At some institutions, administrators attempted to control coverage by thwarting access to meetings and documents. The report states, “It has become commonplace for colleges and universities to make requesters wait months for the fulfillment of even the simplest requests for public records or simply to ignore the requests entirely. For example, student journalists at the University of North Carolina at Chapel Hill report that it is not uncommon to wait two years or more to receive documents responsive to open-records requests to their institution." In an emailed response to Inside Higher Ed, a UNC spokesman, Mike McFarland, said, "The university acknowledges there has been a significant past backlog in requests that we’re working diligently to reduce. Over the past three months, the university has reduced the number of requests pending prior to 2016 by almost 70 percent. The office has new leadership and is pursuing best-practice technology changes that we believe will further streamline our process as well as improve efficiency and response time." McFarland added that 69 of The Daily Tar Heel's 74 requests from 2015 have been fulfilled; this year, 19 of the newspaper's 24 requests have been fulfilled. Contentious relationships between university administrators and student newspapers are not a new phenomenon, said Reichman of the AAUP. It’s also impossible to quantify whether student press freedoms have gotten better or worse over the past few decades because data are so limited. But these recently recorded incidents seem to feed into a larger trend of what Reichman calls the “corporatization of universities." In other words, when universities to attempt to brand themselves, they tend to see student media as a part of that brand and want these student-run organizations to shy away from controversial or critical stories. The report concludes with a call for greater safeguards for the student press to combat the tightening reins on press freedom -- for instance, boundaries to separate editorial content from the financial management of student news organizations so that administrators cannot threaten students with financial consequences.

#### Colleges censor now more than ever when they are obsessed with a favorable public image. Schierbecker ‘12/1

Kayla Schierbecker is a former student at the University of Missouri. She writes about free speech, campus wars and police accountability for Heat Street and Photography is Not a Crime. “Colleges ‘obsessed’ with their public image are crippling student journalism, report says.” The College Fix. December 1, 2016. <http://www.thecollegefix.com/post/30201/> JJN

Student media watchdogs are calling for legislation to protect student journalists and their faculty advisers from retaliation and threats of censorship, in response to a “disturbing trend” of “overt hostility” toward them on campuses nationwide. The courts have provided little help to embattled students, and in some places judges have made them a bigger target, according to a student media report released Thursday that offers little consolation to free speech advocates. Colleges have never been more “obsessed with promoting a favorable public image” at the expense of accurate reporting in the public interest, said Student Press Law Center Executive Director Frank LoMonte in a press release. Give us more grad student coverage – or else Student censors are adding to the misery of student publications who are seeing their rights eroded by hostile administrators, according to the report. It was written jointly by SPLC, the American Association of University Professors, the College Media Association and the National Coalition Against Censorship. “[O]ne media adviser reported that a representative of graduate student government threatened to cut the newspaper’s funding if the newspaper did not cover more graduate student events,” the report says. It also recalls the racial protests that took over the University of Missouri a year ago, in which professors and student protesters tried to control the movements of journalists covering the spectacle. Censorship by administrators may be more severe than is publicly acknowledged. The College Media Association surveyed college media advisers in March, with 20 of them relating previously unreported attempts by administrators to assert control over student newspaper content in the past three years, the report says. (The College Fix was unable to locate that CMA survey to identify its sample size and methodology.) Many incidents went unreported because advisers feared losing their careers. One four-year university demanded pre-publication review after the newspaper published a “frivolous” listicle highlighting the “top ten places to hook up on campus.”

### UQ – Censorship

#### Censorship is increasing in the status quo – crackdown in reaction to Trump. Golden 1/23

Shannon Golden is a graduate student at Boston University pursuing her Masters in Journalism, University crackdowns on speech will get worse in response to Trump, new litigation chief says, January 23, 2017 EE

Michael Farris, the founder of Patrick Henry College, recently became only the second CEO, president and general counsel in the religious-liberty group’s 24-year history. Alan Sears remains as founder. Known for its lawsuits on behalf of conservative Christians, the alliance has also jumped into more general lawsuits against campus infringements on free speech in the past few years. In spite or even because of Donald Trump’s presidential victory, Farris thinks students of a particular viewpoint will find themselves more under siege than they were in the Obama administration. “The universities have control and I think it will get worse,” he told The College Fix last week, when asked if censorship and discrimination in higher ed would decrease under President Trump. “I think [universities] will react negatively to what is going on in Washington and tighten up the reins.” ‘It will have a generational impact’ if we don’t fight back Farris founded the Home School Legal Defense Association in 1983 and helped draft the Religious Freedom Restoration Act, whose name he took credit for and which was signed by President Bill Clinton in 1994. In 2000 he founded Patrick Henry College, which describes itself as a “classical Christian” institution. According to the college’s website, Farris saw a need for a school that represented a strong stand for God and biblical teaching while also providing academic rigor that produced successful students. Farris told The Fix he plans to keep the alliance going in the same direction that it did under Sears, the former Reagan administration prosecutor, while growing the organization and expanding on its mission. The group’s mission is to ensure people’s right to freely live out their faith in word and deed. It focuses on religious freedom, sanctity of life and sanctity of marriage and family. The alliance has a heavy focus on education, with “over 200 legal victories on behalf of students and faculty,” according to its website. Just last week the group sued Colorado State University on behalf of a campus pro-life group because administrators refused to approve its funding request to bring a speaker to campus. The college said the pro-life activist was not “unbiased.” Threaten federal funding to protect speech Today colleges often violate students’ freedom of expression, particularly those who identify as conservative and Christian, according to Farris. “We want to be as aggressive as possible in defending the constitution of the United States,” Farris said in a phone interview. “If freedom of speech is lost, the impact is unbelievably bad for a long, long time. It will have a generational impact.” He encourages students to check out the alliance’s resources on campus speech codes: “Students need to be vigilant about checking out their speech policies on campus, and if something is amiss or wrong, fight it.”

#### Election results mean speech is about to be cracked down on. Haidt Lukianoff 17

Jonathan Haidt is a social psychologist at New York University and author of The Righteous Mind: Why Good People are Divided by Politics and Religion. Greg Lukianoff is a constitutional lawyer and president and CEO of the Foundation for Individual Rights in Education (FIRE). On U.S. Campuses, Free Inquiry Is Taking a Beating, Philanthropic Roundtable, January 2017, EE

I agree. Since passions drive reasoning for all of us, the 2016 presidential election results are going push many people to extremes. There is going to be a lot more polarization. On campus, this will mean a lot more pressure on university presidents to implement policies that will further chill speech, such as hotlines encouraging students to report even a “microaggression,” and “bias response teams,” which are bureaucratic innovations that act as investigators, create a case number, contact the alleged perpetrator—leaving everyone tense and inclined to self-censor and speak only safe conventional banalities. Alumni and donors can be extremely important in balancing other forces and encouraging colleges to stand up for free inquiry. As far as I can tell, alumni are strongly against these movements toward “safety culture.” Whether they are on the right or the left, the older generation believes strongly in free speech. If alumni would mention their concerns about these issues to college presidents, administrators, and development officers, and mention it often, I think it would go a long way toward addressing the problem. University presidents face strong political forces from many constituencies. They have a very difficult job to do. I don’t envy them. But some of them might actually need some counterpressure before they can effectively stand up to the illiberal forces growing stronger on so many campuses.

#### Free speech is under threat now. Speech codes consistently get morphed into broad censorship in the squo – multiple recent examples. Haidt and Lukianoff 17

Jonathan Haidt is a social psychologist at New York University and author of The Righteous Mind: Why Good People are Divided by Politics and Religion. Greg Lukianoff is a constitutional lawyer and president and CEO of the Foundation for Individual Rights in Education (FIRE). On U.S. Campuses, Free Inquiry Is Taking a Beating, Philanthropic Roundtable, January 2017, EE

Freedom of expression is under serious threat on campuses, and has been for some time. You may have heard of the phenomenon of free speech zones at colleges. These are tiny areas, such as a 20-foot-wide gazebo, which students are told are the only places they can exercise their free speech rights. About a fifth of universities maintain such restrictions. Take one of California’s public universities where we recently became involved—Cal Poly Pomona. We sued to protect a student who was not only told that he had to get permission two weeks in advance to use the campus free speech zone, but also that he had to wear a badge saying that he’d been granted the right to engage in free speech at Cal Poly Pomona. Then there are the speech codes that now exist on most campuses. We rate them, at thefire.org, using a green-, yellow-, or red-light system. Red- light colleges have codes that are very bad for free speech, yellow means some problematic codes, and we give green lights to schools that have no policies that threaten free speech. Sadly, very few universities earn green lights. Red-light codes are generally laughably unconstitutional codes, and would be thrown out of any court if someone was willing to invest time and money to challenge them. The code promulgated by the University of Connecticut, for instance, banned the use of “derogatory names, inconsiderate jokes, and inappropriately directed laughter.” Be careful where you laugh. Though ruled unconstitutional, knockoffs popped up at other schools as well, most recently at Drexel University, where it took more legal intervention on behalf of students to get it suspended. Why are college administrators trampling on free expression? One reason is federal overreach. The U.S. Department of Education under the Obama administration has made things much worse. It provided a new definition of harassment that is completely stripped of the safeguards the U.S. Supreme Court had earlier put in place to protect freedom of speech. Instead of a standard of harassment being a pattern of discriminatory behavior that is “severe, persistent, and pervasive,” the Department of Education bureaucrats decided to define harassment as any unwelcome verbal conduct or speech. And the department explicitly got rid of the longstanding “reasonable person” standard, meaning that anyone who subjectively experienced “unwelcome” speech has been harassed. That opens the door to miscarriages of justice like the case of Laura Kipnis. A feminist professor at Northwestern University, she wrote an article for the Chronicle of Higher Education saying that Title IX has become too expansive and is patronizing to women. She mentioned (without names) a sexual harassment claim then underway at Northwestern. And for writing this article—engaging in free speech in the country’s most popular higher-education journal—she was charged with violating Title IX and officially investigated. She was not allowed to know who was accusing her or what the charges were. She was not allowed to write anything down in her hearing, or have a lawyer present. After a few months of inquisition, she decided to write about her Kafkaesque experience in the Chronicle of Higher Education. Only after this unwanted publicity did the university halt the investigation. This problem is not limited to sexual harassment cases. In most jurisdictions, the federal proscribing of unwelcome speech is automatically expanded to other categories. At the University of Montana, for instance, the ban included unwelcome political opinions. If any speech you subjectively choose not to welcome counts as harassment, there is literally nothing that is safe to say on campuses.

#### Free speech has reached a crisis point – support for the first amendment on campuses is at its lowest ever. Kurtz 1/24

Stanley Kurtz graduated from Haverford College and holds a Ph.D. in social anthropology from Harvard University. He did his field work in India and taught at Harvard and the University of Chicago. , Restoring Campus Free Speech, January 24, 2017, National Review EE

For decades, freedom of speech on college campuses has been under siege from restrictive speech codes. In just the last few years, the slow erosion of support for campus free speech has reached a crisis-point, with the rise of trigger warnings, safe spaces, and a raft of speaker disinvitations. Student support for freedom of speech has never been weaker than it is right now. How can we restore and protect freedom of speech on our college campuses when many students have ceased to value or understand it, many faculty members have turned against it, and many administrators worry more about keeping their institutions off the front pages than about standing up for liberty? I believe the answer to this question lies in comprehensive state-level legislation designed to secure freedom of speech on the campuses of public state university systems. Not only are these systems tremendously important in and of themselves, but a national debate over such legislation is bound to have influence on the policies of private colleges and universities as well. In the fall of 2015, in response to the often illiberal demonstrations then sweeping across America’s colleges and universities, I offered “A Plan to Restore Free Speech on Campus.” Since then I’ve joined with Arizona’s Goldwater Institute to turn this plan into model state-level legislation. The resulting proposal also incorporates some innovative ideas for protecting campus speech that the Goldwater Institute has helped to put forward in Arizona. Considered as a whole, the model legislation that the Goldwater Institute and I have developed adds up to what is arguably the most comprehensive attempt ever made to protect campus freedom of speech.

#### Most qualified sources agree- widespread journalistic censorship at colleges now

LoMonte, SPLC Exec. Director, 12-1-06

(Frank D., http://www.splc.org/article/2016/12/college-media-threats-report-2016)

The American Association of University Professors (AAUP), the Student Press Law Center (SPLC), the College Media Association (CMA) and the National Coalition Against Censorship (NCAC) Thursday jointly released a report, "Threats to the Independence of Student Media," calling on the nation's colleges to address the problems of censorship, retaliation and excessive secrecy that imperil the independent news coverage essential for civically healthy campuses. The report cites multiple cases in which college and university administrations exerted pressure in attempts to control, edit, or censor student journalistic content. This pressure has been reported in every segment of higher education and every institutional type: public and private, four-year and two-year, religious and secular.

### Civic Engagement

#### Negative ev talks about civic engagement in the context of protests – that is distinct from our government engagement internal link and proves uniqueness for our advantage. Richardson 1/11

Bradford Richardson, Protests 101: College civics classes focus more on demonstrations than citizenship, The Washington Times EE

College-level civics courses have been hijacked by a progressive ideology that emphasizes instruction in organizing political movements rather than understanding the American system of government and the Western tradition upon which it is built, according to a report published this week. “Making Citizens: How American Universities Teach Civics,” a report published by the National Association of Scholars, examines the curricula at four universities and concludes that courses aimed at understanding America have largely been replaced by vocational classes on how to transform it. “In practice this means that instead of teaching college students the foundations of law, liberty, and self-government, colleges teach students how to organize protests, occupy buildings, and stage demonstrations,” the study says. “These are indeed forms of ‘civic engagement,’ but they are far from being a genuine substitute for learning how to be a full participant in our republic.” The 525-page report includes case studies of four universities — Colorado State University, the University of Northern Colorado, the University of Wyoming and the University of Colorado-Boulder — where civics education ranges from less than stellar to nearly nonexistent. The University of Colorado-Boulder, for instance, offers no specific mandatory curriculum. Instead, students fulfill graduation requirements by taking courses in 10 different areas of study — each of which includes hundreds of alternatives. Boulder’s United States Context requirement can be completed by taking traditionally oriented civics courses such as American Political Thought or History of the United States to 1865. Or it can be fulfilled by taking Civic Engagement: Democracy as a Tool for Social Change. Less than one-third of undergraduates at Boulder will take a class in traditional civics, the study estimates, and less than 10 percent will take a course in introductory American politics. Although the report found 11 courses at Boulder that constituted traditional civics education, it identified 60 in a variety of disciplines that have explicit service-learning or civic engagement requirements. “We surmise that still fewer students at CU-Boulder take two or more of the courses that comprise the traditional curriculum in civic literacy,” the report says. “The university’s policy of loose distribution requirements ensure that only a small fraction of CU-Boulder undergraduates receive a traditional civics education.” Of the four universities examined, the University of Wyoming is the only one with something resembling a core curriculum — because of a mandate passed in 1925 by the state Legislature. About half of the University of Wyoming undergraduates will take an introductory course on American government, and the other half will get out of the requirement by taking a multiple-choice exam. “The requirement frames UW’s core civics education as an unpleasant obligation, to be avoided if possible — but at least the university still requires students to acquire a minimum of traditional civic knowledge,” the report says. ‘Rules for Radicals’ John Carson, a regent at the University of Colorado, said a proper civics education is indispensable for informed participation in the American system of government. “At its roots, civics goes back to the ancient Greeks and our whole civilization through the Middle Ages right to the founding,” Mr. Carson said. “If we’re not teaching American civics in a more modern sense and what the foundation of it is, then I think we’re compromising the very purpose of the university.” The National Association of Scholars report details how the meaning of civics education has been transformed over the past several decades by disciples of the late Saul Alinsky, the community organizer known for his 1971 book, “Rules for Radicals.” Instead of conferring an understanding of the U.S. Constitution, American history and Western civilization upon students, progressive activists have coaxed colleges and universities into defining civics education to mean community organizing, service learning and civic engagement toward progressive ends, the report says. The view of civics education is endorsed by, among others, President Obama’s Department of Education, which in 2012 called on “the higher education community — its constituents and stakeholders — to embrace civic learning and democratic engagement as an undisputed educational priority for all of higher education, public and private, two-year and four-year.” “The devil is in the details,” Peter Wood, president of the National Association of Scholars, said in a statement. “Now ‘civic learning’ doesn’t mean what you would expect — straightforward things such as understanding the Bill of Rights, the three branches of government and the Electoral College. Instead, this New Civics is all about ‘diversity,’ environmentalism, the LGBT movement, ‘global’ citizenship, and other liberal causes.” The report also shows that what happens in academia doesn’t stay in academia. Far from remaining isolated on America’s colleges and university campuses, the new civics has changed the very idea of what it means to be a citizen. That idea has expanded into a multibillion-dollar industry made up of federal and state bureaucracies, nonprofit organizations and professional advocacy groups. “Civic engagement diverts at least $40 billion a year and 1.5 million hours of student labor toward progressive organizations,” David Randall, director of communications for the National Association of Scholars and author of the report, said in a statement. “In the meantime, colleges are failing to teach students how their government actually works.” Ultimately, Mr. Carson said, America is imperiled by a citizenry that does not understand how its government functions or how to check its abuses of power.

### PR

#### Student journalism being suppressed for PR

LoMonte, SPLC Exec. Director, 12-1-06

(Frank D., http://www.splc.org/article/2016/12/college-media-threats-report-2016)

The report finds that administrative efforts to subordinate campus journalism to public relations concerns are inconsistent with the mission of higher education to foster intellectual exploration and debate. And while journalism that discusses students’ dissatisfaction with the perceived shortcomings of their institutions can be uncomfortable, it fulfills an important civic function.

### Spillover

#### Hazelwood proves snowball is immediate

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

Despite the confusion, Hazelwood’s impact was immediate.96 Less than an hour after the Court’s decision was announced on the radio, a high school principal censored an article on AIDS.97 That same day, in another high school, the entire staff of a schoolsponsored newspaper resigned, and instead began work on an underground newspaper.98 In fact, the Student Press Law Center (SPLC), a non-profit group that provides legal support and advice to student media outlets, has reported an increase in the number of inquiries concerning censorship it has received for every year since Hazelwood. In 1996, SPLC received a record 221 requests for legal help from high school student journalists or their advisors.99 In 2002, SPLC recorded 529 such requests—an increase of nearly 240%.100 SPLC Executive Director Mark Goodman attributes the continual increase to the Court’s decision in Hazelwood, noting that it has “essentially gutted the First Amendment in many of America’s High Schools.”101(957)

#### Restriction justifies other forms of censorship

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

Since Hazelwood was handed down, its rationale has been expanded to encompass all forms of student expression. High school teachers and administrators have broadly interpreted Hazelwood as a grant of authority to “control student expression for the sake of preserving the institutional and educational integrity of public schools.”102 Its reasoning has been extended beyond the realm of the student press and applied to a variety of First Amendment issues,103 including student attire and appearance,104 school mascots,105 curriculum decisions,106 faculty speech,107 academic freedom,108 and student speech at school assemblies and graduation ceremonies. (957-8)

#### Application of Hazelwood can be used to justify censorship outside of papers

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

By questioning the traditional presumption of independence of college student media, the Hosty court introduced a dangerous ambiguity to the rights of all students engaged in any form of expression. As Mark Goodman, executive director of the Student Press Law Center noted, “Traditionally, student newspapers were presumed by their very nature to be forums for free expression . . . [Hosty] gives schools the chance to argue that’s not what they intended.”324 Goodman went on to suggest that determining forum status for other school-funded student activities, such as speakers and films, might be even more difficult since those forms of expression do not enjoy the traditional presumption of operating as a public forum.325 For example, in November 2004, Indian River Community College (FL) refused to allow the film The Passion of the Christ on campus. The College claimed an unwritten blanket ban on R-rated movies, despite the fact that at around the same time, the school had allowed theatrical productions that would have garnered an R rating and had sponsored at least one other Rrated film.326 Writing for the majority in Hosty, Judge Easterbrook noted, “Let us not forget that academic freedom includes the authority of the university to manage an academic community and evaluate teaching and scholarship free from interference.”327 Clearly suggesting that determining the content of a school-funded newspaper might be a proper exercise of the university’s academic freedom, the Hosty majority ignored the possibility that an extension of Hazelwood’s framework to the post-secondary level might also chill faculty members’ exercise of First Amendment rights. Hazelwood has been interpreted by numerous lower courts to apply to both student and teacher speech.328 Courts have granted high school administrators broad329 and, in at least one case, apparently unlimited330 authority to dictate curriculum and presentation of material in the classroom. At least one court, recognizing the potentially devastating implications of extending Hazelwood to faculty speech, explicitly refused to reach the issue.331 Such an expansion of Hazelwood’s restrictive framework would effectively defeat the notion of the university as a “quintessential marketplace of ideas” and provide public school administrators with unprecedented authority to control faulty speech.(993-5)

## Adv 1

### A2 Coddling Good

#### University students are adults not children

Goodman, Director Student Press Law Center, 05

( S. Mark Goodman, Michael C. Hiestand, Student Press Law Center 2005 WL 2736314 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY, Jeni S. Porche, and Steven P. Barba, Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 20, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief of Amici Curiae Student Press Law Center, Associated Collegiate Press, College Media Advisers, Community College Journalism Association, Society for Collegiate Journalists, Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, National Newspaper Association, Newspaper Association of America, Society of Professional Journalists, Associated Press Managing Editors, College Newspaper Business and Advertising Managers, National Federation of Press Women, National Lesbian and Gay Journalists Association and the Independent Press Association/Campus Journalism Project in Support of Petition of Margaret L. Hosty, Jeni S. Porche, and Steven P. Barba for Writ of Certiorari Of Counsel: S. Mark Goodman, Michael C. Hiestand, Student Press Law Center, 1101 Wilson Blvd., Ste 1100, Arlington, VA 22209-2211, (703) 807-1904. Richard M. Goehler, (Counsel of Record), Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, (513) 651-6800, Counsel for Amici Curiae.)

I. A First Amendment standard specifically created for high school student curricular expression is not appropriate for college and university students. This Court’s decision in Hazelwood School Dist. v. Kuhlmeier, 484 U.S. 260 (1988), established a restrictive standard for student First Amendment rights - applicable only in elementary and secondary schools - that was intended to help school officials protect students while they were children. Id. at 272 (noting that school officials must be able to take into account the “emotional maturity of the intended audience” in determining whether censorship of student speech is appropriate.) As adults,8 however, college and university students are entitled to the protection afforded other adults under the First Amendment.

#### The provocative discussion they describe isn’t educational – their uniqueness evidence isn’t about public colleges and is cherrypicked, empirics flow neg. Bovy 15

Phoebe Maltz Bovy, Don't Blame Students for Being Hypersensitive. Blame Colleges. New Republic, March 23. 2015 EE

Certain things happening at colleges today are indeed silly, if not downright destructive. But before joining the chorus of those tsk-tsking today’s privileged youth for their hypersensitivity, we should ask whether such extreme cases are the norm or the exception. Conservative critics of academia have long pointed to the most scandalous-sounding or jargon-filled workshop titles as evidence that higher ed is in shambles, ignoring the Shakespeare courses and other signs that students are learning more or less what they always had been. While Shulevitz deserves credit for pointing to several specific examples of campus absurdities, we don’t really get a sense of the scope. Nor is it clear whether these are concerns at all colleges, or just at elite colleges. Shulevitz’s anecdotes come from Brown, Columbia, Smith, and others of that ilk. Does this happen at public universities? Community colleges? The atmosphere I’ve read about, in Shulevitz’ piece and the many articles about trigger warnings, in no way resembles anything I observed teaching undergraduates over the past several years at New York University. It could be that French-language classes don’t lend themselves to offense, but plenty of French movies do, and I can well remember showing The Mad Adventures of Rabbi Jacob without leading with a trigger warning about the cultural appropriation and slapstick violence that was to come. College shouldn’t be about making students comfortable, but it also shouldn’t be about making them uncomfortable for discomfort’s sake. The Allan Bloom or Dead Poets Society model of professor-as-provocateur tends to be more about allowing a professor’s ego to express itself than about successfully imparting course-related knowledge. I also wouldn’t be so quick to assume students today are, in fact, hypersensitive. Whether any specific instance of outrage is performative or sincere is something one can only ever speculate (and sometimes, as in the case of Columbia student Emma Sulkowicz’ mattress project, it could be both). Comparing today’s youth with that of her day, Shulevitz writes, “I’m old enough to remember a time when college students objected to providing a platform to certain speakers because they were deemed politically unacceptable. Now students worry whether acts of speech or pieces of writing may put them in emotional peril.” Shulevitz wouldn’t need to be especially old to remember this—students have been protesting commencement speakers for the past several years.

### A2 Papers are Privately Funded

#### Almost all student papers are subsidized

Goodman, Director Student Press Law Center, 05

( S. Mark Goodman, Michael C. Hiestand, Student Press Law Center 2005 WL 2736314 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY, Jeni S. Porche, and Steven P. Barba, Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 20, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief of Amici Curiae Student Press Law Center, Associated Collegiate Press, College Media Advisers, Community College Journalism Association, Society for Collegiate Journalists, Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, National Newspaper Association, Newspaper Association of America, Society of Professional Journalists, Associated Press Managing Editors, College Newspaper Business and Advertising Managers, National Federation of Press Women, National Lesbian and Gay Journalists Association and the Independent Press Association/Campus Journalism Project in Support of Petition of Margaret L. Hosty, Jeni S. Porche, and Steven P. Barba for Writ of Certiorari Of Counsel: S. Mark Goodman, Michael C. Hiestand, Student Press Law Center, 1101 Wilson Blvd., Ste 1100, Arlington, VA 22209-2211, (703) 807-1904. Richard M. Goehler, (Counsel of Record), Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, (513) 651-6800, Counsel for Amici Curiae.)

Most public college student news organizations rely primarily on advertising revenue to support their activities, with less than 28 percent reporting they receive any financial assistance from their college or university’s general funds.7 \*5 However, almost all student publications receive some indirect form of subsidy from their school (office space or use of school-owned equipment and services, for example) that could implicate their rights under the Seventh Circuit’s decision.

### Journalism Adv -Spillover- Grad Student

#### Censorship undermines journalism-training, writing skills, adversarial relationship to the gov

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

Finally, endorsement of Hazelwood beyond the high school setting will have a potentially destructive effect on the recruitment and training of future professional journalists. Research demonstrates that early participation on student newspapers is profoundly influential on student journalists’ attitudes toward the press.332 Not only is an uncensored college newspaper vital to attracting new journalism students, it provides those students with real-world training. Both large and small newspapers look highly favorably upon prior journalism experience and well-honed writing skills when hiring new reporters.333 Moreover, apart from writing and reporting skills, by working for a college newspaper, aspiring journalists learn to accept responsibility for what they publish. For this reason, it is argued that “the student publication offers the single best avenue for training—superior even to the journalism school . . . for a career in professional journalism.”334 Extending Hazelwood to allow administrative control over these publications would defeat these goals. As Professor Peltz observed, “Imagine a generation of college-trained journalists with no practical experience handling controversial subject matter, nor with any more than an academic understanding of the role of the Fourth Estate in American society.”335(995-6)

## Adv 2

### Societal Spillover

#### Free press is k2 avoid consolidation of power and dictatorships – it’s the first step. Scott 2-18

Eugene Scott, CNN, 2-18-2017, "McCain: Dictators 'get started by suppressing free press'," CNN, <http://www.cnn.com/2017/02/18/politics/john-mccain-donald-trump-dictators/index.html> VC

Sen. John McCain slammed President Donald Trump's attacks on the media this week by noting dictators "get started by suppressing free press." It was a startling observation from a sitting member of Congress against the President of the United States, especially considering McCain is a member of Trump's party. "I hate the press," the Arizona Republican sarcastically told NBC News' Chuck Todd on "Meet the Press." "I hate you especially. But the fact is we need you. We need a free press. We must have it. It's vital." But he continued, "If you want to preserve -- I'm very serious now -- if you want to preserve democracy as we know it, you have to have a free and many times adversarial press," McCain said in the interview. "And without it, I am afraid that we would lose so much of our individual liberties over time. That's how dictators get started." A clip of the interview, which airs in full on Sunday, was released Saturday afternoon. McCain has been a frequent critic of the President, particularly in the areas of foreign policy and national security, since before Trump entered the White House. The 2008 Republican presidential nominee said Americans must pay attention to history to understand the past connections between leaders of oppressive governments and efforts to stifle the media. "They get started by suppressing free press, in other words, a consolidation of power -- when you look at history, the first thing that dictators do is shut down the press," McCain said. "And I'm not saying that President Trump is trying to be a dictator. I'm just saying we need to learn the lessons of history." Trump tweeted Friday that CNN and other major media outlets were "the enemy of the American people." CNN contributor Carl Bernstein, who won the Pulitzer Prize for his reporting on the Watergate scandal, which led to the resignation of President Richard Nixon, called Trump's words "treacherous." "The most dangerous 'enemy of the people' is presidential lying -- always," he tweeted. "Attacks on press by @realDonaldTrump more treacherous than Nixon's."

#### Censorship in college teaches students to accept it and spillsover to broader society

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Most campuses still cling to speech codes and other restrictions on expression that violate First Amendment principles, seemingly without understanding that these policies not only chill speech but also teach students that an open exchange of ideas might not really be such a good thing. Administrators have been able to convince well-meaning students to accept outright censorship by creating the impression that freedom of speech is somehow the enemy of social progress. When students began leaving college with that lesson under their belts, it was only a matter of time before the cultivation of bad intellectual habits on campus started harming the dialogue of our entire country. The tactics and attitudes that shut down speech on campus are bleeding into the larger society and wreaking havoc on the way we talk among ourselves. As I will expand on throughout this book, the punishment of dissenting opinions or even raucous parodies and satire has surprising downstream effects, encouraging the human tendency to live within our own echo chambers. It turns out the one institution that could be helping elevate the national discussion may actually be making it worse. To put it bluntly, I believe that three decades of campus censorship has made us all just a little bit dumber.(5)

# Frontlines – K

### Framework – Long

#### Omitted

### Framework – Short

#### Omitted

### A2 Cap K

#### 1. The AFF link turns the K – NPs are a unique site of student activism that can’t live with restriction. Administrators are free to manipulate the content, which perpetuates the neolib policies at universities. Aff solves the links

#### 2. Non unique- their link evidence is about speech generally, not student newspapers, either the SQ triggers the link or the impact is empirically denied. Prefer specificity bc speech regulations drastically differ from NPs to

#### 3. Case o/w’s – their impacts are about global cap conducted by 200 countries – at best they target 1% of that. Civic engagement allows US leadership on solving existential threats like super viruses, warming, and crime syndicates. O/W on magnitude – that’s Small.

#### 4. Civic engagement is the crucial internal link – free speech and the AFF is a prereq to the alt, justifies perm: do both. McClennen 09

Sophia A. McClennen, 2009, " Neoliberalism and the Crisis of Intellectual Engagement" Works And Days, <http://www.worksanddays.net/2008-9/File24.McClennen_011309_FINAL.pdf> MG

I want to close by emphasizing that all of these issues are linked and inseparable. The assaults on academic freedom cannot be separated from the neoliberal restructuring of the university. Faculty responses to these changes need to be read in light of both the internalization of neoliberal ways of thinking as well as the critical trends that have favored nihilism over vision and skepticism over debate. The solution, at least from the perspective of the faculty, is to become engaged. As retrograde as such language may sound today, it is time to revisit such basic political activist ideas as consciousness-raising, intellectual engagement, and dissent. For too long, faculty have allowed the market to dictate the terms of the university, perceiving these shifts as inevitable, intractable, and unstoppable. For too long, faculty have allowed neoliberalism and antifoundationalism to combine to create an ideology of individualism, particularity, and privatization. What would happen if faculty imagined themselves as meaningfully connected to the lives of their students, to the lives of their colleagues, and to the world at large? Bourdieu suggests the possibility of such collective thinking in Acts of Resistance: If one can retain some hope, it is that in state institutions there still exist forces which, under the appearance of simply defending a vanishing order and the corresponding ‘privileges,’ will in fact, to withstand the pressure, have to work to invent and construct a social order which is not governed solely by the pursuit of selfish interest and individual profit, and which makes room for collectives oriented towards rational pursuit of collectively defined and approved ends. (104; emphasis in original) If we want to challenge neoliberalism, we have to rescue the power of intellectual engagement. If we want to challenge neoliberalism, we will have to do more than “aim low.”

#### 5. Perm: do both. Free speech on campus is key to socialist pedagogy and sparking radical resistance to capitalism – multiple warrants. Worker’s Liberty 15

Worker’s Liberty, Universities, capitalism and free speech, 3/18/15, <http://www.workersliberty.org/node/24864>. NS

For centuries, university campuses have been, relatively speaking, a haven within capitalist society for free debate and criticism. A high point, for much of the 20th century, was the right which universities in Latin America won to keep the police off their campuses and have university officials elected by staff and students. That began with the University Reform Movement in Córdoba, in northern Argentina, which opposed a focus on learning by rote, inadequate libraries, poor instruction, and restrictive admission criteria, and spread across the subcontinent. The student radicalism which spread across much of the world in 1968 started, in 1964-5, with a Free Speech Movement at the University of California, Berkeley. The central avenues through campus had become a lively scene, with street stalls and political gatherings; the university authorities tried to clamp down, and were eventually defeated. Today free debate and criticism on campus is under threat from several angles. The government wants universities to ban speakers from their campuses who would be quite legal elsewhere. University administrations ban meetings, even without government prompting, when they think they might cause trouble or uproar. Campus space is increasingly commercialised and franchised-out, and university bosses try to stop student postering, leafleting, and campaigning affecting the “commercial space”. Student unions are increasingly run by people who think that a spell as student union president will look good on their CV when they apply for a managerial job. University lecturers’ careers depend on how many articles they get published in “leading” (i.e., in almost all fields, orthodox) journals. Over generations of academic turnover, this produces university departments filled with staff who have been selected by capacity to get wordage into those journals, and who in turn will go on to run those journals, oblivious to critiques or alternative approaches. This narrows the range of teaching and debate on courses. Finally, and paradoxically, the shutting-down of debate is sometimes promoted by student activists who consider themselves left-wing. A chief example is the bans on the Socialist Workers Party imposed by Goldsmiths and Edinburgh University student unions, and attempted elsewhere.

#### 6. Society is unequal- censorship solidifies power. Jacobson 16

(Daniel, Philosophy @Michigan, Freedom of Speech under Assault on Campus 8-30 https://object.cato.org/sites/cato.org/files/pubs/pdf/pa796.pdf)

Consider first the postmodern argument that freedom of speech is not so much misguided as impossible. Although defenders of free speech advance a seemingly absolute and neutral doctrine—the toleration of all opinions, liberal and illiberal alike—no one doubts that some speech must inevitably be prohibited and punished. Even Mill did not intend the immu-nity provided to the expression of all opinions and sentiments to extend to threats and fraud; that was his point in referring specifically to the fullest liberty of their profession and discussion as a matter of ethical conviction. Yet the claim that freedom of speech is impossible relies crucially on the truism that it would be impossible to tolerate all of what philosophers call speech acts: actions performed by speaking. The clichéd example here is shouting “fire” in a crowded theater, which—in certain contexts, such as when intended to induce panic—lies beyond the pale of free speech immunity.8 That objection, however, presupposes a conception of freedom of speech as the freedom to perform any speech act, which is to argue against a straw man. No defender of free speech advocates the liberty to do anything that can be done merely by speaking, such as to incite a riot or suborn murder. A more sophisticated version of this challenge admits that no one defends such sweeping immunity, but it claims these examples to show that what seems to be an argument about principle is really a political dispute over who is allowed to speak and who will be silenced. Yale law professor Robert Post insists that censorship is inevitably “the norm rather than the exception” and celebrates the Left’s liberation from the constraints of toleration.9 Thus, contemporary debates over freedom of speech on campus have become power struggles in which the dominant political force silences opposition while claiming to represent the disempowered. Yet, this ironic state of affairs does not arise from any incoherence in the liberal conception of free speech but from a misguided or disingenuous caricature of it. Mill used two examples to illustrate the liberal conception; together they anticipate and answer the crux of the postmodern challenge. First, Mill noted that the question of the morality of the doctrine of tyrannicide—the opinion that it is legitimate to assassinate a tyrant—is irrelevant to his argument, because even immoral opinions are to be tolerated. Yet, he also discussed an example that might seem to vindicate the postmodern claim that censorship is inevitable: the case of the corn dealer and the mob. Mill insisted that the opinions that corn dealers are starvers of the poor and that property is theft must be allowed to be professed and discussed. Nevertheless, he agreed that the expression of those opinions can be punished, consistent with freedom of speech, when they are advocated to an angry mob gathered outside a corn dealer’s house. If Mill had been willing to prohibit opinions on the basis of their potential harmfulness, the postmodern challenge would have force against him. Disputes over whether moral and factual opinions have good or bad consequences are indeed inevitable, like disputes over their truth, as Mill acknowledged. Anyone who thinks some opinion is harmful would then claim that it falls beyond the pale of toleration. Because we all hold that view of one opinion or another, censorship would be ubiquitous, and the “free speech” debate would inevitably become merely political: a power struggle.(3-4)

#### 7. Alt fails – The campaign against neolib requires free speech. Nadeau and Sears 11

Mary-Jo Nadeau and Alan Sears, Mary-Jo Nadeau teaches at the Department of Sociology, University of Toronto-Mississauga. Alan Sears teaches at the Department of Sociology, Ryerson University, Toronto., 3-5-2011, "Socialist Project," Socialist Project, <http://www.socialistproject.ca/bullet/475.php> MG

The silencing campaign is particularly dangerous given the overall political climate, which facilitates the neoliberalization of education. The goal of neoliberalism in post-secondary education is to make the universities serve exclusively economic goals, preparing students for the corporate workplace and creating know-how that can be commercialized. This requires a serious culture shift on campuses. One of the core political projects of neoliberalism on campus has been to roll back the spaces for campus activism and freedom of expression originally won by student militancy in the 1960s and 1970s. The campus silencing campaign against Palestine solidarity aligns in important ways with this neoliberal agenda, shutting down political spaces in the interest of a narrow vocational conception of education. Campus equity movements are particular targets in this broader effort, as they have won a certain limited space for themselves, and often critique the limits of the dominant forms of academic knowledge. The silencing campaign around Palestine solidarity organizing has played a leading role in the attack on freedom of expression on campuses. There are in fact two ideas of academic freedom and campus freedom of expression at stake. The first is the narrow and professional conception of academic freedom, which stresses the right of the professor to conduct free inquiry within his or her own specific realm of expertise and to disseminate the results of that inquiry through publication or teaching. This sense of academic freedom informs the influential “Declaration of Principles on Academic Freedom and Academic Tenure” developed in the U.S. in 1915. The second, and more recent, conception of campus freedom of expression and academic freedom was won through struggles from below by the radical student movement of the 1960s. The freedom struggles of African-Americans galvanized activists, including students who fought for the right to build solidarity campaigns on campuses. This was strongly opposed by university administrations, who sought to keep activist politics safely off campus. Nowhere was this struggle sharper than at the Berkeley campus of University of California. There, the Free Speech Movement fought for political rights on campus, challenging the administration of Clark Kerr who was perhaps the most prominent advocate of the technocratic university serving the needs of corporations and the state. Clark Kerr was, in many ways, the forerunner of the current neoliberal strategy of reorganizing universities to focus more clearly on the service of business and the lean state. In the 1960s, Kerr was actually defeated by a mass, militant student movement. But the technocratic vision that the radical student movement of the 1960s successfully defended against has returned in new and aggressive forms under neoliberalism. And part of this agenda is to politically cleanse campuses, stripping away the political rights students won through militancy in the 1960s. The attack on Palestine solidarity is a leading thrust in the current campaign to roll back campus political expression and to define academic freedom in narrow professional terms. The Iacobucci report at York, discussed below, is an important example of this logic. The gains of campus equity movements since the 1960s pose an important obstacle to the narrow definition of academic freedom. Serious struggles against racism, sexism and heterosexism necessarily raise questions about the nature of knowledge and its supposed objectivity. These movements show the ways fundamental inequalities distort knowledge, often in unrecognized ways. Equity movements therefore challenge the conception of expertise that underlies the narrow definition of academic freedom, arguing that the person who experiences systemic inequality often sees it more clearly than someone in a privileged position. As the case for Israeli policy has become harder to make after five years of the highly effective Palestinian-led global Boycott Divestment and Sanctions (BDS) campaign, pro-Israel advocacy organizations have sought to shut down their opponents through silencing. In doing so, they are not only attempting yet again to shut down any expression of Palestinian experience, but also to weaken protections for freedom of expression and narrow the conception of academic freedom. This is a serious attack, and one that resonates with the neoliberal restructuring of the universities

#### 8. L/T: Granting institutions the ability to control speech is capitalist – justifies perm do the aff as an instance of the alternative. Donson et al 04

Fiona Donson, Graeme Chesters, Ian Welsh and Andrew Tickle, Dr Fiona Donson was Lecturer in Law at Cardiff University and now works in the NGO sector in Cambodia. Her works include Legal Intimidation (Free Association, London, 2000). Dr Graeme Chesters is Senior Research Fellow at Edge Hill College of H.E. His works include Complexity and Social Movements: Protest at the Edge of Chaos (London, Routledge, forthcoming with Ian Welsh) Dr Ian Welsh is Senior Lecturer in Sociology in the School of Social Sciences, Cardiff University. His works include Mobilising Modernity: The Nuclear Moment (London, Routledge 2000). Dr Andrew Tickle was Lecturer in Environmental Policy and Management at Birkbeck College and now works for the Campaign to Protect Rural England. 2004 " Rebels with a Cause, Folk Devils without a Panic: Press jingoism, policing tactics and anti-capitalist protest in London and Prague “ Internet Journal of Criminology, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.620.3134&amp;rep=rep1&amp;type=pdf> MG

Traditionally this silencing process is part of the establishments’ capacity to manage and control political debate and shape public expectations (Middlemass 1979), something made increasingly difficult by modern media technologies (Thompson 1995) where alternative views and accounts can be published on the Internet. Generally though, attempts by activists to gain mainstream media coverage for systematic debate on contested issues such as social justice, rights of assembly and freedom of speech is foreclosed by their ‘deviant’ construction. Politicians also attempt to trivialise any such claims as naïve, irrational, dangerous, un-democratic, self-interested etc. The silencing of anti-capitalist activists effectively blocks public engagement with the contemporary equivalent of the ‘crisis’ identified by Cohen (1972) but extends significantly to include a crisis of public trust in political process and institutions. However, there is no moral panic in relation to this new category of folk devil. There has been no widespread debate on the concerns underpinning activists’ behaviour because to do so would raise issues of trust in the context of alternatives threatening to established political systems. It is ironic, therefore, that there cannot be a moral panic in relation to these folk devils without evoking a wider debate on interest representation within representative democracies. The process of silencing and demonization is ultimately underpinned by anonymising constituent individuals and reducing their identities as the ‘mob’. This is an historically persistent process within which sophisticated grievances and proactive stances in relation to social, economic and political innovation are dismissed through active association with violence in the wider public mind (Thompson 1978 esp. 66-73). The possibility that activists may be respectable employed, thoughtful and committed to positive change within society is not widely engaged As the following discussion of the events surrounding the May Day 2000 and 2001 demonstrations in London will show, when the veil created by the folk devil construction is lifted, the reality can be seen to be something significantly different from that suggested by political spin and associated mainstream media coverage.

### 1AR v Agamben/Bare Life

omitted

### A2 Ableism

Omitted

### A2 Baudrillard

Omitted

### A2 Constitution K

Omitted

### A2 Derrida

Omitted

### A2 Race – General

#### 1. Only policy demands solve – exclusive focus on social demands gets coopted, and destroyed by the right wing. Uniqueness overwhelms the link – their alt’s movements exists in the squo and they’re losing – it’s try or die for the perm. Chomsky 16

Aviva Chomsky is professor of history and coordinator of Latin American studies at Salem State University in Massachusetts. Student Protest, the Black Lives Matter Movement and the Rise of the Corporate University, Truthout.org, May 22 2016 EE

During the past academic year, an upsurge of student activism, a movement of millennials, has swept campuses across the country and attracted the attention of the media. From coast to coast, from the Ivy League to state universities to small liberal arts colleges, a wave of student activism has focused on stopping climate change, promoting a living wage, fighting mass incarceration practices, supporting immigrant rights, and of course campaigning for Bernie Sanders. Both the media and the schools that have been the targets of some of these protests have seized upon certain aspects of the upsurge for criticism or praise, while ignoring others. Commentators, pundits, and reporters have frequently trivialized and mocked the passion of the students and the ways in which it has been directed, even as universities have tried to appropriate it by promoting what some have called "neoliberal multiculturalism." Think of this as a way, in particular, of taming the power of the present demands for racial justice and absorbing them into an increasingly market-oriented system of higher education. In some of their most dramatic actions, students of color, inspired in part by the Black Lives Matter movement, have challenged the racial climate at their schools. In the process, they have launched a wave of campus activism, including sit-ins, hunger strikes, demonstrations, and petitions, as well as emotional, in-your-face demands of various sorts. One national coalition of student organizations, the Black Liberation Collective, has called for the percentage of black students and faculty on campus to approximate that of blacks in the society. It has also called for free tuition for black and Native American students, and demanded that schools divest from private prison corporations. Other student demands for racial justice have included promoting a living wage for college employees, reducing administrative salaries, lowering tuitions and fees, increasing financial aid, and reforming the practices of campus police. These are not, however, the issues that have generally attracted the attention either of media commentators or the colleges themselves. Instead, the spotlight has been on student demands for cultural changes at their institutions that focus on deep-seated assumptions about whiteness, sexuality, and ability. At some universities, students have personalized these demands, insisting on the removal of specific faculty members and administrators. Emphasizing a politics of what they call "recognition," they have also demanded that significant on-campus figures issue public apologies or acknowledge that "black lives matter." Some want universities to implement in-class "trigger warnings" when difficult material is being presented and to create "safe spaces" for marginalized students as a sanctuary from the daily struggle with the mainstream culture. By seizing upon and responding to these (and only these) student demands, university administrators around the country are attempting to domesticate and appropriate this new wave of activism. In the meantime, right-wing commentators have depicted students as coddled, entitled, and enemies of free speech. The libertarian right has launched a broad media critique of the current wave of student activism. Commentators have been quick to dismiss student protesters as over-sensitive and entitled purveyors of "academic victimology." They lament the "coddling of the American mind." The Atlantic's Conor Friedersdorf has termed students "misguided" in their protests against racist language, ideas, and assumptions, their targeting of "microaggression" (that is, unconscious offensive comments) and insensitivity, and their sometimes highly personal attacks against those they accuse. One of the most vocal critics of the new campus politics, the Foundation for Individual Rights in Education, argues that such rampant "liberalism" and "political correctness" violate academic freedom and freedom of speech. (In this, they are in accord with the liberal American Civil Liberties Union. Free speech advocates Daphne Patai and the ACLU's Harvey Silvergate, for example, bemoan a new diversity requirement at the University of Massachusetts for its "politicization of education.") In a response that, under the circumstances, might at first seem surprising, college administrators have been remarkably open to some of these student demands -- often the very ones derided by the right. In this way, the commentators and the administrators have tended to shine a bright light on what is both personal and symbolic in the new politics of the student protesters, while ignoring or downplaying their more structural and economically challenging desires and demands. The Neoliberal University University administrators have been particularly amenable to student demands that fit with current trends in higher education. Today's neoliberal university is increasingly facing market pressures like loss of state funding, privatization, rising tuition, and student debt, while promoting a business model that emphasizes the managerial control of faculty through constant "assessment," emphasis on "accountability," and rewards for "efficiency." Meanwhile, in a society in which labor unions are constantly being weakened, the higher education labor force is similarly being -- in the term of the moment -- "flexibilized" through the weakening of tenure, that once ironclad guarantee of professorial lifetime employment, and the increased use of temporary adjunct faculty. In this context, universities are scrambling to accommodate student activism for racial justice by incorporating the more individualized and personal side of it into increasingly depoliticized cultural studies programs and business-friendly, market-oriented academic ways of thinking. Not surprisingly, how today's students frame their demands often reflects the environment in which they are being raised and educated. Postmodern theory, an approach which still reigns in so many liberal arts programs, encourages textual analysis that reveals hidden assumptions encoded in words; psychology has popularized the importance of individual trauma; and the neoliberal ideology that has come to permeate so many schools emphasizes individual behavior as the most important agent for social change. Add together these three strands of thought, now deeply embedded in a college education, and injustice becomes a matter of the wrongs individuals inflict on others at a deeply personal level. Deemphasized are the policies and structures that are built into how society (and the university) works. For this reason, while schools have downplayed or ignored student demands for changes in admissions, tuition, union rights, pay scales, and management prerogatives, they have jumped into the heated debate the student movement has launched over "microaggressions" -- pervasive, stereotypical remarks that assume whiteness as a norm and exoticize people of color, while taking for granted the white nature of institutions of higher learning. As part of the present wave of protest, students of color have, for instance, highlighted their daily experiences of casual and everyday racism -- statements or questions like "where are you from?" (when the answer is: the same place you're from) or "as a [fill in the blank], how do you feel about..." Student protests against such comments, especially when they are made by professors or school administrators, and the mindsets that go with them are precisely what the right is apt to dismiss as political correctness run wild and university administrations are embracing as the essence of the present on-campus movement. At Yale, the Intercultural Affairs Committee advised students to avoid racially offensive Halloween costumes. When a faculty member and resident house adviser circulated an email critiquing the paternalism of such an administrative mandate, student protests erupted calling for her removal. While Yale declined to remove her from her post as a house adviser, she stepped down from her teaching position. At Emory, students protested the "pain" they experienced at seeing "Trump 2016" graffiti on campus, and the university president assured them that he "heard [their] message... about values regarding diversity and respect that clash with Emory's own." Administrators are scrambling to implement new diversity initiatives and on-campus training programs -- and hiring expensive private consulting firms to help them do so. At the University of Missouri, the president and chancellor both resigned in the face of student protests including a hunger strike and a football team game boycott in the wake of racial incidents on campus including public racist slurs and symbols. So did the dean of students at Claremont McKenna College (CMC), when protest erupted over her reference to students (implicitly of color) who "don't fit our CMC mold." Historian and activist Robin Kelley suggests that today's protests, even as they "push for measures that would make campuses more hospitable to students of color: greater diversity, inclusion, safety, and affordability," operate under a contradictory logic that is seldom articulated. To what extent, he wonders, does the student goal of "leaning in" and creating more spaces for people of color at the top of an unequal and unjust social order clash with the urge of the same protesters to challenge that unjust social order? Kelley argues that the language of "trauma" and mental health that has come to dominate campuses also works to individualize and depoliticize the very idea of racial oppression. The words "trauma, PTSD, micro-aggression, and triggers," he points out, "have virtually replaced oppression, repression, and subjugation." He explains that, "while trauma can be an entrance into activism, it is not in itself a destination and may even trick activists into adopting the language of the neoliberal institutions they are at pains to reject." This is why, he adds, for university administrators, diversity and cultural competency initiatives have become go-to solutions that "shift race from the public sphere into the psyche" and strip the present round of demonstrations of some of their power. Cultural Politics and Inequality In recent years, cultural, or identity, politics has certainly challenged the ways that Marxist and other old and new left organizations of the past managed to ignore, or even help reproduce, racial and gender inequalities. It has questioned the value of class-only or class-first analysis on subjects as wide-ranging as the Cuban Revolution -- did it successfully address racial inequality as it redistributed resources to the poor, or did it repress black identity by privileging class analysis? -- and the Bernie Sanders campaign -- will his social programs aimed at reducing economic inequality alleviate racial inequality by helping the poor, or will his class-based project leave the issue of racial inequality in the lurch? In other words, the question of whether a political project aimed at attacking the structures of economic inequality can also advance racial and gender equality is crucial to today's campus politics. Put another way, the question is: How political is the personal? Political scientist Adolph Reed argues that if class is left out, race politics on campus becomes "the politics of the left-wing of neoliberalism." As he puts it, race-first politics of the sort being pushed today by university administrators promotes a "moral economy... in which 1% of the population controlled 90% of the resources could be just, provided that roughly 12% of the 1% were black, 12% were Latino, 50% were women, and whatever the appropriate proportions were LGBT people." The student movement that has swept across the nation has challenged colleges and universities on the basics of their way of (quite literally) doing business. The question for these institutions now is: Can student demands largely be tamed and embedded inside an administration-sanctioned agenda that in no way undermines how schools now operate in the world? Feminist theorist Nancy Fraser has shown how feminist ideas of a previous generation were successfully "recuperated by neoliberalism" -- that is, how they were repurposed as rationales for greater inequality. "Feminist ideas that once formed part of a radical worldview," she argues, are now "increasingly expressed in individualist terms." Feminist demands for workplace access and equal pay have, for example, been used to undermine worker gains for a "family wage," while a feminist emphasis on gender equality has similarly been used on campus to divert attention from growing class inequality. Student demands for racial justice risk being absorbed into a comparable framework. University administrators have found many ways to use student demands for racial justice to strengthen their business model and so the micro-management of faculty. In one case seized upon by free-speech libertarians, the Brandeis administration placed an assistant provost in a classroom to monitor a professor after students accused him of using the word "wetback" in a Latin American politics class. More commonly, universities employ a plethora of consulting firms and create new administrative positions to manage "diversity" and "inclusion." Workshops and training sessions proliferate, as do "safe spaces" and "trigger warnings." Such a vision of "diversity" is then promoted as a means to prepare students to compete in the "global marketplace." There are even deeper ways in which a diversity agenda aligns with neoliberal politics. Literary theorist Walter Benn Michaels argues, for example, that diversity can give a veneer of social justice to ideas about market competition and meritocracy that in reality promote inequality. "The rule in neoliberal economies is that the difference between the rich and the poor gets wider rather than shrinks -- but that no culture should be treated invidiously," he explains. "It's basically OK if economic differences widen as long as the increasingly successful elites come to look like the increasingly unsuccessful non-elites. So the model of social justice is not that the rich don't make as much and the poor make more, the model of social justice is that the rich make whatever they make, but an appropriate percentage of them are minorities or women." Or as Forbes Magazine put it, "Businesses need to vastly increase their ability to sense new opportunities, develop creative solutions, and move on them with much greater speed. The only way to accomplish these changes is through a revamped workplace culture that embraces diversity so that sensing, creativity, and speed are all vastly improved." Clearly, university administrators prefer student demands that can be coopted or absorbed into their current business model. Allowing the prevailing culture to define the parameters of their protest has left the burgeoning Millennial Movement in a precarious position. The more that students -- with the support of college and university administrations -- accept the individualized cultural path to social change while forgoing the possibility of anything greater than cosmetic changes to prevailing hierarchies, on campus and beyond, the more they face ridicule from those on the right who present them as fragile, coddled, privileged whiners. Still, this young, vibrant movement has momentum and will continue to evolve. In this time of great social and political flux, it's possible that its many constituencies -- fighting for racial justice, economic justice, and climate justice -- will use their growing clout to build on recent victories, no matter how limited. Keep an eye on college campuses. The battle for the soul of American higher education being fought there today is going to matter for the wider world tomorrow. Whether that future will be defined by a culture of trigger warnings and safe spaces or by democratized education and radical efforts to fight inequality may be won or lost in the shadow of the Ivory Tower. The Millennial Movement matters. Our future is in their hands.

#### 2. Perm do both - Liberation is dependent on free speech. Strossen 00

Strossen, Nadine. "Incitement to hatred: Should there be a limit." S. Ill. ULJ 25 (2000): 243. CC

C. A Robust Freedom of Speech is Especially Important for Advancing Egalitarian Causes First and foremost, all those who seek equal rights have an especially important stake in securing free speech. For example, as I have already noted, the Civil Rights Movement in the United States was dependent on a robust concept of free speech, one that was capacious enough to 'encompass hate speech. Critical to the success of that movement were the landmark rulings of the United States Supreme Court under the leadership of Chief Justice Earl Warren-not only the Warren Court's rulings dealing directly with the Constitution's equal rights guarantee, but also its rulings upholding a strong concept of free speech, even for the most provocative and controversial speech.47 Important as the Court's equal protection rulings were for advancing the civil rights cause, those rulings could not even have been achieved, let alone effectively implemented, without the organizing and litigating efforts of the NAACP (National Association for the Advancement of Colored People), without the speeches and demonstrations of Martin Luther King, Jr. and other civil rights leaders and activists, and without the press coverage that mobilized the support of the American public and of the national government. All of these essential foundations for advances in civil rights depended upon the Warren Court's broad, vigorous conception of free speech-a conception sufficiently broad and vigorous that it necessarily also encompassed hate speech and other forms of speech that now are said to undermine equality. The Warren Court record conclusively shows that, in the words of historian Samuel Walker, "The . . . civil rights movement... depended on the First Amendment."' Civil rights leaders concur in this judgment. In the words of Benjamin L. Hooks, former Executive Director of the NAACP, "The civil rights movement would have been vastly different without the shield and spear of the First Amendment." 9 Likewise, Eleanor Holmes Norton, an African-American woman who served as Director of the Equal Employment Opportunity Commission, and who now represents the District of Columbia in Congress, succinctly summarized the positive, symbiotic relationship between free speech and equality during the Civil Rights Movement; she said, "There was always the First." In his 1994 book, Hate Speech: The History of an American Controversy, Samuel Walker shows that, throughout the twentieth century, the equality rights of African-Americans and other minority groups were dependent on a robust free speech concept. He further shows that, realizing the importance of protecting even speech viewed as hateful or dangerous-because their own speech certainly was so viewed in many Southern and other communities-the major American civil rights organizations consistently opposed efforts to restrict hate speech. As Walker concluded, "The lessons of the civil rights movement were that the interests of racial minorities and powerless groups were best protected through the broadest, most content-neutral protection of speech."'" In his 1965 book, The Negro and the First Amendment, University of Chicago Law Professor Harry Kalven documented that the Civil Rights Movement depended on free speech principles. These principles allowed protestors to carry their messages to audiences who found them highly offensive and threatening to their most deeply cherished views of themselves and their way of life. Equating civil rights activists with Communists, subversives, and criminals, government officials mounted inquisitions against the NAACP, seeking compulsory disclosure of its membership lists and endangering the members'jobs and lives. As Kalven concluded, "Only strong principles of free speech and association could-and did-protect the drive for desegregation." 2 Martin Luther King, Jr., wrote his historic letter from a Birmingham jail,"3 but the Birmingham parade ordinance that King and other demonstrators had violated eventually was declared an unconstitutional invasion of their free speech rights.54 Moreover, the Civil Rights Act of 1964, which these demonstrators championed, did become law. The more disruptive forms of civil rights protest, such as marches, sit-ins, and kneel-ins-which some observers credit as being the most effective-were all especially dependent on generous judicial constructions of the free speech guarantee." Notably, many of these protective interpretations initially had been formulated in cases brought on behalf of anti-civil rights demonstrators. But the same principles and precedents also sheltered the insulting and often racist language that militant black activists hurled at police officers and other government officials.' An awareness of these principles and practicalities is precisely what prompted the African-American civil rights lawyer, Anita Rivkin-Carothers, to represent the white supremacist Matthew Hale in his effort to secure a license to practice law in Illinois. One journalist paraphrased his interview with her on this point as follows: She urges her critics to remember that without First Amendment rights, the Rev. Dr. Martin Luther King never would have marched. Without free speech protection, Julian Bond-having called the Vietnam War racially discriminatory-would have been barred from taking the seat in the Georgia legislature to which he had been duly elected. She would remind Muslims, among her harshest critics in the Chicago area, that Louis Farrakhan could not speak his beliefs without the First Amendment." Significantly, the ACLU has come to the defense of the free speech rights of every single one of the individuals whom Rivkin-Carothers cites-Martin Luther King, Jr., Julian Bond, and Louis Farrakhan alike-since all of their views have been deemed dangerous and subversive by some authorities in some places at some points in our history. Therefore, all of them-along with Matthew Hale himself-have been vehicles for protecting the overarching free speech rights at stake for the benefit of everyone in this country, just as Rivkin-Carothers stated. The same insight was emphasized by another African-American civil rights advocate who also defended Hale's right to practice law, journalist Clarence Page. In a syndicated column explaining-why Hale should not be denied bar admission, Page wrote: "The First Amendment swings both ways and so does every effort to restrict it. Attempts to silence unpopular minority views at one extreme inevitably swing back to squash minority views on the other side." 8 The mutually reinforcing relationship between a strong free speech guarantee and equality rights obtains for other equality movements, in addition to the Civil Rights Movement on behalf of African-Americans. For example, the movements for women's rights and reproductive freedom always have depended upon strong protection of free speech for ideas that many communities have seen as wrong, offensive, and dangerous. Conversely, censorship has always been a particularly potent weapon for thwarting advances in women's rights, including reproductive freedom. The same pattern holds for the lesbian and gay rights movement. I explore these mutually-reinforcing relationships between equality and free speech more thoroughly in my book, Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights." Indeed, for one of our newest civil rights movements-on behalf of lesbians, gay men, and other sexual-orientation minorities-defending free speech is essentially indistinguishable from promoting equality rights.' The first essential step for lesbians and gay men in seeking equal rights is "coming out of the closet," or publicly acknowledging their sexual orientation. This act is at once an exercise of free speech rights and an assertion of equality rights. Conversely, those who discriminate against lesbians and gay men often simultaneously attack their free speech and equality rights. A prime example is the United States military's exclusionary "Don't Ask, Don't Tell" policy. ' Under this policy, even the most outstanding, brave, and patriotic service members will be drummed out not only for engaging in homosexual conduct, but also forjust saying something that indicates their sexual orientation, even if they had never engaged in any actual homosexual conduct. That is the"Don't Tell" prong of the policy. Accordingly, in the ACLU's constitutional challenge to this policy, which we brought jointly with the Lambda Legal Defense Fund, we argued that it is doubly unconstitutional, violating both equality and free speech rights, and the lower court agreed with us on both scores.62

#### 3. Counter speech is effective and empowers students. Calleros 95

Charles R. Calleros, Paternalism, Counterspeech, and Campus Hate-Speech Codes: A Reply to Delgado and Yun, 27 ARIZ. ST. L.J. 1249 (1995). CC

Speech as an Instrument of Reform: The Efficacy of Counterspeech Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "[A]ntiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent inchargeofone'sowndestiny."50 Delgado and Yun also cite to those who believe that counterspeech may help educate the racist speaker by addressing 51 the ignorance and fear that lies behind hostile racial stereotyping. But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" who "rarely offer empirical proof of their claims. ,,52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." 53 They also complain that "[e]ven when successful, talking back is a burden" that minority undergraduates 54 should not be forced to assume. In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. The same would be true of Delgado's and Yun's other examples of speech conveyed in a manner that defaces another's property or 56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, 57 education and counterspeech often will be an appropriate response. However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. 58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. 59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. 6° However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative.61 In an incident that attracted national attention, the campus community at Arizona State University ("A.S.U.") constructively and constitutionally responded to a racist poster displayed on the outside of the speaker's dormitory door in February 1991. Entitled "WORK APPLICATION," it contained a number of ostensibly employment-related questions that advanced hostile and demeaning racial stereotypes of African-Americans and Mexican-Americans. Carla Washington, one of a group of African- American women who found the poster, used her own speech to persuade a resident of the offending room voluntarily to take the poster down and allow her to photocopy it. After sending a copy of the poster to the campus newspaper along with an opinion letter deploring its racist stereotypes, she demanded action from the director of her residence hall. The director organized an immediate meeting of the dormitory residents to discuss the issues. In this meeting, I explained why the poster was protected by the First Amendment, and the women who found the poster eloquently described their pain and fears. One of the women, Nichet Smith, voiced her fear that all nonminorities on campus shared the hostile stereotypes expressed in the poster. Dozens of residents expressed their support and gave assurances that they did not share the hostile stereotypes, but they conceded that even the most tolerant among them knew little about the cultures of others and would 62 benefit greatly from multicultural education. The need for multicultural education to combat intercultural ignorance and stereotyping became the theme of a press conference and public rally organized by the student African-American Coalition leader, Rossie Turman, who opted for highly visible counterspeech despite demands from some students and staff to discipline the owner of the offending poster. The result was a series of opinion letters in the campus newspaper discussing the problem of racism, numerous workshops on race relations and free speech, and overwhelming approval in the Faculty Senate of a measure to add a course on American cultural diversity to the undergraduate breadth 63 requirement. The four women who initially confronted the racist poster were empowered by the meeting at the dormitory residence and later received awards from the local chapter of the NAACP for their activism.64 Rossie Turman was rewarded for his leadership skills two years later by becoming the first African-American elected President of Associated Students of A.S.U.,65 a student body that numbered approximately 40,000 students, only 66 2.3 percent of them African-American. Although Delgado and Yun are quite right that the African-American students should never have been burdened with the need to respond to such hateful speech, Hentoff is correct that the responses just described helped them develop a sense of self-reliance and constructive activism. Moreover, the students' counterspeech inspired a community response that lightened the students' burden and provided them with a sense of community support and empowerment. Indeed, the students received assistance from faculty and administrators, who helped organize meetings, wrote opinion letters, spoke before the Faculty Senate, or joined the students in issuing public statements at the press conference and public rally.67 Perhaps most important, campus administrators wisely refrained from disciplining the owners of the poster, thus directing public attention to the issue of racism and ensuring broad community support in denouncing the racist poster. Many members of the campus and surrounding communities might have leapt to the racist speaker's defense had the state attempted to discipline the speaker and thus had created a First Amendment issue. Instead, they remained united with the offended students because the glare of the public spotlight remained sharply focused on the racist incident without the distraction of cries of state censorship. Although the counterspeech was not aimed primarily at influencing the hearts and minds of the residents of the offending dormitory room, its vigor in fact caught the residents by surprise. 68 It prompted at least three of them to apologize publicly and to display curiosity about a civil rights movement that they were too young to have witnessed first hand. 69 This effective use of education and counterspeech is not an isolated instance at A.S.U., but has been repeated on several occasions, albeit on smaller scales.7° One year after the counterspeech at A.S.U., Stanford University responded similarly to homophobic speech. In that case, a first-year law student sought to attract disciplinary proceedings and thus gain First Amendment martyrdom by shouting hateful homophobic statements about a dormitory staff member. The dean of students stated that the speaker was not subject to discipline under Stanford's code of conduct but called on the university community to speak out on the issue, triggering an avalanche of counterspeech. Students, staff, faculty, and administrators expressed their opinions in letters to the campus newspaper, in comments on a poster board at the law school, in a published petition signed by 400 members of the law school community disassociating the law school from the speaker's epithets, and in a letter written by several law students reporting the incident to a prospective employer of the offending student.71 The purveyor of hate speech indeed had made a point about the power of speech, just not the one he had intended. He had welcomed disciplinary sanctions as a form of empowerment, but the Stanford community was alert enough to catch his verbal hardball and throw it back with ten times the force. Thus, the argument that counterspeech is preferable to state suppression of offensive speech is stronger and more fully supported by experience than is conceded by Delgado and Yun. In both of the cases described above, the targets of hateful speech were supported by a community united against bigotry. The community avoided splitting into factions because the universities eliminated the issue of censorship by quickly announcing that the hateful speakers were protected from disciplinary retaliation. Indeed, the counterspeech against the bigotry was so powerful in each case that it underscored the need for top administrators to develop standards for, and some limitations on, their participation in such partisan speech. 72

#### 4. Hate speech restrictions empower far right politicians and get modeled to justify repression in other countries Economist 12/15/16

Economist 12-15-16 (http://www.economist.com/news/leaders/21711914-criminalising-offensive-language-only-empowers-bigots-defence-hate-speech)

GEERT WILDERS, a Dutch politician, says some horrible, inflammatory things. He has called Islam a “fascist ideology” and referred to Muhammad, Islam’s prophet, as “a devil”. He is no friend of free speech, either: he wants to ban not only the Koran but also preaching in any language other than Dutch. The Economist deplores his views; but he should be allowed to express them. Prosecutors in the Netherlands have reached a different conclusion. On December 9th a court found him guilty of insulting and inciting racial discrimination against Dutch Moroccans. At issue was a nasty line from a speech in 2014. “Do you want more or fewer Moroccans?” Mr Wilders asked supporters of his anti-immigrant Party for Freedom (PVV). The crowd replied: “Fewer! Fewer! Fewer! Fewer!” Mr Wilders smiled and said, softly: “We’ll take care of that.” The audience chuckled. The court decided not to impose a fine, arguing that the conviction itself was punishment enough. Some punishment. Three months before an election, Mr Wilders can pose as a victim of an illiberal law and a politically correct elite who, he claims, are letting Islam undermine Dutch civilisation. Mr Wilders’s image as a martyr is further enhanced by the fact that Islamist radicals have threatened to kill him for his words. All this makes him stronger. His party leads the polls, with the support of a third of voters. The PVV will probably not win control of the country—mainstream parties will club together to keep it out of office. But using the law to attempt to silence Mr Wilders enhances his malign influence over Dutch politics and makes it more likely that he will one day wield real power. The Netherlands is far from the only democracy to criminalise “hate speech” that denigrates racial, religious or other groups. Such laws have widespread support, but they are misguided. Free speech is the oxygen of democracy—without it, all other political freedoms are diminished. So the right to free expression should be almost absolute. Bans on child pornography and the leaking of military secrets are reasonable. So, too, are bans on the deliberate incitement of violence. But such prohibitions should be narrowly drawn. Standing outside a mosque shouting, “Let’s kill the Muslims!” qualifies. Complaining that your country has admitted too many migrants of a particular nationality does not. People should be free to debate immigration policy. Advocates of a liberal approach, such as this newspaper, should try to persuade those who disagree with them, not lock them up. Proponents of hate-speech laws argue that they foster social harmony by forcing people to be more polite to each other. The opposite is more likely to be true. Criminalising something as subjective as the giving of offence encourages more people to say they are offended, so they can use the law to suppress views they dislike. This enrages those who are silenced; hardly a recipe for social tranquillity. Such laws also provide an excuse for autocrats to censor their critics. China uses laws against inciting ethnic hatred to trample on Tibetans who demand autonomy. In Saudi Arabia and Pakistan anti-blasphemy laws are used to terrorise minorities and settle private scores. In all these cases censorious governments cite similarly worded Western laws as precedents. Enough. Governments should stop trying to police politeness. It stifles debate and helps bigots like Mr Wilders.

### A2 State/Free Speech Bad – General

#### 1. The plan stops self-censorship, which is a prerequisite to challenging elite interests on campus. Students are scared of the ramifications. Brown 15

Brown, Rachel, "A New Role for Student Media: College Newspapers and the Crisis in Journalism" (2015). Media and Communication Studies Honors Papers. Paper 3

Despite the legal protections that guard the content of public college newspapers and the¶ general precedents that guide the relationships between college newspapers and administration,¶ private universities have censored their student publications significantly or halted their presses¶ altogether. Private institutions’ publications are subject to any form of censorship, with no legal¶ protection to prevent it. The controversy at Young Harris College has tested the liberties of¶ college newspapers in a way that elucidates the insurmountable issue of censorship that prevents¶ these private publications from assuming a greater democratic role. A culture of abusive, Greek¶ life-affiliated hazing was loosely hidden and largely ignored at Young Harris until a student dropped out of pledging a sorority and reported the abuses she suffered as a part of the pledging¶ process to the administration (Baker 2013). The administration discouraged her from filing a¶ police report and claimed that the student had the right to remove herself from the situation at¶ any time, therefore the Greek system was not at fault. The editors of the school’s newspaper, the¶ Enotah Echoes, were working on an article discussing hazing issues at the school; the¶ administration found out and demanded that the article be edited by the college’s lawyer prior to¶ publication. The newspaper’s adviser disputed the decision, and the president of the college¶ demanded that the paper not be printed at all. Within a few weeks, both the adviser and another¶ faculty member who protested the censorship were fired. Publication of the school’s paper was¶ halted through the semester (Straumsheim 2013). The most recent post on the Enotach Echoes’ website is a 2012 description of the events¶ the transpired the previous semester. Publication of the campus newspaper never resumed. This¶ case is an exaggerated version of a problem that every private college newspaper faces: the threat¶ of censorship by administrations that often have financial control over college publications.¶ Enotah Echoes exemplifies the power that the administration ultimately wields over campus¶ papers and the severe implications that even the knowledge of this power can have over content.¶ If newspapers are even slightly intimidated by their associated institution, self-censorship is¶ likely to occur. A 2000 Pew Research Center study defined self-censorship as purposefully¶ avoiding newsworthy stories or “softening the tone of stories to benefit their news organizations”¶ (Street et al. 2000). According to Pew’s study, about one-quarter of professional journalists have¶ admitted to self-censoring at some point during their careers. Self-censorship can be divided into¶ three primary categories of avoidance: uncertainty of readership’s reception, fear of damaging¶ the news organization or advertisers, and fear of damaging the journalist’s own career. Nearly 30% of professional journalists have “sometimes” avoided a story that would harm the reputation¶ of their organization, and 23% self-censored because of the influence of advertisers (Street et al.¶ 2000). A 2010 study applied Pew’s research to the college setting and found that student¶ journalists are more likely to self-censor that their commercial counterparts, but self-censorship¶ is less likely to occur at public universities (Bickham and Shin 2010). This is largely due to more¶ clear expectations about the roles and responsibilities of collegiate publications at public schools.¶ Bickham and Shin (2010) concluded that “institutional involvement made the private institutions¶ more susceptible to being held liable for content that appeared in the student newspaper.”¶ Therefore, student journalists at private institutions are often unsure about the content that they¶ are “allowed” to publish, and therefore are more likely to avoid stories that have the potential to¶ upset administration and threaten their autonomy altogether. Self-censorship is an issue at¶ publications of all levels, but is particularly prevalent at private universities where legal¶ protections are thin.¶ Administrative influence also contributes to self-censorship, regardless of the¶ administration’s intentions. Shaniece Bickham and Jae-Hwa Shin of the Southwest Education¶ Council for Journalism and Mass Communication conducted a study examining whether¶ organizational influences, such as newspaper advisers and college administrations, have an¶ impact on the news content of college newspapers. The researchers surveyed student editors,¶ faculty advisers, and academic affairs administrators of college newspapers regarding their¶ perceptions of institutional influence on the content of the student publication at their university.¶ The survey found that editors’ perceptions of administrative opinions of their work made them¶ more likely to self-censor. The results also indicated that student editors perceive censorship to¶ have a much more significant impact on the content of the student newspaper than the faculty or administration believed. Additionally, the surveys completed by student editors indicated that¶ private institutions are more vulnerable to student self-censorship than public institutions¶ (“Southwest Education Council for Journalism and Mass Communication: Organizational¶ Influences on Student Newspapers: A Survey of Newspapers of ACEJMC Programs” 2014).¶ A similar study quantified self-censorship by gauging the tendency for college¶ newspapers to resist controversy. The study surveyed college media advisers and editors across¶ the country regarding their willingness to publish articles on a range of topics that could be¶ perceived to be controversial, including sex, substance abuse, and criticism related to the¶ educational institution. The results suggests that student editors are likely to self-censor with¶ more severity than their advisers would recommend, refraining from printing some content¶ because it could put the publication under scrutiny. The study proposes that perceptual bias¶ theories “have long demonstrated that individuals exaggerate the way in which a nebulous group¶ of others feels in regard to a controversial topic” (Filak 2012). The third-person effect, the¶ phenomenon where individual consumers of mass media believe that they are less affected by¶ media influence than other consumers, is cited as the primary reason why student journalists feel¶ that their work will be scrutinized and as a result, self-censor. The study suggests that college¶ students are more vulnerable to this bias, putting journalistic integrity at risk. This study¶ contributes to the dialogue in the journalism industry surrounding the extent to which student¶ newspaper staffs are limited by their dual roles as both students and editors, and whether this role¶ limits their willingness to publish controversial yet potentially important content. If student¶ newspapers are susceptible to self-censorship to a greater extent than commercial newspapers,¶ then it is unlikely that college reporters will be able to match their professional counterparts in¶ terms of depth and scope of news coverage. Self-censorship is a significant barrier to the success of college newspapers in filling the¶ civic role of commercial publications. The potential for concentrated pressure to self-censor is¶ intensified by both the context of student newspapers in an academic setting and the college¶ newspaper staff’s inevitable lack of experience in dealing with such pressures. This selfcensorship,¶ while it may be inadvertent on the part of the student reporter, interferes with¶ journalistic integrity and the ability for school newspapers to fill the role of professional papers¶ that do not face the same structural influences. Further, student newspapers’ credibility is¶ impacted by their readership’s perceptions of organizational censorship. A 2009 study compared¶ the perceived credibility of community newspapers to that of the student newspaper at the¶ University of Florida. While the results of the study show that, overall, the students did not¶ perceive their local papers to be more credible than their student papers, the study suggested that¶ these differences are largely due to advertisements in commercial papers, not the credibility of¶ the content itself (Bodle 1996). As a whole, the study showed that student newspapers are¶ perceived to be credible by student readers, but the community readers that college newspapers¶ would potentially be including in their readership do not share that perception (Bodle 1996).

#### 2. Endorsing speech doesn’t mask oppressive institutions, it’s a pre-requisite to challenging them. Redish 82

(Martin H, University of Pennsylvania Law Review, Vol. 130, No. 3 (Jan., 1982), pp. 591-645)

First, it should be noted that the impact of the elitists' argu- ment goes at most to the instrumental value of democracy, and in no way challenges the intrinsic value of allowing individuals to maintain self-rule.63 More importantly, the elitist theorists do not seem to question the normative imperative recognized by classical theorists, but rather only its attainability. Indeed, the impact of the elitist theorists is arguably to shift the emphasis from attaining this goal through the political process to its achievement through individual involvement in the private sector. Modern theorists have redefined the concept of the "political" to include decision- making within areas such as the work place, where decisions are likely to have a more immediately recognizable impact on the indi- vidual's daily life.64 Therefore, the elitist theory can be seen as being totally compatible with the thesis asserted here; democratic political control is only one means of achieving the values inherent in a democratic system, and it is therefore necessary to recognize that free speech may aid attainment of those values in nonpolitical settings. Elitist thinking, then, does not undermine-indeed, it may fa- cilitate-the extension of Meiklejohn's reasoning about the role of free speech to such nonpolitical activities as various kinds of com- munity groups, as well as to the work place.65 What remains unclear, however, is whether this logic may be extended as well to such purely private decisions as commercial purchases or an indi- vidual's choice of friends. The difficulty is that it has been gen- erally assumed, since democracy's origins in ancient Athens, that the moral benefits to the individual derived from being forced to look beyond his or her own narrow interests and to work with others to attain the common good.66 It is perhaps for this reason that Professor Bachrach, the leading exponent of the redefined "po- litical" sphere, believed it necessary to stay within the bounds of the "political," no matter how strained his definition of the term.67 But whatever unique benefits one derives from involvement in organizations that look to the common, as opposed to the individual, good, it is impossible to deny that many of the developmental values-particularly the intellectual benefits-that are thought to result from participation in the political process also may be ob- tained from private self-government. After all, the elitists tell us that "[p]olitical participation constitutes an effort to protect threatened interests," 68 and by adopting a democratic system we are expressing a belief that presumably individuals are capable of deciding what is best for them. There is therefore no basis to believe that development can be derived solely from common, as opposed to individual, activity. (609-10)

### A2 Nihilism

Omitted

### A2 Habeus Viscus

Omitted

### A2 SemioCapitalism

Omitted

### A2 Schlag

Omitted

### A2 Wynter

Omitted

### A2 Rights Bad

#### Rights are crucial for marginalized groups-abstract critique doesn’t help them. Kiss 95

(Elizabeth, B.Phil. and D.Phil. in philosophy from Oxford, President @Agnes Scott, ALCHEMY OR FOOL'S GOLD? Assessing Feminist Doubts About Rights Dissent v42 p342-7 Summ '95)

The deeper problem with the conceptual critique is that it fails to recognize the specific importance of liberty and immunity rights to women. The boundary-marking characteristic of liberties and immunities is of critical importance to society's most vulnerable members. Many struggles central to the feminist movement, such as those to repeal the laws of coverture, to make marriage consensual, and to criminalize rape and sexual harassment are efforts by women to set their own boundaries. Marilyn Frye has argued that "total powerlessness is being unconditionally accessible ... the slave who decides to exclude the master from her hut is declaring herself not a slave."(FN6) Feminists who issue sweeping denunciations of rights as too abstract, individualistic, and conflictual ignore the ways in which women need precisely these kinds of rights. Vulnerable and stigmatized groups have the most to gain from the protection that "abstract and impersonal" frameworks can provide. When a woman is still struggling for "'a room of her own,'" Frances Olsen has noted, "she is unlikely to complain that rights isolate her." In a world in which many women are continually vulnerable to abuse, especially abuse by people claiming connection to them through bonds of love, family, religion, or culture, an uncritical celebration of "connection" at the expense of "demarcation" commits a utopian fallacy. In its strongest form--where it claims or implies that women should abandon the language of rights--this critique is undertaken from a politically naive perspective, distant from the lives of most women.

#### Critique of rights (like privacy) alibi political vies at the root of the problem. Kiss 95

(Elizabeth, B.Phil. and D.Phil. in philosophy from Oxford, President @Agnes Scott, ALCHEMY OR FOOL'S GOLD? Assessing Feminist Doubts About Rights Dissent v42 p342-7 Summ '95)

Feminist attacks on rights because of the images of self they foster operate as surrogates for a substantive critique of unattractive political views. But why have so many feminists found this overstated critique so compelling? Why, in other words, might attention to women's lives encourage skepticism toward rights? As many feminist theorists have pointed out, the injuries and deprivations women experience because of their gender have never been adequately captured by traditional conceptions of rights. On the contrary, these conceptions have served to obscure--even to legitimate--women's injuries. The classic example is the way relationships of inequality, abuse, and exploitation within marriage have been given moral protection by liberal conceptions of the private realm. Feminists have persuasively criticized traditional understandings of the public/private distinction, stressing how politics shapes these boundaries and how oppressive power relationships persist within them. Yet the problem, as I've argued, is not with rights as such. Many protections critical to women are best understood as liberty or immunity rights guaranteed by the state. The problem with traditional liberal or libertarian views is their tendency to cast the state as the primary rights violator, ignoring the ways in which non-state actors (for instance, employers or spouses) can threaten freedom and well-being. So we should be skeptical about arguments that claim natural, self-evident, or in some other sense final validity for any particular version of rights theory. Rights have to be assessed by whether they actually make a difference in people's lives.

#### Critiques indict an antiquated notion of rights as property, the affirmative embraces rights as relational. Kiss 95

(Elizabeth, B.Phil. and D.Phil. in philosophy from Oxford, President @Agnes Scott, ALCHEMY OR FOOL'S GOLD? Assessing Feminist Doubts About Rights Dissent v42 p342-7 Summ '95)

(2) Rights-based approaches can also abandon those they are supposed to help when they ignore crucial strategic issues about how rights can be made effective. There are at least three ways in which this can occur: first, formal equality of rights can obscure real inequalities that make it difficult or even impossible for those in less powerful positions to exercise their rights. This is the classic critique articulated with elegant irony by Anatole France: "The law, in its majesty, grants rich and poor alike an equal right to sleep under bridges." Women (like other disadvantaged groups) may have formally equal rights in the labor market but be doomed, through inequalities of wealth, education, and influence, and the invidious effects of prejudice and harassment, to lower status jobs. The gap between legal principle and practice can work the other way, too. As Kim Scheppele has argued, some West European legal systems appear to limit abortion severely, but in practice early abortions are easy to obtain. By contrast, the post-Roe United States affords constitutional protection for early abortions, but these have become increasingly difficult to obtain in many parts of the country.(FN9) Second, a right may be vitiated or at least seriously weakened if the procedures or strategies associated with claiming it, and in particular for demanding redress when it has been violated, are themselves ineffective, intimidating, or degrading. Soviet-style legal systems provided extreme examples of this phenomenon, guaranteeing rights in the Constitution and then vitiating them through statutory clauses that required that they be exercised "in accordance with socialist values"--which, in effect, made illegal any exercise of a right in opposition to the ruling party. Less dramatic examples of this phenomenon are depressingly common. Legal and administrative procedures for claiming redress can be costly, can further victimize the victim, can enmesh victims in intimidating professional-client relationships. By focusing on individual litigation, they can also privatize and narrow claims of harm in ways that obscure the larger structural inequalities at the root of the problem. Formal procedures for dealing with rape, gender discrimination, and sexual harassment exhibit many of these features. Third, rights strategies may concentrate on attaining ex post facto redress for violation or neglect of rights rather than on the forms of mobilization required to prevent the violation or neglect in the first place. This is also a form of abandonment, since the harm has already occurred by the time the rights strategy kicks in. Moreover, successful redress may be so indirect that it is not experienced as helpful by the person who was harmed. Taken together, these three examples reveal how rights strategies can abandon those they are supposed to help by ignoring the social and political changes required to make rights effective. But they do not demonstrate the futility of rights as such. The lesson to be drawn from these examples is that we should conceive of rights not as commodities the law grants us, but as relationships to be established and secured.

#### Rights and ethic are complementary, not competitive- ethics alone can’t answer difficult distribution problems in politics . Kiss 95

(Elizabeth, B.Phil. and D.Phil. in philosophy from Oxford, President @Agnes Scott, ALCHEMY OR FOOL'S GOLD? Assessing Feminist Doubts About Rights Dissent v42 p342-7 Summ '95)

A second set of feminist doubts about rights arises from a conviction that we should pay more attention to other concepts and values. Contemporary moral and political thought, on this view, is excessively dominated by a legalist and rationalist model of moral life. It ignores or underplays the importance of activities, relationships, and attitudes that have traditionally been associated with women. Feminist writers aim to correct this one-sidedness by drawing on a critical but appreciative encounter with women's lives. This shift in focus is best exemplified by work within the ethics of care, inspired in large part by Carol Gilligan. In her influential book In a Different Voice, Gilligan took issue with conventional models of moral development. She described a distinctive moral voice, which spoke of caring and relationship and which, she claimed, was more commonly employed by women. Gilligan's arguments have been taken up (as well as criticized) by feminist moral and political theorists. According to them, the mainstream of contemporary ethics has ignored or underplayed the relevance of intimate relationships in moral life in favor of a public, rational, legislative model. In the process, personal connections, and the attentiveness and responsibility that is the first virtue of human relationships like those between parents (especially, given traditional gender roles, mothers) and children, have not received the theoretical attention they deserve. In our relationships with partners, spouses, children, and friends, we tend to regard an attitude defined by and limited to a concern for the other person's rights as morally problematic: it constitutes a failure of intimacy. Rights talk does not capture the whole of morality. This may seem an obvious point, but it is one thing to acknowledge it and quite another to develop a rich and persuasive account of other moral concepts and values. Theorists of care have begun to do this. Their writings also provide insight into the rights project, suggesting that achieving greater respect for others requires not so much a better capacity to discern universal principles as what Annette Baier has called "a progress of sentiments."(FN8) Contrary to the claims of some feminist theorists, however, the ethics of care gives us no reason to abandon rights talk. We still need general principles that tell us who should receive care, why care is important, and what distinguishes its valuable from its ineffective or dangerous forms. Affirming the moral importance of personal relationships does not resolve the hard choices about caring for intimates, fellow citizens, and strangers that political communities must face. These choices require attention to the distribution of care and so raise questions of justice. Not surprisingly, the most promising attempts by feminist theorists to think about the policy implications of an ethic of care have paid explicit and unapologetic attention to rights. Theories of care that ignore the ways in which intimacy can be a site of inequality, exploitation, and abuse threaten to romanticize the very relationships (like marriage and family) that feminist proponents of rights sought to criticize in the first place.

#### Pessimism is in fashion but wrong- reform can have positive long lasting effects, giving up is worse. Robbins 13

(BRUCE, Old Dominion Foundation Professor in the Humanities, https://nplusonemag.com/issue-16/reviews/balibarism/)

For many, respect for human rights would of course count as such evidence. Balibar does not join their chorus. The awkward neologism (in French, égaliberté) that gives The Proposition of Equaliberty its title defines a crucial right we do not possess. During the cold war, human rights were largely a weapon of the so-called “free world”: it was assumed that what rights protect is freedom, and freedom is something that “we” have and “they” do not. This was — and has remained — the justification for innumerable wars, covert and not, by “us” on “their” behalf (against some other “them”). So equality has become irrelevant. Balibar’s riposte is that if rights are not serving the cause of equality, both within the nation and among nations, they are not worth getting excited about. But the implication is that rights can in fact be made to serve that cause — and so are very much worth getting excited about. This corollary is not universally admitted. It is worth comparing these remarks with the much more famous reflections on rights by Jacques Rancière. Rancière appears to be experiencing the same sort of boomlet as Badiou (a recent panel proposed that we “forget Foucault” and “read Rancière”), and one reason for this fashion is clearly his horror of complacency in any form. Though he was one of Balibar’s comrades in Althusser’s seminars, he turned away from Althusser early, embracing a left populism. On Europe Balibar too has come out for populism. Nevertheless their differences remain instructive. Consider Rancière’s now classic 2004 essay “Who Is the Subject of the Rights of Man?” which takes on triumphalism about human rights. Rights, for Rancière, are never a possession; they exist only insofar as they are asserted and actively claimed. This sounds properly bracing. However, it’s self-contradictory. While Rancière stresses the urgency of action, he undermines that action in advance by denying that it will have any lasting effects. If the active claim of rights by one generation can never be passed down to the next generation, if the next generation must always start from nothing, then what is the point of acting in the first place? Rancière sounds like a defender of democracy when he attacks democracy’s attackers, but he asserts (in Hatred of Democracies) that “We do not live in democracies,” and if he means it, then what does he think there is to defend? In spite of Rancière’s indignation, his position is in effect that no successful moves toward equality have ever been made, no territory has ever been occupied, no structural advantage has ever been conferred on those who come after. From his perspective no progress can ever be claimed without a fatal fall into the abyss of complacency. In a kind of frenzy of voluntarism or presentism, the urgency of doing something now makes anything done before disappear, including the establishment of rights, however limited and fragile. The contrast is clear in Citizen Subject, where Balibar discusses the meaning of anti-imperialism in France during the Algerian struggle for national liberation, which was an early version of metropolitan antiwar militancy. As originally drafted (by Blanchot), the “Manifesto of the 121” supporting French draft resisters was titled “Déclaration sur le droit à l’insoumission,” or “Declaration on the Right of Insubordination.” Balibar underlines the fact that declaration evokes the French Revolution’s “Declaration of the Rights of Man and Citizen” and the tradition that comes out of it. He obviously shares Rancière’s misgivings about triumphalism, but for Balibar these misgivings must be weighed against the demonstrated efficacy of the tradition, “the permanence of a revolution that has already been made.” The Declaration was a resource that French protesters against French colonial brutality could and did appeal to. The revolutionary act of declaring rights, Balibar observes elsewhere, “was the anchoring point for the series of claims that, from the morrow of the Declaration, begin to base upon it their claims for the rights of women, of workers, of colonized ‘races’ to be incorporated into citizenship.” There are always good reasons for thinking of rights as yet to be conquered, and that it’s foolish for people to stick only to defending the rights they already possess. Still, it is equally foolish to imagine that like Sisyphus we are forever damned to begin at the beginning, that in the domain of rights there is no such thing as what the French call an acquis — something attained.

### A2 Deleuze

#### Omitted

### A2 Imperial University/ Undercommons

#### Framing of “imperial university’ militarizes academic discourse and creates a self-fullfilling prophecy. Kennedy, JD, 89

(Randall L, Law @Harvard, RACIAL CRITIQUES OF LEGAL ACADEMIA Harvard Law Review JUNE, 1989 102 Harv. L. Rev. 1745)

Second, Professor Delgado's writings express and popularize a militarization of academic discourse. n297 The very imagery of his rhetoric -- such as the reference to "imperial" scholars -- calls to mind a notion of "us" and "them," a conception of academia as battleground. Adopting that conception of the situation might very well entail, for many of "us," adopting a mode of conduct that would include a disposition to assume the worst about everything said and done by "them." If warlike conditions really do exist, defensive thinking of this sort makes perfect sense. If, on the other hand, one mistakenly perceives a condition as warlike, the defensive thinking generated by that misperception may be wasteful, cutting one off, for instance, from fruitful collegial exchange. Worse, it may actually help to create or exacerbate hostilities via a self-fulfilling prophecy. n298 Because descriptions can help to create the very thing they purport to describe, one ought to be cautious in the way one defines socially vexing situations. Professor Delgado fails to use appropriate caution. Instead of alleging racial bias at the end of a process in which other plausible explanations have been fully considered and found wanting, he seems eager to make such allegations as a first choice. The militarization of discourse also increases pressure on intellectuals to "choose sides" and to display loyalty to the side chosen. In such a setting, disagreement becomes attack and dissent becomes betrayal -- hardly an atmosphere conducive to free intellectual discussion or self-critical reflection. Moreover, as in so many other contexts in our society, the overall burden of a bad situation falls especially hard upon minorities. The sense of isolation that many minority academics feel creates a particularly powerful demand for loyal conformity to whatever becomes the group's dominant political program. This is the socio-psychological dynamic that lays behind the charge [\*1816] that an article like this one, written by a minority scholar, displays a special lack of political responsibility.

#### Cede the academy – blanket rejection of “imperial academia” excludes minority scholars- we are in, not of, the university. Kim, PhD, 15

(Nami, Associate Professor Philosophy & Religious Studies Women of Color Scholar-Teachers Reclaiming our Classrooms Journal of Feminist Studies in Religion, Volume 32, Number 1, Spring 2016, pp. 142-146)

Third, how do women of color scholar-teachers learn to thrive together without aligning with the system that constantly seeks to undermine our authority as scholar-teachers in an imperial university? How do we women of color scholar-teachers challenge “the dominant codes of belonging and citizenship within the academic nation”?4 As Chatterjee and Maira cogently state, “our privileges of entry, of inclusion, and of outside-ness are also always marked by the ‘dangerous complicities’ of imperial privilege and neoliberal capital.”5 When a woman of color faculty becomes a “citizen” in the academy, it seems crucial for us to ask what kind of “citizen” we wish to become or whether we really want to become a “citizen.” As the authors state by quoting Claudia Rankine, “There are two worlds out there; two America’s [sic] out there. If you’re a white person, there’s one way of being a citizen in our country; and if you’re a brown or a black body, there’s another way of being a citizen and that way is very close to death. It’s very close to the loss of your life. It’s very close to the loss of your liberties at any random moment” (113).6 Despite this risk of losing one’s life and one’s liberties, if women of color want to teach in an imperial university, how should we live as “subversive intellectuals,” who are “to be in but not of” the university?7 I do not have a “good” answer to this question. But I would like to invite women of color scholar-teachers to think about the ways in which we can do this together by raising a set of related questions. If our goal is not to be included as efficiently as possible within the current system of the imperial university in order to enjoy all benefi ts and privileges to which “dependable” citizens of the academy have access, how do we live as “subversive intellectuals” in an imperial university? What resources do we need for our subversive projects? How do we not just become professionalized? What would be our strategies to thrive without being complicit in the academy that has become corporatized—treating students as their customers, exploiting “contingent” faculty, undermining shared governance on campus, structuring the college based on corporate hierarchy, and serving US imperial interests through knowledge production? How are we, as gendered, racialized, and sexualized persons, implicated in this contested site of struggle through our teaching and our scholarly participation in the US academy? How do we not lose our lives and our liberties after all? How does our work challenge or reinscribe the politics of knowledge that legitimizes US imperialism, militarism, and global capitalism? Perhaps a working answer to all these questions is to reclaim our own classroom “to become the most radical space of possibility in the academy.”8 In order to do this, we need to “maintain a constantly militant and critical stance toward the place where we must do our work.”9 As the authors argue, the question of authority has to do with power, and those of us who work to reclaim our classroom as such a radical space of possibility need to ask how we should use our power, however small that might be, in relation to the students and the university that “include” the contingent faculty members who might be also women of color. As Smith indicates, the understanding of how the logics of white supremacy work helps us critically refl ect on not only our victimization but also our complicity in the victimization of others.10 We, then, continue to be vigilant about how we claim and exercise our authority as not the power-over but as the power that arises within ourselves and the power entrusted to us by the communities we are accountable to.(144-6)

#### Their evidence critiques selective censorship – we turn the link

Goodman, PhD, 15

(Robin Truth, English @FSU Corporate Humanities and the Imperial University: The Economy of Debt in the Culture of Higher Education College Literature, Volume 42, Number 2, Spring 2015, pp. 337-347 (Review))

The Imperial University, meanwhile, focuses on the political assault on minority and “suspect” populations within the academy in the wake of 9/11 and how certain individuals inside this apparatus have responded to and opposed this new corporate infi ltration. What are the specifi results, the day-to-day appearances of these new policies and institutional adjustments inside university cultures? While Di Leo does mention the importance of terror, as precarity, in the new academic regime—where “at any moment one’s agency can be, so to speak, ‘eliminated from the academic game’” (47)—The Imperial University exposes the experience of those living and working in the context of this instability, giving some historical but mostly contemporary anecdotal accounts of how the “War on Terror” targets forms of academic speech, casting them as criminal and dangerous and turning their proponents into extremists, all in the name of academic freedom. Invoking a historical imperialist view of subjugation within neoliberal redistributions of economic and political power, the “War on Terror” becomes in this work a descriptive term for a “permanent war” which includes the restructuring of public life, increasing control of populations in the interests of producing consumerist conformity, nationalist command hierarchies, and labor docility for neoliberal dominance (7). As the editors explain, “The 9/11 attacks and the crises of late capitalism in the global North have intensifi ed the crisis of repression in the United States and also the ongoing restructuring of the academy— as well as resistance to that process—here as well as in the global South” (6). In other words, The Imperial University chronicles through fi rst-hand accounts and institutional analyses how what once was understood as the cornerstone of the university’s autonomy—the freedom to have a point of view—has been transformed into a scapegoat and a justification for repressing speech coming from racial, ethnic, and gender minorities. Such policing of free speech makes free speech itself—non-conformity, disorder, resistance—into a technique of punishment and control, linked to militarism and imperialism. Academic freedom can now be wielded to implement repressive imperial policies on the homefront. (339-40)

#### Abandoning the university is the worst option

Goodman, PhD, 15

(Robin Truth, English @FSU Corporate Humanities and the Imperial University: The Economy of Debt in the Culture of Higher Education College Literature, Volume 42, Number 2, Spring 2015, pp. 337-347 (Review))

Di Leo criticizes some of the current scholarship on the corporatization of academe for proposing the solution of returning to a prior, golden time or, even worse, for concluding that there is no solution at all. For Di Leo, “there may be no going back to the way things were” (28, emphasis in original) with state support (aff ordability), a liberal arts foundation, and protections for academic freedom, faculty governance, and tenure so that research and teaching agendas could be free from corporate infl uence and state control. Di Leo wants us, rather, to disrupt the system, not to reject the fact of corporate presence but instead to accept that the Kantian vision of the university founded on the three principles of autonomy, mass inclusion, and the distinction between usefulness and uselessness is no longer sustainable: that the university as we know it is broken and needs to be recreated in order to be defended. This reinvention is currently proceeding by way of market reforms and privatization as well as a clamping-down on dissenting speech or non-canonical formulations, but Di Leo sees an opening towards an education-based revision of the university’s mission.(345)

#### Their authors reject corporate control and censorship, not the university itself

Lubin, PhD, 15

(Alex, Professor and Chair of the American Studies Department at the University of New Mexico American Studies, Volume 54, Number 2, 2015, pp. 120-122 (Review))

In The Imperial University, Piya Chatterjee and Sunaina Maira provide an invaluable collection of scholarship on the transformation of the University into an apparatus of empire and the U.S. War on Terror. The central argument of the collection is that in the context of decades-long public disinvestment in higher education, the University has sought to replace public spending with corporate dollars. This requires the University to orient its activities towards the interests of corporate culture with the consequence that programs in humanities and social sciences that do not sufficiently promote corporate interests are viewed as economically inefficient burdens. Moreover, as the neoconservative decades of the 1970s onward have entailed a massive disinvestment in the social wage coupled with an increasing dedication to militarism, universities have become places not only to produce the knowledge required for ascendant militarism, but they also increasingly seek out military relationships in order to substitute for declining public investment. As a result of this transformation universities have been places of repression where challenges to war and empire are disciplined and contained. And yet, argue Chatterjee and Maira, the imperial university is not only an institution reflecting hegemony, but is also a space of contest and challenge. Chatterjee and Maira are particularly interested in what sorts of challenges are possible within the imperial university. Many of the volume’s contributors discuss their personal history of being cast out of the University due to their political critique of militarism. Nick De Geneva discusses his dismissal from Columbia University following his critique of the Iraq War following 9/11. Thomas Abowd discusses his experience of being accused of anti-Semitism at Wayne State University due to his support for Palestine solidarity politics. And in perhaps the most prophetic and ominous essay of the collection, Steven Salaita—writing as a tenured faculty member at Virginia Tech University—discusses his university’s discomfort with his scholarship, which is critical of Israeli policies and supportive of Palestinian decolonization. At the time of this writing Salaita could not have predicted the tumultuous road ahead due to his firing at the University of Illinois, but even at the of time of this chapter’s writing he expresses the risks of scholarship that is political and that engages with communities resisting colonialism and imperialism. Salaita’s scholarship was framed as polemical and “political” in ways that led some to question his scholarly rigor and excellence.(120-1)

#### Perm solves- university is both repressive and liberator

Lubin, PhD, 15

(Alex, Professor and Chair of the American Studies Department at the University of New Mexico American Studies, Volume 54, Number 2, 2015, pp. 120-122 (Review))

The collection also documents several ways that universities can serve as oppositional spaces, where knowledge critical of imperial culture is possible. This insight suggests something of the conundrum of the imperial university; it is both an institution for empire making while also serving as one space to contest imperialism. Chatterjee and Maira advocate a critical rethinking of academic freedom as a panacea, arguing that academic freedom is often merely a liberal right that obscures deeper and other freedoms. In order to make the University an insurgent space, Chatterjee and Maira argue that more than an assertion of academic freedom is required; as they and several authors in this valuable collection make clear, an insurgent politics must work to disengage the University from militarism and imperialism, it must decolonize the University. Given the firing of Steven Salaita at the University of Illinois at Urbana–Champaign following his criticism of Israel’s war on Gaza, and given the escalation of national security studies programs in economically-strapped public universities, The Imperial University is a timely and important intervention that helps shed light on the imperial university in these times.

#### Arguing for dissent challenges the imperial university

Abraham,ThD, 15

(Susan, Associate Professor and Chair of Theological Studies @Bellarmine College of Liberal Arts Asian/Asian North American Feminist Theology and the Secular Academy Journal of Feminist Studies in Religion, Volume 31, Number 1, Spring 2015,

pp. 121-126

A second way to engage US academic and imperial desire is to examine “academic containment.” As the editors claim, “state warfare and militarism have shored up deeply powerful notions of patriotism, intertwined with politics of race, class, gender, sexuality, and religion,” that reconfigure belonging as patriotic citizenship, privileging conformity over critical methods.5 Anything that represents dissent is likened to terrorism. As is known to many of us, conformity with regard to church, state, and family is a hallmark of US nationalist rhetoric—rhetoric that spills over into the Christian hegemonic racism that Kim and Joh point out as the basis of US support for Israeli Zionism. Arab American scholar and activist Thomas Abowd asserts that the BDS movement (Boycott, Divestment, and Sanctions movement) has been disparagingly referred to as “anti-Semitic in their effect if not their intent.”6 Such allegations of anti-Semitism of course reflect the imperial university’s collusions with corporate and particular histories disembedded from their state-sponsored narratives. Abowd’s case, painfully chronicled in his essay, reveals “the rank hypocrisy that many schools—in their claims to racial equality and academic freedom—display when racism toward Muslims and Arabs comes to the fore.”7 Antiracist efforts by Asian/Asian North American feminist theologians need to examine more deeply how racism is structured in academic practices, particularly in its state-sanctioned maneuver to curb dissent.(123)

### A2 Cooption

#### Omitted

### A2 Opacity – Generic

Omitted

### A2 Opacity – Ontology/Invisible Commitee

**Omitted**

# Frontlines – DA

## A2 PTX – Generic

#### No link and turn – newspapers don’t link – maybe Trump supports generic free speech, but he hates the media. Seager 1-21

Susan Seager, 1-21-2017, "And So It Begins, Trump Botches First Libel Bully Media Attack," No Publication, <http://lawnewz.com/celebrity/and-so-it-begins-trump-botches-first-libel-bully-media-attack/> VC

The Trump transition team launched its first legal attack on the mainstream media this week, just days before the inauguration of President Donald Trump. And botched it. The move signals that President Trump will likely continue his 30-year history as a libel bully who sends empty threats to journalists and sometimes sues them, only to lose his libel cases in court. The Trump transition team and a law firm launched the attack by issuing a public retraction demand to CNN over its supposedly “false” report about Sen. Tom Price’s (R-Ga.) controversial stock purchases, a first step toward filing a defamation lawsuit. But the retraction demand ended up confirming the key facts in the CNN report. And the law firm — the global firm Dentons — quickly withdrew its letter after realizing that CNN is a client and threatening its own client presented a conflict. In another signal that Trump will continue his bullying ways, it was revealed this week that Michael Cohen, Trump’s aggressive personal lawyer, will continue to work for Trump in a private capacity. Cohen is known for threatening a Daily Beast reporter in 2015 by saying, “I’m warning you, tread very fucking lightly, because what I’m going to do to you is going to be fucking disgusting. You understand me?” A look at Trump’s past libel lawsuits and other suits against the media provides a preview of what is to come with President Trump and his administration. Trump and his companies have filed seven libel lawsuits against journalists and critics over the past 30 years – without winning a single one filed in a public court.

#### Turn: Trump lacks leverage with Congress and exacerbates divisions rather than uniting coalitions. Reynolds 4/28

Congress just dodged a government shutdown. Here’s what comes next, Washington Post, 4/28/17. Molly E. Reynolds is a fellow in governance studies at the Brookings Institution.

Another challenge for the current congressional GOP involves President Trump himself. Presidents do have some ability to set the agenda, and in this case Trump helped establish the terms of debate with his March proposal for an increase in defense spending, a cut in non-defense spending, and explicit funding for the border wall.¶ However, Trump’s persuasive power appears limited. This power is greater when the president is popular, and Trump’s approval ratings are obviously at historic lows for an early term president. So Trump lacks leverage with members of Congress and cannot necessarily provide political cover for members as he seeks to get them to cast difficult votes.¶ Presidents also face this dilemma: taking a public position on an issue can worsen existing disagreements between the parties. Trump’s hard line on the subsidy payments under Obamacare — threatening to stop making them unless Congress acts while simultaneously accusing Democrats of threatening to shut down the government over them — illustrates this dynamic well. While the debate over the payments had been one of many ongoing points of conflict on the final bill between the parties in Congress, Trump’s pronouncements helped elevate its profile as a potential stumbling block.¶ While Congress managed, for now, to escape the worst possible outcome, spending bills remain one of the institution’s few “must pass” items each year. The next set of bills won’t necessarily be easier, with questions about whether to relax the limits on discretionary spending put in place in 2011 and Trump’s first full set of budget requests on the horizon. Republicans’ intraparty divisions, Democrats’ attempts to exercise influence where they can, and a polarizing president likely mean a long summer (and fall?) of fiscal fights ahead.

#### Tax cuts thump. Livingston 1-26

Abby Livingston, 1-26-2016, "U.S. Rep. Kevin Brady is in the perfect spot to reshape the American economy," <https://www.texastribune.org/2017/01/26/brady-tax-reform/> VC

WASHINGTON — There is hardly a Texan to be found in Washington who is more at the center of this new world Trump order than U.S. Rep. Kevin Brady. The 11-term congressman from the Woodlands is the chairman of the U.S. House's tax-writing Ways and Means Committee, putting him in the driver's seat amid the biggest economic issues of the day: trade deals, overhauling the tax code, the repeal of the 2010 health care law and the national deficit. "This won’t happen but once a generation," he told The Texas Tribune from his chairman's office at the U.S. Capitol. "We can’t tweak a few things and call it a day. We really need to go bold." Brady took the committee gavel a little over a year ago. But back then, the Republican-controlled Congress was in a perpetual stalemate with former President Obama. Now a Republican, albeit one who can be at odds with his own party, is president — and Brady has his best opportunity to move legislation that could dramatically change the American economy. House Republican rules dictate Brady is term-limited at the post. This, plus the momentum behind Trump and Republicans will make this moment the peak of his power and activity at Ways and Means. For he and his Republican colleagues, overhauling the tax code is a top priority. In their characterizations, they will simplify the tax code for average Americans and cut taxes in a way that will bring back jobs from overseas. "At the end of the day, what we hope to do is replace the current code, which is very costly, complex and very unfair, with a tax code designed for growth, literally built for the growth of jobs and wages in the U.S. economy," he told the Tribune. But can he assure Americans these tax cuts will not increase the deficit? “Our Republican blueprint ... is designed to break even on the budget, counting on economic growth, which means we will lose some tax revenues in the early years, and we will make it back in the following years and essentially break even in a 10-year period as far as federal revenues," Brady said. That idea that cutting taxes could actually increase revenue through economic growth, a central tenet of supply-side economics, is one that many economists on the left do not buy. Brady said such criticism is "not at all" valid. "What we know is tax rates matter," he said. "Since President Reagan reformed the tax code 30 years ago, our competitors around the world have lowered their taxes, simplified how they tax. They no longer double tax around the world ... They are leaving America in the dirt, and as a result, American businesses today and Texas businesses are fighting with one hand tied behind their back." But this overhaul will occur with a billionaire president who refuses to release his tax returns, leading to questions about how a revamp of the tax code could drastically affect his own wealth. Brady said that controversy rests between individual citizens and the president. "I’m convinced the discussion about President Trump’s tax returns made public are really one between him and the American public," he said. "Clearly, he was elected, saying he was not going to release them."

#### PC high now – Gorsuch nomination. Collinson 2-1

Stephen Collinson, Cnn, 2-1-2017, "Prime-time Justice: Trump puts on a flawless show," CNN, <http://www.cnn.com/2017/01/31/politics/donald-trump-supreme-court-announcement/> VC

Trump, meanwhile, is turning out to be a man who keeps his promises, however much controversy they ignite. In 11 days in office, he has pushed to repeal Obamacare, slapped a temporary ban on immigrants from seven Muslim nations, pulled America out of a vast trans-Pacific trade pact and ordered the building of a border wall. Now he has delivered a conservative jurist, a move that will likely do much to solidify his political position within his own party. The nomination could also buy him some political capital amid raging controversies over the inept rollout of his immigration measures that kept many Republicans in the dark and raised questions over the basic competence of his administration. White House tries to course correct after messy travel restriction rollout Supporting a Supreme Court nominee is one of the most intricate tests a White House will face however — the first 48 hours will be crucial for Gorsuch despite apparently favorable winds behind his nomination. Any oversights in vetting of his personal, legal and financial history on the part of the administration are likely to be ruthlessly exploited by liberals who oppose his nomination. If it was a night to savor for the GOP, it was a bitter one for Democrats. This could have been the moment when a President Hillary Clinton unveiled the nomination for Supreme Court justice that would have the potential to tilt the bench towards liberals for a generation.

## A2 Harker Trump Da

### 1AR – Trump

#### No link –

**A. The plan is done by universities, their ev about it being tied to Trump is about federal policies**

**B. Trump deflects blame especially if it makes him unpopular – extremely probable given his federalist approach to education**

#### Syria angered his base.

Rosie Gray, 4-7-2017, "The Trump Supporters Disillusioned by His Syria Strikes," Atlantic, <https://www.theatlantic.com/politics/archive/2017/04/trumps-disillusioned-supporters/522336/> VC

President Trump’s decision to launch airstrikes against the Syrian regime in response to a chemical weapons attack has made him abnormally popular with the elites who inhabit the swamp he campaigned against. MSNBC’s Brian Williams hailed video of the strikes as “beautiful,” and CNN’s Fareed Zakaria identified this as the moment when Trump became president. But it has been a bitterly disappointing turn of events for some of his most ardent supporters in the white nationalist alt-right movement and in adjacent political circles, who have supported Trump from the beginning of his campaign and who were enthralled by his promises to not get involved in Middle East conflicts. The strikes, and the about-face they represent in terms of Trump’s posture towards the Middle East, reveal a White House showing less-than-full devotion to the movement that formed the ideological backbone for Trump’s election. White House chief strategist Steve Bannon, for example, the former Breitbart chairman who represents ideological Trumpism within the White House, is locked in a battle for influence with Trump’s son-in-law Jared Kushner, a more pragmatic operator who appears to be nudging Trump in a more mainstream direction—a battle which Kushner, as a family member, is better-positioned to win.

#### Military action doesn’t affect approval ratings—no rally around the flag. Vankin 4-9

Jonathan Vankin, 4-9-2017, "Donald Trump Polls After Syria Strike: Are Polls Showing America Rallying Around Trump After Attack?," Inquisitr, <http://www.inquisitr.com/4131388/donald-trump-polls-after-syria-strike-approval-rating/> MG

But did the Syria strike, with the United States Navy firing 59 Tomahawk missiles at a single airbase in Syria — reportedly the airbase from which the Syrian government launched Tuesday’s chemical weapons attack — actually give Trump a boosting his approval ratings polls? While several more days of polling are required to get a clearer picture of whether Americans are “rallying around” Trump, early indications seem to show that Trump has received little if any benefit from his first major military action. A Gallup daily tracking poll that ran through April 8 would have therefore included two days of polling, Friday and Saturday, after the Syria attack. The pol showed Trump at 40 percent approval — the exact rating Trump held on April 6, the day of the Syria strike. In fact, Trump’s approval rating poll showed a slight decline, from recent peak of 42 percent on April 4 — which itself represented a significant recovery after Trump had bottomed out with a miserable 35 percent rating on March 28, according to the Gallup poll. Trump’s disapproval stands at 54 percent, according to Gallup. That rating has also remained stable since April 6. Another daily tracking poll, Rasmussen Reports, included only one day of polling after the Syria strike. But the Rasmussen poll that included April 7 showed a slight, one-point uptick from the day before, with Trump at 45 percent approval and 55 percent disapproval. While conventional wisdom holds that U.S. military actions produce a “rally around the flag” effect, along with a boost in poll ratings, research by polling expert Harry Enten of FiveThirtyEight.com shows that such positive effects are actually rare. According to Enten, the “rally around the flag” effect is most likely to take hold when five conditions are present. But for Trump, only one of those conditions is relevant. Those conditions are as follows. • The military action is early in a presidential term. This condition may benefit Trump, who as mentioned above, is only about 11 weeks into his term. • The target of the military action is a major world power. Syria is not a world power, but a relatively small Middle Eastern country which has been torn by civil war for the past six years. • The American strike has bipartisan support. While Democrats have been largely supportive of the strike against Syria, they have also expressed strong reservations about Trump’s refusal to give Congress advance notice of the attack. Donald Trump polls, Syria strike, Donald Trump approval rating, lowest presidential approval ratings, Rasmussen poll, FiveThirtyEight, Gallup poll, Donald Trump approval today The strikes against Syria produced protests against Donald Trump, but will they give him a boost in the polls as well? [Image by Spencer Platt/Getty Images] • The United Nations Security Council approves of the military action. The United Nations was not consulted in advance of the attack, meaning that this condition does not apply to the Syria strike either. • The military action has the clear goal of changing something. Military strikes that tend to produce “rally around” effects and as a result, a boost in polls, are usually designed to change the government of a foreign country, acquire land, or some other type of clear change. But that appears not to be the case in the Syria strike. In fact, Secretary of State Rex Tillerson said on Sunday that the U.S. policy toward Syria has not changed.

#### No rally around the flag – people hated the option of strikes 4 years ago. Clement 4-7

Scott Clement, 4-7-17, “Americans hated the idea of strikes against Syria in 2013. But Trump’s could be different.”, <https://www.washingtonpost.com/news/the-fix/wp/2017/04/07/military-strikes-in-syria-were-very-unpopular-four-years-ago-but-trumps-could-be-different/?utm_term=.6328eabf5623> VC

President Trump's decision to launch missile strikes at a Syrian airfield in retaliation for a chemical weapons attack on civilians marks a major escalation in U.S. involvement in the country's civil war — and is an action that Americans overwhelmingly opposed four years ago. But while it will take days to gauge Americans' reactions to Friday's strikes, history shows public support for military action can shift dramatically in the wake of it actually happening. And the somewhat tepid bipartisan congressional support we're seeing for Trump's move could provide a significant boost. Surveys have found Americans generally support military action to stop genocide, but the 2013 debate laid bare the public's hesitation about forcefully punishing Syria for using chemical weapons. In the month after the United States concluded that Syria had used chemical weapons in August 2013, three separate Washington Post-ABC News polls found clear majorities of the public opposed launching missile strikes in Syria. In the last of those surveys, 61 percent opposed strikes in response to Syria's use of chemical weapons, with opposition outpacing support by about a 2-to-1 margin. The margin of intense opinion was even starker: 45 percent said they “strongly opposed” military strikes that then-President Barack Obama advocated — nearly three times as many as the 17 percent who “strongly supported” the action

#### Case solves the impact – civic engagement and pressure on Trump prevents escalation because he still needs to get reelected, he wouldn’t cause nuke war.

## A2 Hate Groups DA (alt-right)

#### 1. Non unique- steve bannon runs the white house- the alt right can’t get anymore powerful by recruiting nerdlingers at Tufts

#### 2. No link- their evidence is about distribution of fliers on campus- that isn’t affected by the plan, and couldn’t be stopped by censorship until after the fact. The rest of their evidence is about websites, which can’t be stopped by universities.

#### 3. Link turn - Universities have built the alt right – they threw out liberal ideals replacing it with a vision of violence and “PC” has desensitized us to actual racism. Carle ‘12/22

Robert Carle is a professor of theology at The King’s College in Manhattan. Dr. Carle is a contributor to Society, Human Rights Review, Public Discourse, World, Touchstone, The Federalist, and Reason.com. “How the American Academy Helped Create the Alt Right.” The Federalist. December 22, 2016. <http://thefederalist.com/2016/12/22/american-academy-helped-create-alt-right/> JJN

American academics are rightly alarmed by the ascendance of the alt-right and its entrenchment in American politics. The alt-right includes nativists, conspiracists, isolationists, Putinists, white nationalists, and masculinists. The alt-right is pessimistic about the ability of people of different races and religions to live together, and is hostile to both legal and illegal immigrants. Alt-right websites warn against the dangers of miscegenation and criticize the pro-life movement as “dysgenic” because it encourages breeding by “the least intelligent and responsible” women. But American academics have been slow to acknowledge how dependent the leaders of the alt-right are upon playbooks that they learned on university campuses. These leaders are not southern Klansmen. The president of the National Policy Institute graduated from the University of Chicago. The founder of American Renaissance graduated from Yale. The Rise of Identity Politics Over the past 50 years, universities have replaced the Enlightenment ideal of a common humanity with a vision of an America divided into warring races and classes. They have purged their schools of the Enlightenment liberals (“dead white males”) who trained earlier generations to defend universal values over tribal values. Today, students on college campuses are much more likely to read identitarians like Lani Guinier and Marxists like Howard Zinn than to read John Locke, Adam Smith, and David Hume. In this environment, working-class white men have come to see themselves as an economically and politically marginalized tribe. Had colleges and universities stood up for liberal concepts such as free speech and our common humanity, the alt-right would not have gained a foothold in our culture. Instead, our universities have become cesspools of identity politics, censorship, and moral relativism. For a generation now, American academics have been punishing any hint of identitarianism on the Right while defending even the most hateful tribal, identitarian movements on the Left. Breitbart editor Milo Yiannopoulos writes, “It was this double standard, more than anything else, that gave rise to the alternative right. It’s also responsible, at least in part, for the rise of Donald Trump.” Political correctness has trivialized the concepts of bigotry and racism so that they have lost much of their stigma. When a sombrero and tequila party can get you punished as a racist, then racism becomes a meaningless concept. Leftists who label Mitt Romney and John McCain as racists lose the moral authority to label anyone a racist. Activists who demonize white cis-gender men weaken the stigma against demonizing other groups. The debasement of intellectual life in the American academy was demonstrated by a hoax that New York University physicist Alan Sokal performed on his colleagues in 1996. Sokal submitted an article entitled, “Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity,” to Social Texts, a leading, peer-reviewed journal of cultural studies. His paper claimed gravity is merely a social construct, an instrument of phallocentric hegemony. Social Texts published the article, exposing its editors to national ridicule. They “liked my article,” Socal explained, “because they liked its conclusion that the content and methodology of postmodern science . . . supports the progressive political project.” In the past 20 years, Sokal-inspired sting operations have succeeded in getting dozens of spoof articles published in dozens of leading academic journals. Campus Assaults on Free Speech Colleges and universities facilitate extremism when they promote illiberal and unconstitutional speech codes that punish students and faculty for controversial speech. The Foundation for Individual Rights in Education (FIRE) has compiled a list of 316 speakers who have been disinvited from college speaking engagements because some members of their communities have objected to their points of view. On the list of the disinvited are Condoleezza Rice, Ayaan Hirsi Ali, Christine Lagarde, John Brennan, Kathleen Parker, and Jason Riley. Talented comedians like Chris Rock no longer perform on college campuses because of the censorious campus culture. In October, Yiannopoulos was disinvited from speeches he was to deliver at Columbia and New York universities because the universities feared attacks on LGBT and other minority groups. Yiannopoulos calls this rationale “garbage.” Yiannopoulos is openly gay, ethnically Jewish, and has never promoted violence. “The only person really at risk at any of my talks is me,” Yiannopoulos said. In 2010, an Association of American Colleges and Universities survey found that only 16.7 percent of faculty members strongly agree with the statement that they “feel safe to hold unpopular views on campus.” Witch hunts against academics who express any kind of heterodox views have become routine on college campuses. In February 2015, for example, Northwestern University’s feminist film professor Laura Kipnis wrote an article for the Chronicle of Higher Education criticizing Title IX policies. The university subjected Kipnis to hours of grilling about her essay and the ideas underlying it. Kipnis was not permitted to have a lawyer present during her hearings, but she was allowed to have a colleague present. Kipnis chose Stephen Eisenman, the head of the Faculty Senate. When Eisenman told the Faculty Senate that he believed Kipnis’s investigation was a threat to academic freedom, Eisenman was brought up on charges of violating Title IX as well. Kipnis wrote, “It is astounding how aggressive . . . assertions of vulnerability have gotten in the past few years . . . Most academics I know— feminists, progressives, minorities, gays—live in fear of some classroom incident spiraling into professional disaster.” In September 2016, NYU implemented a bias reporting hotline by which students can anonymously report professors and classmates for perceived speech offenses. NYU professor Michael Rectenwald writes that this turned “every classroom encounter into a potential infraction and figures students as Soviet-style monitors of ideological conformity.” Shouting at People Isn’t Persuasive This year, when students who support Donald Trump started chalking Trump’s name on campus sidewalks, schools responded by comparing the chalking to mass murder. At the University of California at San Diego, for example, the provost sent an email to students threatening the school’s “fullest sanctions” against the chalkers. Never mind that UCSD’s policies explicitly state chalking is permitted “on sidewalks of the university grounds that are exposed to weather elements.” The Left’s tendency to shame and silence its opponents is ultimately self-defeating, “When has anyone been persuaded by being insulted or labelled?” British comedian Jonathan Pie says. “That’s why people wait until they are in the voting booth. No one is watching anymore. There’s no blame or shame, and you can finally say what you really think and that’s a powerful thing.” If academics are concerned about the degraded state of American politics, they should begin engaging, debating, and discussing politics with their political opponents instead of setting up echo chambers where only progressive points of view are allowed. The American experiment in human liberty depends upon universities that transmit to future generations respect for free speech and open and honest debate. To sustain our republic, we need desperately to recover the healthy intellectual habit of learning from opinions that we find offensive. A people that ceases to educate in freedom will cease to live in freedom.

#### 4. Alt right ideas are unpopular- only protesting censorship gains supporters

Frum, Senior Editor/JD Harvard, 16

(David, <https://www.theatlantic.com/politics/archive/2016/11/twitter-censorship-will-only-empower-the-alt-right/507929/>, 11-16)

But, of course, that’s not what Twitter has done. Politics remains welcome at Twitter, as its most famous user, the president-elect, can attest. What Twitter is saying is that some and only some speech will be policed, by standards that can only be guessed at in advance. That’s socially undesirable for a lot of reasons, but consider just this one: It’s precisely the perception of arbitrary and one-sided speech policing that drives so many young men toward radical, illiberal politics. On campus especially, but also in the corporate world—and now on social media—they perceive that wild and wacky things can be said by some people, but not by others. By useful comparison: On the very same day that Twitter suspended the accounts of some alt-right users, DePaul University forbade a scheduled appearance by the broadcaster and writer Ben Shapiro. Shapiro is not an alt-rightist; in fact, the Anti-Defamation League reported last month that Shapiro is Twitter's single most frequently targeted victim of anti-Semitic abuse by alt-rightists. But Shapiro is a scathing polemicist and provocateur—an alumnus of the same Bannon-Breitbart empire that incubated Milo Yiannopoulos—and DePaul expressed worry that his appearance on campus might provoke violence. The culture of offense-taking, platform-denying, and heckler-vetoing—now spreading ever outward from the campuses—lets loudmouths and thugs present themselves as heroes of free thought. They do not deserve this opportunity. It’s a crazy fact of American life that as of today, a neo-Nazi has more right to build an arsenal of weapons and drill a militia than to speak on Twitter. Maybe we should try it the other way around. There’s not much American constituency for Richard Spencer’s vision of a United States subdivided into segregated countries for each racial group, or for debates about whether Jews and Italians should count as “white,” or for fantasies about overturning democracy and returning to rule by kings and lords. But there is a real constituency for debates about immigration, about crime and policing, and other racially charged issues. Over the past two decades, Americans have constructed systems of intellectual silencing that stifle the range of debate among responsible and public-spirited people. They’ve resigned hugely important topics to the domain of cranks and haters. If the only people who’ll talk about the risks and costs of a more diverse society are fascists, then the fascists will gain an audience. So long as they refrain from incitement and harassment, the right way to deal with social media’s neo-Nazis is not by taking away their platforms, but by taking away their audiences, by welcoming a more open and more intelligent discussion of what Americans yearn most to hear about.

#### Twitter proves- censorship reinforces victim narrative

Boang 16

(Keith, <http://www.cbc.ca/news/world/alt-right-censorship-keith-boag-1.3855585>, 11-18)

The alt-right abbreviation refers to the alternative right, a term most often attributed to Richard Spencer. You may have seen his name recently. He's a white nationalist about whom much has been written since Twitter suspended his and other supposed alt-right accounts on Tuesday in a crackdown on what it considers hate speech. Was blocking a blunder? There has been much discussion about whether that was a smart move and, indeed, so far it looks like a blunder. The only payoff seems to be for the alt-right who, predictably, is delighted to accuse Twitter of censorship. Spencer's thoughts can still be found all over social media, YouTube and even the established media. But now, we should presume he's also happily reveling in his new status as a victim of what he calls "corporate Stalinism." "There is a great purge going on, and they are purging people based on their views," he says in a video posted after the Twitter ousting. It's no coincidence this has happened in the wake of Trump's election. The alt-right is skilled at social media; social media had a role in Trump's victory, so some of its owners see Trump's success as their failure. But to members of the alt-right, Twitter's attack on their voices only proves the argument that big corporate media always act to stifle dissent. When media move in a different direction and try to unpack what the alt-right means — to understand and explain it — the result can be just as unsatisfying. 'Post-truth' selected as word of the year by Oxford, beating out 'alt-right' Twitter CEO apologizes for allowing white supremacist ad This week, NPR invited Breitbart.com senior editor Joel Pollak onto its morning program to share some of his insights about his former boss. When the host asked why Bannon made Breitbart.com, in Bannon's own words "the platform for the alt-right," Pollak seemed to deny the premise. "The only alt-right article we have is a single article out of tens of thousands of articles, which is a journalistic article about the alt-right," he said. "[The article] basically went into this movement and tried to figure out what it was about. That's not racist. That's journalism." That answer is disingenuous in every respect. The journalistic article he refers to, An establishment conservative's guide to the alt-right, is a smug and flattering defence of the movement — and a worthwhile read. In a self-aggrandizing way (co-author Milo Yiannopoulos is one of the alt-right movement's most prominent proponents), the piece shines light on what it calls a "dangerously bright" and "fearsomely intelligent" mix of renegades, mostly white males, who object to "the established political consensus in some form or another." Juvenile pranksters? It's worth reading to understand why the alt-right can't be ignored and what the terms of engaging in battle with it are. Its authors concede there are Nazi elements to the alt-right, but they argue Nazis are an unpopular minority in an amorphous group and aren't taken seriously by the vast majority of the movement. What should be taken seriously, they say, are the intellectual arguments behind the alt-right that are a pushback against decades of what they consider to be the left's smothering of legitimate conversations about race, immigration and gender. Some of those ideas come from familiar oldsters (H.L. Mencken, Pat Buchanan), but most of the alt-right seems to be youngsters. Has Trump given 'a shot of adrenalin' to Canadian racists? Trump urged to dump 'champion of racial divison' Bannon The alt-right includes a loose collection of juvenile pranksters out for a lark online, Yiannopoulos and his co-author, Allum Bokhari, argue. The little scamps like to provoke, and when they see boundaries around social and political taboos, their instinct is to cross those boundaries and strike a blow against political correctness. They might make jokes about the Holocaust, for instance. Probably the article's most chilling insight is that the young people of the alt-right are not sincerely racist but they do think racism can be fun. Yes, fun. "Millennials aren't old enough to remember the Second World War or the horrors of the Holocaust," the authors write. "They are barely old enough to remember Rwanda or 9/11. Racism for them is a monster under the bed, a story told by their parents to frighten them into being good little children." Can that really be true? If it is, then those who fear the alt-right is a slippery slope back to the worst horrors of the 20th century are only fooling themselves if they believe naming the threat makes any difference. It can't be censored, ignored or wished away.

#### This is their most important recruiting tool

Ingram 16

(Mathew, 11-16, http://fortune.com/2016/11/16/twitter-ban-alt-right/)

The problem with this approach, however, is that it can have unpleasant side effects. For example, Yiannopolous has said that being banned was the best thing that ever happened to him. Why? Because it fueled his reputation as a critic of the mainstream, and also because it gave him ammunition to argue that he was being targeted by Twitter for telling the truth. Like all acts of the totalitarian regressive left, this will blow up in their faces, netting me more adoring fans. We’re winning the culture war, and Twitter just shot themselves in the foot In a similar way, Spencer is already using Twitter's ban as a sign that he has struck a nerve, and as evidence that the service is caving in to left-wing groups and political correctness. "This is corporate Stalinism," he said in an interview with a right-wing site. "There is a great purge going on, and they are purging people based on their views." From a historical point of view, Twitter's problem is that it has always stood for freedom of speech. And over the years, it has gone to considerable lengths to protect the rights of its users to say pretty much whatever they wish, including fighting a French court case that was designed to identify users who posted anti-Semitic and homophobic remarks. But just as Facebook is having to confront criticism about the network's complicity in spreading fake news—news that may have affected the election of Donald Trump as president—Twitter is having to backtrack from its commitment to unrestricted free speech. While Facebook has so far consistently refused to implement tools that block fake news (and some, including technology analyst Ben Thompson of Stratechery, argue that it should not), Twitter is now stuck between a rock and a hard place, trying to determine what is permissible speech and what is not. https://twitter.com/wesearchr/status/798676253423210496 Perhaps outright racist remarks like those made towards Leslie Jones seem like an obvious candidate for removal. And maybe people can agree that accounts belonging to white-power groups shouldn't be allowed to remain. But where is the line between a political group that advocates outright racism and the kind of remarks Donald Trump has made about Mexicans and Muslims? Or Breitbart News?

#### 5. Their u/q evidence means we control u/q. The right is already empowered on campuses and Trump/Bannon are in the white house. Those ideas already have acceptance on campus – the alt right is already empowered by Trump. Shreckinger 17

“The Alt-Right Comes to Washington,” Ben Schreckinger, POLITICO Magazine, Jan/Feb 2017.

Known until recently as the “alt-right,” it is a dispersed movement that encompasses a range of right-wing figures who are mostly young, mostly addicted to provocation and mostly have made their names on the internet. On the less extreme end, they include economic nationalists and “Western chauvinists” like Yiannopoulos, who wants to purge Islam from the United States and Europe; the movement also encompasses overt white nationalists, committed fascists and proponents of a host of other ideologies that were thought to have died out in American politics not long after World War II. Over the course of Trump’s campaign, these ideas came back to life in chat rooms, on Twitter and on the fringes of the internet—driven by supporters united by their loathing of progressives and their feeling of alienation from the free market Republican Party as it defined itself before Trump’s takeover.¶ This “new right” is now enjoying something of a moment. It’s not clear whether the movement helped fuel Trump’s rise or just rode its coattails. But energized by his success, this loose confederacy of meme-generating internet trolls, provocateurs and self-appointed custodians of Trumpism has begun making plans to move into Washington’s corridors of power, or at least shoulder their way into the general vicinity. When they look at Washington—a besuited city that moves to the rhythm of lobbying and legislative calendars and carefully worded statements—they see an opportunity for total disruption, the kind of overthrow the movement already takes credit for visiting on American politics.

#### 6. The case outweighs – a) fighting people like trump requires the correct information, but university censorship means problems schools have to address like racial violence and Greek life elitism get papered over and b) the plan promotes civic engagement, which enables student to fight terrorism, disease, and warming.

#### 7. Link turn - Hate speech codes are a pyrrhic victory – short term gains are rolled back by the right

Dalmia, PhD, 9-22-16

(Shikha, Senior Analyst/Award winning Journalist http://reason.com/blog/2016/09/22/debating-nyus-jeremy-waldron-on-free-spe)

Two: Hate speech bans breed self-defeating pathologies One of the more surreal things about the campus PC movement is that it claims to be acting in the name of minorities and yet considers the First Amendment's free speech protections as an impediment to its goal. But the reason behind the First Amendment's guarantee of free speech is precisely to create a space for intellectual minorities. So why has the First Amendment become so inconvenient for our campus warriors? It is because on campuses they are the dominant ideology and offering the courtesies required by the First Amendment to their ideological opponents has become too inconvenient. It is the classic pathology of power corrupts and absolute power corrupts absolutely. But here's the problem: They still operate in a democracy governed by majoritarian rule. Hence, to the extent that they are trying to get their way by silencing "majority" voices instead of winning them over, they are making themselves vulnerable. That's because these voices will generate counter-ideologies and vote into power those people who echo them. But when these scurrilous majoritarian ideologies emerge, with the guardrail of the First Amendment weakened, minorities will be less able to prevent majoritarian passions from pushing them overboard. Much as I hate Trump, his rise represents the revenge of the masses against political correctness.

## A2 Revenge Porn DA

#### Publishing revenge porn in a newspaper is illegal and the administrator would get fired – there have been no instances of the DA ever and revenge porn laws bracket off meaningful conversations. Bragg 15

Bragg, Michael. "Nudes you can use: What happens when college news organizations choose to bare it all?" Student Press Law Center. March 17, 2015. Accessed January 06, 2017. <http://www.splc.org/article/2015/03/nudes-you-can-use>. JD

Coverage of a college football game rarely leads to newspaper thefts, criticism of editorial judgement and the removal of an adviser. Then again, newspapers rarely publish a front-page photograph of a naked man sprinting across the field. When a streaker dashed across the field at a Pirates football game at East Carolina University in 2011, student editors at the East Carolinian took advantage of the opportunity. The student newspaper chose to run a front page, uncensored photograph of the incident, prompting outcry from readers, who stole several hundred copies of the print edition and denounced the staff’s editorial judgment online. Over this one image, the newspaper’s adviser, Paul Isom, lost his job. Each school year, student newspaper staffs publish nude images. While some argue the images accurately convey a newsworthy event, others are published to be edgy, like at the University of Buffalo, where the student newspaper’s annual sex issue features articles about sexual health and related topics. Often accompanying the articles are sexually explicit images some people argue are unsettling to see in a newspaper. Beyond reader reactions, newspaper associations and free speech activists argue new state laws to combat revenge pornography could criminalize the distribution and publication of nude images that convey a newsworthy event. When nude is good News organizations, both collegiate and professional, generally run into editorial policies before they face legal concerns when they publish nude images that critics claim are obscene, attorney Robert Corn-Revere said. “The standard for obscenity requires more than just the depiction of nudity or even a depiction of sex,” he said. For an image to be considered obscene, it must pass a few tests the Supreme Court set in the 1973 case Miller v. California: it must be offensive by contemporary standards, depict sexual conduct in an offensive way as applicable to state laws and it must lack any serious, literary, artistic, political or scientific value. “Any work to be considered obscene has to meet all of those aspects to the test,” Corn-Revere said. “A still image of even someone engaged in sex is unlikely to be considered obscene.” Even though it would be difficult to argue an image published in a newspaper meets the requirements of the obscenity test, Corn-Revere said it would likely “raise more of a controversy” if a newspaper published nude images “for no particular reason, if it were not connected to some actual newsworthy event.” Along with considering the news value of the image and the audience, reporters and editors should balance the benefit and harm of sharing the image, said Andrew Seaman, chair of the Ethics Committee for the Society of Professional Journalists. “Does that have to make a point if there’s going to be people that are offended?” he said. “Could there be any harm that comes of that? Will children see the picture? Things like that.” In 1972, Nick Ut captured the Pulitzer Prize-winning “Napalm Girl” photograph from the Vietnam War, which showed a young Vietnamese girl running from a napalm attack that “melted off” her clothing. The image, Seaman said, was published because of its news value that tried to “bring home the realities of what’s happening in a place that people on the receiving end probably can’t fathom.” “The benefit of informing the public about what is going on in this far away place would outweigh any sort of damage than actually showing that image would,” he said. Isom, the fired newspaper adviser who now works at North Carolina State University as a journalism professor, said the audience must be considered before publishing nude images. “I’ve had students who used bad language, the F-word in stories, not just for the fun of it but because they felt like it was important to express the severity of the statement that was made in the context that it was made,” he said. “And again, it’s a college newspaper. Because of your audience, you can do that just like you could do that in the Rolling Stone because your audience is different.” But in the end, student journalists should be able to defend their decision to publish any kind of image, not just ones that could cause controversy. Seaman said it helps to take a moment to stop and think if it’s worth running. “That’s probably the best thing that you can do,” he said, “so don’t be afraid to actually sort of take a breath before you hit publish or send the PDFs off to someone or broadcast it.” Threat of revenge porn and self censorship In 2004, New Jersey became the first state to pass a law to combat revenge porn, which criminalizes the distribution of nude or sexually explicit images of a person without their consent. Thirteen states passed similar revenge porn legislation in 2013. Revenge porn laws are meant to punish people like Noe Iniguez, a Los Angeles man who in December was the first person to be convicted under California’s revenge porn laws for publishing topless photos of his ex-girlfriend, Mashable reported. But the broad language that accompanies many of the laws could have unintended consequences to free speech, said Lee Rowland, a staff attorney at the American Civil Liberties Union, which has been tracking this legislation since 2013. “The laws were drafted very broadly without really narrowly focusing in on the malicious and harmful conduct that is commonly understood as revenge porn, and the consequence of that broad language was that many of these laws, whether intentionally or otherwise, criminalize the sharing of protected speech,” Rowland said. “So they didn’t focus in on malicious invasions of privacy, but rather placed broad restraints on the sharing of nudity, and that’s fully protected by the First Amendment.” Arizona’s revenge porn legislation, for instance, was so broadly written that it criminalizes sharing or publishing any image with nudity in it without consent of the subject, Rowland said. Publishing newsworthy images — in a newspaper, book or in any other form of distribution — such as the “Napalm Girl,” the naked prisoners at Abu Ghraib and even former U.S. Rep. Anthony Weiner’s indecent photos of himself that he sent to women, could be in violation of Arizona’s law because those subjects have not explicitly given their consent for the image to be published, Rowland said. The ACLU, other First Amendment organizations, news publishing companies and bookstores filed suit against the State of Arizona in September 2014 because of the potential harm the law could cause. In November 2014, a federal judge put a temporary block on the law to give legislators time to work on changes to the law. Mary Anne Frank, an associate law professor at the University of Miami, works with legislators across the nation to develop revenge porn legislation that tackles the issue with specific, narrower and less broad language. “The challenge for legislators, and I’ve been helping legislators draft some of their legislation, is to try to think of as many scenarios as possible so that we can write well-crafted, narrow laws to avoid as many of those unintended consequences as possible,” she said, and added that there’s “always going to be some room for review.” And while some of these laws in their current state could pose a threat to the rights of the press, Rowland said no such incident has occurred to her knowledge. But, she said, the threat alone could prompt self censorship.

#### Turn – newspapers expose revenge porn occurrences – it’s the laws themselves that make it go unpunished, which means you don’t solve any of the DA Brennan 16

Brennan, Cianan. "UCD investigation dismisses ‘revenge porn’ allegations made by college newspaper." TheJournal.ie. February 12, 2016. Accessed January 06, 2017. <http://www.thejournal.ie/ucd-investigation-2601764-Feb2016/>. JD

AN INVESTIGATION INTO reports of a private Facebook ‘revenge porn’ group at UCD has found that there is no substance to those allegations. In a statement this evening college registrar Professor Mark Rogers said the specific accusations that had been made in an article in college newspaper the College Tribune, had not been upheld. The investigation found that: the evidence in the initial article was based on “hearsay from anonymous comments on Yik Yak”, and that the editor and reporter of the article were aware that this was the case no students came forward seeking support from university services for the alleged incident no evidence could be found of the alleged private Facebook group, which was said to have 200 male members, in which UCD students were posting intimate photographs of female students none of the material found during the course of the investigation warranted referral to the gardaí Rogers said that, despite his investigation dismissing the claims made by the College Tribune, he is “not so naïve as to believe that the university community is immune to this type of activity”.

#### The NC creates a false dichotomy – there are more productive ways to challenge institutions without running the risks that overbroad laws like revenge porn. Jeong ‘13

Sarah Jeong is co-Editor-in-Chief of the Harvard Journal of Law & Gender, and is a third-year student at Harvard Law School. She has previously done clinical work with the Berkman Center and the Electronic Frontier Foundation, though her opinions here are her own. Jeong is also the author of Dear Miss Disruption, “an advice column from Silicon Valley”. “Revenge Porn Is Bad. Criminalizing It Is Worse.” October 28, 2013. Wired. <https://www.wired.com/2013/10/why-criminalizing-revenge-porn-is-a-bad-idea/> JJN

There are unintended consequences to overbroad laws, and failing to take that into consideration when advocating for increased criminal liability is irresponsible. The problem is further exacerbated by how the internet works. Very little on the web exists in isolation from the rest: content is regularly copied, mimicked, modified, and linked to. Is linking to something illegal in itself illegal? (Sometimes it is, sometimes it isn’t). An earlier iteration of the California revenge porn bill would have found a blogger who analyzes legal developments in revenge porn guilty of a misdemeanor for linking to the very sites he was analyzing. While it seems indisputable that those who blog about Hunter Moore should not be subject to criminal liability, what about someone who submits a link to a link aggregator like Reddit, Hacker News, or Slashdot? And what about the link aggregator itself? This tension is at the heart of internet law. Indeed, section 230 of Communications Decency Act, a cornerstone of internet law, provides a shield for the speech of online intermediaries — even that which is “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.” Despite CDA 230, the distributors of revenge porn and the websites that host the pictures are still subject to a number of legal liabilities, both civil and criminal: A victim can go after the initial vengeful discloser under a tort theory of public disclosure of private information and even the intentional infliction of emotional distress. A victim who personally took the photographs holds copyright in them and can have them removed from a website through the Digital Millennium Copyright Act. Porn websites – whether hosting voluntary or involuntary porn — are subject to more laws than just CDA 230; conceivably, the FBI could go after some revenge porn sites under 18 U.S.C. 2257 for not keeping records on the subjects of their photos. Finally, websites that offer to take down photos in return for payment are clearly in the business of extortion, which, once again, is already illegal. Framing a new criminal law as a necessity is disingenuous: many of the most egregious revenge porn websites have now shut down, and a number of civil suits (some based on causes of action mentioned above) have been undertaken against those involved. The problem of revenge porn is embedded within a larger context of violence against women and the stigmatization of the naked body, which means the issue can be tackled from many other directions. Why look to regulating the internet when restraining orders cannot be enforced, when domestic violence victims are hampered in initiating civil actions against abusers, when employers can fire their employees for being sexualized on the internet? Our efforts would be better spent seeking legislation to remedy the suffering that victims actually experience. Criminalizing revenge porn solves one problem while potentially generating many more. An overbroad criminal law is a threat to the public, runs the risk of being struck down by a court (for violating the First Amendment), or even worse, becomes the basis of questionable convictions and imprisonments. But an overly narrow law — like the final version of the California revenge porn law, which does not cover selfies sent to the vengeful ex or liability for website operators — is little more than lip service to the harm suffered by victims. We do not need to choose between the internet and women, or between free speech and feminism. These are false and unnecessary dichotomies. Refusing to criminalize revenge porn would not make us misogynists. It would instead make us prudent.

#### Enforcement of Revenge Porn Laws impossible. Englander 14

Elizabeth Englander, PhD Professor of Psychology Director, Massachusetts Aggression Reduction Center Bridgewater State University, Bridgewater, Massachusetts (2014). Bullying and Harassment in a Digital World. Bullying, Teen Aggression and Social Media, December, 1-4. https://www.researchgate.net/profile/Elizabeth\_Englander/publication/270905214\_Bullying\_and\_Harassment\_in\_a\_Digital\_World/links/56ec653c08aed17d09f64536.pdf MG

The intense distress resulting from public cases of revenge porn has resulted in some momentum around specific criminalization. The Cyberbullying Research Center reports that several states already have laws that address it, other states are considering legislation, and at the federal level, the Relationship Privacy Protection Act has been proposed (Hinduja, 2011). Law enforcement agencies contribute formal social control against any criminals to protect prospective victims. However, the rapid evolution of digital problem behaviors makes keeping law enforcement well-trained a significant challenge. It has been argued that the primary difficulties in prosecuting cybercriminals arise because much of the evidence involved is intangible and does not match well with traditional criminal statutes (Tiernan, 2000). This problem weakens the reliability of formal social control agents and is compounded by the increasing number of cybercriminals who have been able to sexually harass victims via coerced sexting, revenge porn, or other methods. Law enforcement agencies have increasingly acknowledged the need to emphasize new priorities and promote innovative crime prevention designed to counter cybercrimes. Even though federal agencies have guided law enforcement efforts against cybercrime, most state and local law enforcement officers still lack knowledge concerning the processing of digital data and related evidence which would be necessary for effective cybercrime investigations. Officers who know about cyberbullying may be completely unfamiliar with coerced sexting or revenge porn. No systematic studies of police officer awareness of 23 these more cutting-edge digital issues exist, but there are anecdotal reports. When Kayla Laws became a victim of revenge porn, one of her first acts was to contact the local police. Her mother reported that the reaction of the police was unsympathetic and skeptical; the questions they asked implied that Kayla must have wanted the photo to be on the Internet (Laws, 2013). Even in the case of more traditional in-person dating violence, much work around reporting to law enforcement remains to be done. One study found that more than two-thirds of stalking and assault victims by a co-worker did not report the incident to the police (Tjaden & Thoennes, 2001). In cases of sexual assault, female college students are significantly less likely to report to authorities when they know the assailant, or when they were using alcohol (Orchowski & Gidycz, 2012). There is no research on why, when, or how females report (or fail to report) cases of digital dating violence. The lack of resources and failure to disseminate updated technology and training within local and state enforcement agencies appear to be significant impediments to combating new forms of cybercrime such as digital dating violence. Specialized forces to investigate cyberspace are very limited, and they are largely inaccessible to teens, who are more likely to simply visit their local campus or town police departments.

## A2 Funding DA

#### 1. Newspaper ads get funding for the school and turn the DA Alexander 14

Alexander, Jess. "Why School Newspapers Matter! -." Order Graduation Caps, Gowns & Accessories. August 04, 2014. Accessed January 06, 2017. <https://www.graduationsource.com/blog/school-newspapers-matter/>. JD

Some school administrators have said that it is okay to cut these types of programs because as technology changes, they see no need for this type of medium in the future. Yes, technology has changed the way journalists work today, however these administrators are wrong. There are many reasons why we need to preserve these programs. Newspapers are more valuable to students, schools and communities than these administrators may think. School Newspaper as a Workplace and Future Skills Training Students who work at the newspaper learn a lot of workplace skills including management, meeting deadlines, and communicating well with others. School newspapers enforce a need for teamwork, which is needed to get the paper out on time. Writing and researching articles on a variety of different subjects gives students an idea of what they want to do after graduation. Interviews with professionals give students insight of a broad range of career paths available. They have a better understanding of what to expect should they choose a different area of study outside of journalism. Accountability Student journalists investigate and write reports about everyday occurrences and violations happening at the school, keeping both the school and students accountable. Student journalists are the watchdogs of the school for other students and the rest of the community. School newspapers also help silence false rumors which have started due to lack of reliable information. Values and Ethics Journalistic values are set in place from working at a school newsroom. Students can use these values in everyday life. In addition, students on the newspaper who are not prom queen or football captain are able to feel popular and wanted by their readers; boosting self-esteem can encourage their future success. Student journalists get a chance to see what it is like to fail and succeed all on their own, in terms of learning from mistakes, so it gives them a sense of professionalism. This training embeds ethical practices long before they head out into the real world. Benefits More than Student Journalists Student newspapers encourage others not working for the newspaper to study and do well in school. This is done through the posting of honor roll students and writing about those who have been awarded scholarships. It also stimulates and increases attendance and participation in sports, afterschool activities and other extracurricular programs. Student newspapers provide an outlet for non-student journalists by giving them a platform through writing letters to the editor and commentaries in the editorial section of the paper. Fundraising Opportunities Advertisements are a way for the newspaper and the school to raise money for the journalism program. It also gives local businesses a chance to reach out to the student market. Students learn how to solicit, sell newspaper ads and communicate with those in the community. This past August, the Princeton Review published its annual list of the best college newspapers in the country. If writing articles is an extracurricular field of work that you can see yourself choosing upon entering college, then nothing should stop you from becoming a part of one of these prestigious journals! There are many reasons why we need to preserve student newspapers. They not only help the journalists, but other students and the school benefit too. Take time to find out if your community has a journalism program at the school and help keep that program alive. Get involved and keep student newspapers alive and running in the community.

#### 2. This disad is activist hype – funds aren’t dependent on codes. Our evidence takes into account title ix and diverse perspective clauses. Hale and Wolf 14

SONDRA HALE AND BEKAH WOLF (Hale is research scholar and professor emerita, Departments of Anthropology and Gender Studies and former co-director, Center for Near East Studies, University of California, Los Angeles. Wolf is a third-year law student at University of California Hastings Law and a law clerk with Palestine Solidarity Legal Support. ). “Stifling of free speech on campus”. The Hill. 11/21/14. <http://thehill.com/blogs/congress-blog/education/224874-stifling-of-free-speech-on-campus> AGM

Can federal funding programs stifle open discussion of Israel on university campuses? No, not under the First Amendment or basic principles of academic freedom. Recently, Title VI of the Higher Education Act (HEA), and the funding of Middle East Studies Programs in particular, has come under attack. Unfortunately, those seeking to suppress speech on university campuses are relying on a misrepresentation of the facts as well as the law to do so. Congress has already addressed and rejected the notion that the U.S. government should be reviewing the content of academic programming that receives Title VI funding. In 2008, after years of lobbying, Title VI of the HEA was amended by adding a description of the types of programs that were eligible for Title VI funding. The new "application" subsection required that applicants provide an explanation of how their programs would provide "diverse perspectives," a broad term that was never defined. The original proposed amendment also included provisions that were not adopted: a requirement that the extent of a program’s diverse perspectives be considered as part of the "Selection Criteria" for funding, and a grievance procedure to enforce the “diverse perspectives” requirement. Congress rejected both of these elements, and they were not included in the final version of the 2008 amended law. Some advocates are now claiming that since the 2008 amendments, the law "guarantees" funding will be evaluated based on the extent of a program's diverse perspectives. This is simply not an accurate representation of the law.

#### 3. And the case doesn’t link

#### A. No link – Other laws like libel and defamation already hold the press accountable. University administration cannot be blamed for their actions.

#### B. No link – The aff only defends free speech in the context of newspapers. Each article in a college newspaper goes through an incredibly lengthy editorial process. Our inherency evidence proves that newspapers are not trying to publish discriminatory material but trying to expose discrimination.

#### C. No link - Title IX violations aren’t trigger – they don’t have to read the paper, which means they aren’t a captive audience and it doesn’t happen in a non-public setting. Newspapers are the place for controversial ideas and wouldn’t constitute education discrimination.

#### 4. Impact turn: conservative meddling. Free speech stops conservative politicians from censoring progressive classes and educators

Moynihan, PhD, 1-9-17

(Donald P., Public Affairs @UW Madison, https://mobile.nytimes.com/2017/01/09/opinion/whos-really-placing-limits-on-free-speech.html?mwrsm=Facebook&\_r=1)

MADISON, Wis. — At least three times in the past six months, state legislators have threatened to cut the budget of the University of Wisconsin at Madison for teaching about homosexuality, gender and race. As a faculty member who focuses on how public organizations are managed, I hear a great deal about the dangers of political correctness in higher education. Several of Wisconsin’s elected officials have joined the growing chorus of demands for better protections for free speech on campus, even as they fail to recognize how their own politicized approach to managing campuses poses a much more fundamental risk to free speech. For example, Steve Nass, a state senator from Whitewater, has urged university leaders not to give way to “the political correctness crowd demanding safe spaces, safe words, universal apologies for hurt feelings, and speech/thought police.” But last July, Senator Nass also sent a letter to university leaders to complain about an “offensive” essay assignment on gay men’s sexual preferences. A few days ago he said that a university program that explored masculinity “declares war on men” after asking, “Will we have the courage to reform the U.W. system in the 2017-19 biennial budget?” Senator Nass is not alone. A state representative heading a committee that oversees higher education asked for the cancellation of a course that examined white identity called “The Problem of Whiteness” and the dismissal of its instructor. The representative, Dave Murphy, said the course was “adding to the polarization of the races in our state.” If the university “stands with this professor, I don’t know how the university can expect the taxpayers to stand with U.W.-Madison.” Mr. Murphy also promised to direct his staff to screen courses in the humanities “to make sure there’s legitimate education going on.”

#### O/W the disad

Moynihan, PhD, 1-9-17

(Donald P., Public Affairs @UW Madison, https://mobile.nytimes.com/2017/01/09/opinion/whos-really-placing-limits-on-free-speech.html?mwrsm=Facebook&\_r=1)

This one-sided representation of campus speech doesn’t reflect my 14 years teaching in large public institutions in Michigan, Texas and Wisconsin. In that time, no student has ever demanded that my classes include a trigger warning or asked for a safe space. But my colleagues and I have been given much more reason to worry about the ideological agendas of elected officials and politically appointed governing boards. Students can protest on the campus mall, demanding that policies be changed; elected officials can pass laws or cut resources to reflect their beliefs about how a campus should operate. One group has much more power than the other.

#### Impacts poverty and climate research. Moynihan 1/9

Moynihan, PhD, 1-9-17

(Donald P., Public Affairs @UW Madison, https://mobile.nytimes.com/2017/01/09/opinion/whos-really-placing-limits-on-free-speech.html?mwrsm=Facebook&\_r=1)

Faculty members conducting research on social or environmental issues that does not align with views of the party controlling the State Legislature may prefer to keep their heads down rather than speak out. At the University of North Carolina, the board of governors closed a privately funded research center that studied poverty; its director had criticized state elected officials for adopting policies that he argued amounted to “a war on poor people.” Amid broader budget cuts here in Wisconsin, Gov. Scott Walker, without warning or explanation, tried to yank all the state funding for a renewable energy research center.

#### 5. Conservatives threaten faculty over controversial speech – chills discourse. Moynihan 1/9

Moynihan, PhD, 1-9-17

(Donald P., Public Affairs @UW Madison, https://mobile.nytimes.com/2017/01/09/opinion/whos-really-placing-limits-on-free-speech.html?mwrsm=Facebook&\_r=1)

On both private and public campuses, instructors who discuss race, gender, class, reproductive rights, elections or even just politics can find themselves subjected to attack by conservative groups like Media Trackers or Professor Watchlist. Faculty members in public institutions also have to worry about the possibility of having their email searched via Freedom of Information law requests. The ultimate audience for such trawling is lawmakers, who set the rules for public institutions. Indeed, a Media Trackers employee whose job included writing negative profiles of Wisconsin professors recently took a position with a state senator who likes to attack universities as being unfriendly to free speech.

## A2 Campaign Funding DA

#### 1. The case turns the internal link – our Sanders evidence indicates newspapers are used as a propaganda tool, which means that pro-admin school groups can spread their garbage across campus and dissenters get their ads taken out. Fraternity proves.

#### 2. On Colleges, spending cap limits are Constiutional. Clark 07

Sean Clark August 15, 2007, 8-15-2007, "Free Speech and Student Government Elections," FIRE, <https://www.thefire.org/free-speech-and-student-government-elections/> MG

Every student, especially at large colleges and universities, knows when it is student government election season. Every bulletin board is cluttered with countless campaign flyers, student election workers clad in brightly colored t-shirts loudly proclaim their support for their favorite candidate, and sidewalks everywhere are chalked with campaign slogans. At my alma mater, Penn State, student elections had a tendency to be the most active time of year for student expression, and the same is true at many other universities and colleges. In most observers’ eyes, student elections are resolved without major complications. But what happens when there is a major controversy during an election, especially one involving free speech? What free speech rights do students at public universities enjoy, especially when the controversy is entwined with an election? Up until recently, there have been only a handful of federal cases directly addressing this issue. But one recent case may provide some more insight into the free speech rights of student government candidates. In Flint v. Dennison, 488 F.3d 816 (9th Cir. 2007), a student at the University of Montana was campaigning for a student senator position. During the course of his campaign he exceeded the school’s spending limit of $100 for campaign costs. Although the student won the election, he was later denied the position because of the campaign violation. In response, the student filed a federal lawsuit seeking to invalidate the denial claiming it violated his free speech rights. Ultimately, the case made it to the 9th Circuit Court of Appeals. The court held that student elections at the University of Montana were a limited public forum, meaning that student candidates could constitutionally be subjected to reasonable time, place, and manner restrictions as long as those regulations were viewpoint neutral. The court went on to rule that the spending cap was constitutional because it was viewpoint neutral and a reasonable restriction. Flint at 836. Although the student lost his case, the ruling did emphasize one very important point—there are limits to the power of a university when it comes to student elections—at least if, as in this case, the election constitutes a limited public forum (as most are likely to, under the court’s analysis).

#### 3. Alt cause--Racist students will never vote for underprivileged candidates. New 5/3

Jake New, 5-3-2016, "Minority students at U of Kansas create parallel student government," Inside Higher Ed, <https://www.insidehighered.com/news/2016/05/03/minority-students-u-kansas-create-parallel-student-government> MG

A common complaint among minority students participating in campus protests in the past year has been a lack of representation in their student governments. Last month, students at the University of Kansas came up with a possible solution: create a separate government to represent students of color. The move has drawn criticism from those who argue a parallel government is a form of segregation and that students would be better off seeking election to student government. The move has also drawn praise from researchers who study race on college campuses and from activists who say minority students are frequently shut out of student government. Shaun Harper, executive director of the University of Pennsylvania’s Center for the Study of Race and Equity in Education, said while few -- if any -- other institutions have separate governments for minority students, the concept of creating a new structure specifically for minority students on campus is not new. “Historically black fraternities were born out of this same sense of exclusion,” Harper said. “That’s true for ethnic cultural centers, too. We wouldn't need them on campuses if the campuses themselves were much more culturally inclusive of students of color. These students are not trying to just segregate themselves. That is not their motive. They’re just tired of waiting for this larger, longstanding structure to be responsive.” Those behind the creation of the new Multicultural Student Government at Kansas say the change is necessary after years of neglect and discrimination. Inaction on those issues, including concerns that the government's election code was biased against low-income students after the Senate raised the spending cap for candidates, led to an intense meeting between activists and the student government, the Student Senate, in November. The meeting ended with the Student Executive Committee asking that the senate’s president, vice president and chief of staff -- who, along with most of the executive branch, are white -- resign over what was seen as a lack of support for minority students. At the same meeting, the Student Senate Rights Committee passed a resolution in support of a list of demands created by student demonstrators. That list included the creation of a parallel student government for marginalized students. The president, vice president and chief of staff later said they would not resign, releasing a statement in support of minority students. “Black lives matter,” they wrote. “Black lives matter at the University of Kansas.” Last month, the senate formally approved of the new Multicultural Student Government, though many details of how it will function and work in tandem with the original Student Senate are still being worked out. At the moment, the Multicultural Student Government functions ostensibly as a student club, albeit one with a far larger budget than other student organizations on campus. Its funding will come from the Student Senate's Multicultural Education Fund, assisted by a proposed $2 increase in student fees per student. The University Senate Code only allows for three governing bodies on campus: the Faculty Senate, the Staff Senate and the Student Senate. Altering the code to officially allow for a fourth governing body would require at least year of deliberation, the university said. Butch Oxendine, executive director of the American Student Government Association, said he’s never heard of a campus operating two parallel student governments and questions whether such an arrangement could work. Noting that voter turnout at most campus elections is typically very low, Oxendine said students may be better off rallying their supporters and running for student government offices themselves, rather than create a new government. “They’re very passionate about not being represented, and I totally understand that,” he said. “But I don’t know that this is the way to get what they want. To me, this hearkens back to separation and Jim Crow days. It’s going backwards in time, not moving forward. I don’t see any assurance that a smaller, separate government would have any influence over the existing body. Why not work within the system and then try to get the current government to evolve and change?” Researchers like Harper and Eddie Comeaux, an associate professor of higher education at the University of California at Riverside, however, said many minority students have already tried working within that system, and feel that it’s a structure that refuses to respond to their concerns no matter their attempts. Students have long claimed that student governments and their elections are biased against minority students, instead favoring white students and members of fraternities and sororities. Earlier this year, a student at the University of Florida -- a former chief strategist for a prominent student government party -- posted a video online that quickly went viral, in which she criticized the student government there as being rigged against minority students. The student, Sabrina Phillips, explained how a coalition of Greek chapters collude to choose who should run for open positions and then pressure chapter members into voting a certain way. “No one that’s a part of this system can change it from the inside,” Phillips warned. The predominantly white Greek chapters are divided into three powerful voting blocs, she said, while non-Greeks typically run as independents. The three Greek-led blocs, which do sometimes feature a handful of students of color agreeing to run for lower-level positions, come together to vote as one during elections, using their 2,500 votes to overpower any independent slates. The former strategist's claims were an open secret of sorts at Florida. The coalition of predominantly white, fraternity-led voting blocs, which students at Florida liken to a shadow government, is known as "the System.” It has operated on campus since the 1960s, and critics say the system was created in response to integration. In 2010, leaked recordings of a meeting with one prominent party revealed that some fraternities and sororities withheld dinner from their members until they voted for the preferred candidates. “You guys cannot let the Greek system down,” a voice said on the tapes. “This is what we live for. This is what we pledge. Everything about it is why we run this campus and why we have been for the last century.” In 2008, the private emails of top Florida student government officials were leaked, including a list of students who applied for open government positions. Twelve names were highlighted in green. “Green means go,” the student president wrote. Ten of the 12 names won seats in the government that election. A similar shadow government exists at the University of Alabama, known as “the Machine.” A brochure published by the group in 1989 noted that in the Student Government Association's 75-year existence, the Machine successfully elected its choice for president 68 times. “This is because the SGA is ours,” the brochure reads. “When inequities are made to be institutionalized, it's so much harder to disrupt them,” said Demetri Morgan, a University of Florida graduate who is now a doctoral candidate at the University of Pennsylvania Graduate School of Education. “It takes a couple of years to learn about the system, and then when you get to a point where you can and want to do something, your time there is almost up. The system keeps going, but the people who want to disrupt it are only on campus for a finite about of time. The system always outlasts them.” A group of minority student activists at the University of Wisconsin at Madison hope to be an exception to the rule. Coming from several organizations on campus -- including the UW Blackout Movement, the Wisconsin Black Student Union and Students for Justice in Palestine -- 23 students created a new slate this year called the Blind Side. Piggybacking off their activism and the attention their protests received last year, 17 of the students were able to win positions on the Associated Students of Madison Student Council. That’s a majority of council's open positions. The slate nabbed two of the three open seats on the Student Services Finance Committee, the body that allocates $45 million in student fees per year. Voter turnout increased by 53 percent over last year, Associated Students of Madison said in a statement. “I think on one end you can try taking the traditional route of running for office and serving in that leadership role, having a voice where you can effect change,” Comeaux said. “But I don’t think students necessarily have to be confined to that traditional route. Every now and then you have to take alternative routes that might be more effective for addressing your cause on your particular campus.”

## A2 Donor DA

#### We turn their internal link and outweigh – our small evidence indicates that we need people who are willing to take risks and challenge the existing world around them – terrorism, global warming, hunger and disease require students and journalists that can go out and find information about controversial issues. They depoliticize student groups by saying we shouldn’t report on stories cause donors will get mad.

#### 1. We control uniqueness

#### A. Funding cuts coming

WSJ 2-10 https://www.wsj.com/articles/public-universities-become-prime-targets-for-state-budget-cuts-1486722602

Major public universities are bracing for deep funding cuts as states scramble to cover growing budget gaps, with schools like the University of Iowa and Missouri State University among the biggest victims.

#### B. This is the worst year for endowments in a decade, and decline doesn’t cut aid

CNN Money 1-31-17 http://money.cnn.com/2017/01/31/pf/college/college-endowment-returns/

Last year was the worst year for college endowment returns since the financial crisis. Endowments lost an average of 1.9% after accounting for fees, according to the National Association of College and University Business Officers. Average returns were negative across the board, for public and private colleges with endowments of all sizes. Harvard, which has the biggest endowment in the country, lost about 2%. The disappointing year brings down the 10-year average annual return to 5%, well below the 7.4% that many colleges aim for. Some of the biggest losses came from investments in energy and natural resources, commodities, and alternatives like hedge funds. Private equity and real estate investments performed the best. Related: Harvard endowments cuts jobs But there was some good news. Despite the losses, colleges continued to increase spending from their funds to support financial aid, research, and other programs, according to the report.

#### 2. No link and turn

#### A. Their link evidence is about campus protest in person, and more specifically the use of violence- neither is triggered by the affirmative

#### B. Donors object to universities censoring in response to protests, not the protest themselves

Hartocollis 8/4 – Anemona Hartocollis, writer for NYT: August 4, 2016(“College Students Protest, Alumni’s Fondness Fades and Checks Shrink” New York Times Available at http://www.nytimes.com/2016/08/05/us/college-protests-alumni-donations.html?\_r=0)

Scott MacConnell cherishes the memory of his years at Amherst College, where he discovered his future métier as a theatrical designer. But protests on campus over cultural and racial sensitivities last year soured his feelings. Now Mr. MacConnell, who graduated in 1960, is expressing his discontent through his wallet. In June, he cut the college out of his will. “As an alumnus of the college, I feel that I have been lied to, patronized and basically dismissed as an old, white bigot who is insensitive to the needs and feelings of the current college community,” Mr. MacConnell, 77, wrote in a letter to the college’s alumni fund in December, when he first warned that he was reducing his support to the college to a token $5. A backlash from alumni is an unexpected aftershock of the campus disruptions of the last academic year. Although fund-raisers are still gauging the extent of the effect on philanthropy, some colleges — particularly small, elite liberal arts institutions — have reported a decline in donations, accompanied by a laundry list of g5. Alumni from a range of generations say they are baffled by today’s college culture. Among their laments: Students are too wrapped up in racial and identity politics. They are allowed to take too many frivolous courses. They have repudiated the heroes and traditions of the past by judging them by today’s standards rather than in the context of their times. Fraternities are being unfairly maligned, and men are being demonized by sexual assault investigations. And university administrations have been too meek in addressing protesters whose messages have seemed to fly in the face of free speech. Scott C. Johnston, who graduated from Yale in 1982, said he was on campus last fall when activists tried to shut down a free speech conference, “because apparently they missed irony class that day.” He recalled the Yale student who was videotaped screaming at a professor, Nicholas Christakis, that he had failed “to create a place of comfort and home” for students in his capacity as the head of a residential college. A rally at New Haven Superior Court demanding justice for Corey Menafee, an African-American dining hall worker at Yale’s Calhoun College who was charged with breaking a window pane that depicted black slaves carrying cotton. Credit Peter Hvizdak/New Haven Register, via Associated Press “I don’t think anything has damaged Yale’s brand quite like that,” said Mr. Johnston, a founder of an internet start-up and a former hedge fund manager. “This is not your daddy’s liberalism.” “The worst part,” he continued, “is that campus administrators are wilting before the activists like flowers.” Yale College’s alumni fund was flat between this year and last, according to Karen Peart, a university spokeswoman. Among about 35 small, selective liberal arts colleges belonging to the fund-raising organization Staff, or Sharing the Annual Fund Fundamentals, that recently reported their initial annual fund results for the 2016 fiscal year, 29 percent were behind 2015 in dollars, and 64 percent were behind in donors, according to a steering committee member, Scott Kleinheksel of Claremont McKenna College in California. His school, which was also the site of protests, had a decline in donor participation but a rise in giving. At Amherst, the amount of money given by alumni dropped 6.5 percent for the fiscal year that ended June 30, and participation in the alumni fund dropped 1.9 percentage points, to 50.6 percent, the lowest participation rate since 1975, when the college began admitting women, according to the college. The amount raised from big donors decreased significantly. Some of the decline was because of a falloff after two large reunion gifts last year, according to Pete Mackey, a spokesman for Amherst. At Princeton, where protesters unsuccessfully demanded the removal of Woodrow Wilson’s name from university buildings and programs, undergraduate alumni donations dropped 6.6 percent from a record high the year before, and participation dropped 1.9 percentage points, according to the university’s website. A Princeton spokesman, John Cramer, said there was no evidence the drop was connected to campus protests.

#### Trump will cut funding to schools that censor- this turn massively outweighs their nickle and dime donation link

Reilly, 2-2-17

(Katie, http://time.com/4657932/donald-trump-berkeley-funding/

President Trump on Thursday threatened to revoke federal funding from the University of California, Berkeley—money that supports the school's scholarships, scientific research and more. Trump's statement followed protests on the campus that turned destructive and forced the cancellation of a Wednesday event with controversial far-right speaker Milo Yiannopoulos. "If U.C. Berkeley does not allow free speech and practices violence on innocent people with a different point of view - NO FEDERAL FUNDS?" Trump said in a tweet. It's not clear if Trump intends to act on the threat, but he made similar arguments on the campaign trail, faulting universities for "extreme censorship" and promising to end political correctness. If he did take action, such a move would impact student financial aid, research funding and healthcare. The entire University of California system receives about $8.5 billion federal funding annually. That includes $1.6 billion in student aid and $3 billion in research funds. At U.C. Berkeley, more than half of the school's annual research funding comes from the federal government. The university was awarded $307 million in federal funding for research in the fiscal year ending June 2016—a sum largely contributed by the National Institutes of Health and the National Science Foundation. That represented 55% of the total research funding awarded that year. The remaining research funding comes from state agencies and nonprofit organizations. Among the projects that benefit from such funding, the groundbreaking CRISPR technique, which can edit DNA, emerged in part from National Science Foundation funding at Berkeley. Jennifer Doudna, a molecular and cell biologist at Berkeley, is one of the scientists who developed the technique.

#### Donors object to universities censoring in response to protests, not the protest themselves

Hartocollis 8/4 – Anemona Hartocollis, writer for NYT: August 4, 2016(“College Students Protest, Alumni’s Fondness Fades and Checks Shrink” New York Times Available at http://www.nytimes.com/2016/08/05/us/college-protests-alumni-donations.html?\_r=0)

Scott MacConnell cherishes the memory of his years at Amherst College, where he discovered his future métier as a theatrical designer. But protests on campus over cultural and racial sensitivities last year soured his feelings. Now Mr. MacConnell, who graduated in 1960, is expressing his discontent through his wallet. In June, he cut the college out of his will. “As an alumnus of the college, I feel that I have been lied to, patronized and basically dismissed as an old, white bigot who is insensitive to the needs and feelings of the current college community,” Mr. MacConnell, 77, wrote in a letter to the college’s alumni fund in December, when he first warned that he was reducing his support to the college to a token $5. A backlash from alumni is an unexpected aftershock of the campus disruptions of the last academic year. Although fund-raisers are still gauging the extent of the effect on philanthropy, some colleges — particularly small, elite liberal arts institutions — have reported a decline in donations, accompanied by a laundry list of g5. Alumni from a range of generations say they are baffled by today’s college culture. Among their laments: Students are too wrapped up in racial and identity politics. They are allowed to take too many frivolous courses. They have repudiated the heroes and traditions of the past by judging them by today’s standards rather than in the context of their times. Fraternities are being unfairly maligned, and men are being demonized by sexual assault investigations. And university administrations have been too meek in addressing protesters whose messages have seemed to fly in the face of free speech. Scott C. Johnston, who graduated from Yale in 1982, said he was on campus last fall when activists tried to shut down a free speech conference, “because apparently they missed irony class that day.” He recalled the Yale student who was videotaped screaming at a professor, Nicholas Christakis, that he had failed “to create a place of comfort and home” for students in his capacity as the head of a residential college. A rally at New Haven Superior Court demanding justice for Corey Menafee, an African-American dining hall worker at Yale’s Calhoun College who was charged with breaking a window pane that depicted black slaves carrying cotton. Credit Peter Hvizdak/New Haven Register, via Associated Press “I don’t think anything has damaged Yale’s brand quite like that,” said Mr. Johnston, a founder of an internet start-up and a former hedge fund manager. “This is not your daddy’s liberalism.” “The worst part,” he continued, “is that campus administrators are wilting before the activists like flowers.” Yale College’s alumni fund was flat between this year and last, according to Karen Peart, a university spokeswoman. Among about 35 small, selective liberal arts colleges belonging to the fund-raising organization Staff, or Sharing the Annual Fund Fundamentals, that recently reported their initial annual fund results for the 2016 fiscal year, 29 percent were behind 2015 in dollars, and 64 percent were behind in donors, according to a steering committee member, Scott Kleinheksel of Claremont McKenna College in California. His school, which was also the site of protests, had a decline in donor participation but a rise in giving. At Amherst, the amount of money given by alumni dropped 6.5 percent for the fiscal year that ended June 30, and participation in the alumni fund dropped 1.9 percentage points, to 50.6 percent, the lowest participation rate since 1975, when the college began admitting women, according to the college. The amount raised from big donors decreased significantly. Some of the decline was because of a falloff after two large reunion gifts last year, according to Pete Mackey, a spokesman for Amherst. At Princeton, where protesters unsuccessfully demanded the removal of Woodrow Wilson’s name from university buildings and programs, undergraduate alumni donations dropped 6.6 percent from a record high the year before, and participation dropped 1.9 percentage points, according to the university’s website. A Princeton spokesman, John Cramer, said there was no evidence the

#### Donations aren’t effective – they only go to the richest schools. Nolan 15

Hamilton Nolan <http://gawker.com/rich-colleges-get-richer-and-richer-1682292551> 1/28/15

The 1%-vs-99% inequality dynamic that plagues America's economy as a whole extends to the world of higher education. And the richest universities in America had a great year last year.¶ This is not all that surprising, considering the fact that prestigious universities play a key role in the creation and perpetuation of America's ever-more-entrenched class system. It is only right that those catapulted to great wealth and power by elite universities would give something back, so that their own children might also be able to achieve outsize wealth and power one day. Last year was a record one for donations to colleges: a total of $37.5 billion, up nearly 11% from the year before. Of course, most of that was not going to your local community college. Inside Higher Ed notes that "The top 20 colleges in fund-raising brought in more than $10 billion. That means that 28.6 percent of the total was given to fewer than 2 percent" of schools.¶ The biggest recipient of all: Harvard, with $1.16 billion in donations. Stanford was second, with about $930 million, followed by USC, Northwestern, and Johns Hopkins. "Meanwhile," the Wall Street Journal says, "schools in the middle of the pack are getting a smaller slice of the philanthropic pie, as they may not have such active, wealthy or well-connected alums."¶ College really is a training ground for the real world—the rich get richer and etc etc. Not much to say about all this except to point out that if all that money had been donated to real charities, tens or hundreds of thousands of human lives could have been saved, but instead we have the Stanford Alumni Association.

## A2 Harassment DA

#### 1. There’s no harassment in newspapers – editorial boards and incentive not to alienate readers solve. This offense, universities censor news stories about racist incidents on campus to protect their image from a PR perspective- that’s Schuman.

#### 2. Student journalism exposes systemic harassment on campus. That outweighs- acts of institutional violence have far broader effects.

#### 3. Case outweighs

#### A. Warming kills everyone on earth which is irreversible – there’s at least a chance you stop getting harassed.

#### B. The plan allows dissent and trains young people to make a difference through journalism and action which controls the internal link to stopping harassment and outweighs into the future. That’s Sanders

#### No Link – it’s not protected. McClellan ’15

(Cara McClellan, J.D. Yale Law and Judicial Law Clerk at United States District Court, “Discrimination as Disruption: Addressing Hostile Environments Without Violating the Constitution,” Yale L. & Pol'y Rev. Inter Alia (Nov. 11, 2015)

\*title VI: PROHIBITS DISCRIMINATION BASED ON RACE, COLOR OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES WHICH RECEIVE FEDERAL FINANCIAL ASSISTANCE.

Universities that act to address a hostile environment can defend their actions against First Amendment challenges based upon the interest of students in attending a safe and orderly school where “the work and discipline of the school” is not “materially and substantially disrupted.”[37] The Supreme Court has long recognized that “First Amendment rights must be analyzed ‘in light of the special characteristics of the school environment.’”[38] “A university’s mission is education” and the Supreme Court [SCOTUS] has never “denied a university’s authority to impose reasonable regulations compatible with that mission,” even when the restricted speech would be protected in other settings.[39] Supreme Court cases addressing academic freedom permit schools to restrict speech that would offend “reasonable campus rules, interrupt classes, or substantially interfere with the opportunity of other[s] students to obtain an education.”[40 Healy] While the Court recognized the right of students to express their political beliefs through protest in Tinker v. Des Moines Independent Community School District, the Court simultaneously affirmed that schools can prohibit speech “which might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities.”[41] [and] In Healy v. James,[42] the Court affirmed that universities may require reasonable regulations for the “interest of the entire academic[s] community.”[43] Free expression and debate in the university are protected to the extent “consonant with the maintenance of order.”[44] While the justification for pedagogical oversight is less compelling in the university setting than in elementary and high schools, university officials still have deference to “prescribe and control conduct in the schools.”[45] Of course, an “‘undifferentiated fear or apprehension of disturbance’”[46] without any particularized reason as to why the school anticipates substantial disruption would not be sufficient to restrict speech under Title VI. The Tenth Circuit’s decision in West v. Derby Unified School District No. 260[47] illustrates this point. In this case a middle school student was suspended for drawing a Confederate flag in math class. The Court upheld the suspension under Tinker’s substantial disruption standard, finding that the school had demonstrated a concrete threat of substantial disruption: “The district experienced a series of racial incidents [including ‘hostile confrontations’ and at least one fight] in 1995, some of which were related to the Confederate flag.”[48] The Tenth Circuit held that the “history of racial tension in the district made administrators’ concerns . . . reasonable.”[49] But even when facts do not suggest a disruption in the sense of an uproar, evidence of a hostile environment is proof of the disruption of a university’s mission in the most fundamental sense of Tinker. When harassment based on race rises to a level of severity and pervasiveness that qualifies for Title VI protection, minority students have, by definition, been prevented from accessing educational programing. In such cases, schools are justified in intervening under the First Amendment’s recognition of pedagogical interests. Simply because hostile environment disruptions happen quietly when a student is too distracted to learn, or in ways that most intensely affect minority students who are few in number, or in ways that become invisible because the students who are affected withdraw from the hostile environment, this does not mean that the interference does not occur. In fact, this kind of disruption is precisely what hostile environment discrimination law is concerned with: a disruption in the education of minority students that leads these students to feel unwelcome and quietly disappear. Hostile environment conduct “intrudes upon . . . the rights of other students”[50] to learn—a legitimate justification for regulation of speech under Tinker.

#### Title IX is bad itself – it eliminates broader societal change in the context of sexual violence. Lieberwitz et al ‘16

RISA L. LIEBERWITZ (Law) Cornell University, chair. RANA JALEEL (Gender, Sexuality, and Women’s Studies) University of California, Davis. TINA KELLEHER (English) Towson University. JOAN WALLACH SCOTT (History) Institute for Advanced Study. DONNA YOUNG (Law) Albany Law School. HENRY REICHMAN (History) California State University, East Bay, ex officio. ANNE SISSON RUNYAN (Political Science and Women’s, Gender, and Sexuality Studies) University of Cincinnati, ex officio. ANITA LEVY, staff The Subcommittee. “The History, Uses, and Abuses of Title IX.” June 2016. <https://www.aaup.org/file/TitleIXreport.pdf> JJN

While the original aims of Title IX and the legal meaning of “sex discrimination” encompass more than sexual violations, today the claims most readily associated with Title IX involve sexual violence or sexual harassment, whether actual conduct or speech. This is largely a result of the efforts of a national student movement against sexual violence on campus, often in the name of enforcing Title IX. While students’ wide-ranging commitment to combating sexual violence across a number of fronts is admirable and necessary, institutional engagement with such activism in the context of the corporate university can result in disturbing outcomes. First, administrative efforts to address sexual harassment and violence have adopted bureaucratic and legalistic methods that reward the narrowest forms of activism, student or otherwise, on campus. In this context, invocations of Title IX—and in particular calls by some activists to adhere to OCR and US Department of Justice criteria—have effectively narrowed the popular meaning of sex discrimination to sexual speech and sexual violence, often conflating the two. This singular focus on sexual harassment has overshadowed issues of unequal pay, access, and representation throughout the university system. Additionally, the treatment of students as “clients” in the corporate university has obscured the question of how to deal with prohibited behavior on campus. The client-service model allows administrations to try to have it both ways. For example, the University of Colorado at Boulder recently settled a lawsuit, for $15,000, from a former student who said the university violated Title IX when it suspended him for nonconsensual sexual intercourse. The university’s behavior in this case satisfied the law, and it satisfied the accuser by finding the accused responsible, but it mitigated any fallout by settling the accused individual’s resulting lawsuit.81 This bureaucratic and legal resolution does not address the question of whether sex-based inequality is being remedied. Finally, investigations of claims of sexual harassment and violence do not necessarily understand those claims as embedded within the broader social dynamics on and off campus. As Janet Halley points out, this segmented approach to sex discrimination promotes partial and legalistic analyses of the nature and scope of the problem, obscuring how biases or discrimination on the basis of race, sexual orientation, or gender identity may be ignored or even perpetuated by a narrow view of gender equality.82 This approach fails to respond to the overarching question: What vision of justice, educational access, and public accountability should the enforcement of Title IX seek to facilitate? The answer depends in part on what counts as sex discrimination—particularly what conduct or speech (and in what amounts) can support a charge of sexual harassment. While financial cuts and program eliminations have threatened entire disciplines and methods of producing knowledge, struggles over the importance and scope of academic freedom in the context of sex discrimination have also surged across campuses nationwide. From trigger warnings to tweets, the AAUP has documented an increase in potential threats to the academic freedom that protects teaching, research, and extramural speech and that fosters shared governance by administrations, students, and faculty members. When Title IX concerns play out as sexual-harassment panics within the corporate university, academic freedom is threatened across several fronts.83 Under such interpretations of Title IX, faculty members who teach, research, and otherwise study sexuality are left especially vulnerable to sexual-harassment charges. Further, those who seek to bring material related to sex or sexuality into courses not specifically devoted to those topics are also reluctant to do so for fear of being accused of violating Title IX. In responding to the OCR’s 2011 “Dear Colleague” letter, the AAUP warned of this danger, emphasizing that “[a]ny training for faculty, staff, and students” about how to identify and report sexual harassment “should explain the differences between educational content, harassment, and ‘hostile environments,’ and a faculty member’s professional judgment must be protected. Women’s studies and gender studies programs have long worked to improve campus culture by teaching about issues of systemic gender inequity, sex, and sexuality. [The OCR] should encourage discussion of topics like sexual harassment both in and outside of the curriculum, but acknowledge that what might be offensive or uncomfortable to some students may also be necessary for their education.”

#### Title IX hurts students of color and perpetuates racism. Gersen ‘15

Jeannie Suk Gersen is a contributing writer for newyorker.com, and a professor at Harvard Law School. “SHUTTING DOWN CONVERSATIONS ABOUT RAPE AT HARVARD LAW.” The New Yorker. December 11, 2015. <http://www.newyorker.com/news/news-desk/argument-sexual-assault-race-harvard-law-school> JJN

The ironclad principle that you must always believe the accuser comes as a corrective to hundreds of years in which rape victims were systematically disbelieved and painted as liars, sluts, or crazies. This history, along with the facts that sexual assault is notoriously underreported and that the crime suffers no more false reports than other crimes—and the related idea that only those actually assaulted would take on the burden of coming forward—leads many advocates today to the “always believe” orthodoxy. We have seen recent high-profile instances in which that article of faith has led to damaging errors, as in Rolling Stone’s reporting of a rape at the University of Virginia, or the prosecution of the Duke lacrosse case. The extent of the damage comes out of the fact that “always believe” unwittingly renders the stakes of each individual case impossibly high, by linking the veracity of any one claim to the veracity of all claims. When the core belief is that accusers never lie, if any one accuser has lied, it brings into question the stability of the entire thought system, rendering uncertain all allegations of sexual assault. But this is neither sensible nor necessary: that a few claims turn out to be false does not mean that all, most, or even many claims are wrongful. The imperative to act as though every accusation must be true—when we all know some number will not be—harms the over-all credibility of sexual assault claims. Sexual assault is a serious and insidious problem that occurs with intolerable frequency on college campuses and elsewhere. Fighting it entails, among other things, dismantling the historical bias against victims, particularly black victims—and not simply replacing it with the tenet that an accuser must always and unthinkingly be fully believed. It is as important and logically necessary to acknowledge the possibility of wrongful accusations of sexual assault as it is to recognize that most rape claims are true. And if we have learned from the public reckoning with the racial impact of over-criminalization, mass incarceration, and law enforcement bias, we should heed our legacy of bias against black men in rape accusations. The dynamics of racially disproportionate impact affect minority men in the pattern of campus sexual-misconduct accusations, which schools, conveniently, do not track, despite all the campus-climate surveys. Administrators and faculty who routinely work on sexual-misconduct cases, including my colleague Janet Halley, tell me that most of the complaints they see are against minorities, and that is consistent with what I have seen at Harvard. The “always believe” credo will aggravate and hide this context, aided by campus confidentiality norms that make any racial pattern difficult to study and expose. Let’s challenge it. Particularly in this time of student activism around structural and implicit racial bias pervading campuses, examination of the racial impact of Title IX bureaucracy is overdue. We are all fallible—professors, students, and administrators—and disagreement and competing narratives will abound. But equating critique with a hostile environment is neither safe nor helpful for victims. We should be attentive to our history and context, and be open to believing, disbelieving, agreeing, or disagreeing, in individual instances, based on evidence.

#### Title IX conflates words with violence – that results in actual harassment. Kasnetz ‘16

Alex Kasnetz is a law student at Duke University. “The danger of equating speech with violence.” Spiked. February 1, 2016. <http://www.spiked-online.com/newsite/article/the-danger-of-equating-speech-with-violence/17988#.WGfKuKJ95AY> JJN

Perhaps the most worrying trend among proponents of political correctness is equating words with violence. This philosophy, built on works like Words That Wound, has captured many young minds in a web of moral distortion. For example, in response to a speech at Oberlin University last year by Christina Hoff Sommers, a group of students urged others ‘to pull together in the face of this violence [her talk]’. Two weeks ago, a graduate student at my university, Duke, exemplified this moral confusion in the student newspaper, The Chronicle: ‘Key to [our broad interpretation of free speech] is a firm separation between speech and action… but…[w]ords hurt as much as actions; indeed, words are actions. Within the context of white supremacy, any distinction between a defaced poster, a racist pamphlet and legal or extralegal murder can be only of degree.’ The underlying assumption — that words can be violent — is illogical, deleterious in its consequences, and illiberal in its philosophy. First, the distinction between words and actions — between hurt feelings and broken bones — is not some arbitrary construct the Westboro Baptist Church created so that it can continue happily yelling homophobic slurs at dead soldiers’ funerals. Rather, that distinction is vital for a free society. Hurt feelings can only be attested to; the only adjudicator of hate speech is the target, because only he knows how those words impacted on him. Not so for actions. No one can deny that a broken bone is broken. The conflation of words and actions makes the target’s subjective morality into a universal standard of justice: each would judge his own case. Second, if words equal violence, one may justly respond to those words with actual violence. Maryam Namazie, an apostate from Islam and campaigner for secularism and women’s rights, recently spoke at Goldsmiths University in London. Her harsh critiques of Islamism threatened the ‘safety’ of some offended Muslim students. So they responded by physically intimidating her and sabotaging her presentation. As Brendan O’Neill noted: ‘We have the Kafkaesque situation where a bunch of blokes can physically intimidate a woman in the name of saving students from feelings of intellectual intimidation.’ Finally, and fundamentally, how can we, as rational agents in liberal democracies, work through disagreements in search of commonality and truth when harsh criticism is tantamount to murder? This ideology is not merely unworkable in a liberal society; it is antithetical to it. As the New Yorker’s Adam Gopnik put it in the aftermath of the Charlie Hebdo attacks: ‘It is not merely that an assault on an ideology is different from a threat made to a person; it is that it is the opposite of a threat made to a person. The whole end of liberal civilisation is to substitute the criticism of ideas for assaults on people.’ Cartoonists drawing pictures; jihadists gunning them down with Kalashnikovs. Criticising Black Lives Matter; killing a black boy in the street. The difference is not merely one of degree.

## A2 Harker Soft Power

#### 1. No link: things published in newspapers criticize university administrators, they’re not about exposing governments. That’s Schuman. Their cards have no link about how newspapers are publishing this material – their card just says that \_\_\_\_\_.

#### 2. Non-unique: people will leak anyways, not just college newspapers. People like Snowden and sites like wikileaks prove their impacts get triggered anyways.

#### 3. No impact: there’s already been HUGE breaches of national security. A college newspaper definitely cannot do as much damage as Snowden and that didn’t trigger a great power war.

#### 4. No uniqueness – Administrators only censor in regards to PR concerns when articles criticize the administration or they censor to deny access to information with regards to administrative policy. No reason they would censor articles about the government.

#### 5. US intel backfires and produces more violence – prefer our evidence on recency, they don’t account for disasters like Benghazi. Scheer ‘14

Robert Scheer is the editor-in-chief of the Webby Award–winning online magazine Truthdig, professor at the University of Southern California’s Annenberg School for Communication and Journalism, and co-host of Left, Right & Center, a weekly syndicated radio show broadcast from NPR’s west coast affiliate, KCRW. In the 1960s, he was editor of the groundbreakingRamparts magazine and later was national correspondent and columnist for the Los Angeles Times. Scheer is the author of nine books, including The Great American Stickup. He lives in Los Angeles. “Why the American Intelligence Community Is Strikingly "Dumb".” Alternet. January 1, 2014. <http://www.alternet.org/why-american-intelligence-community-strikingly-dumb> JJN

If we are so smart why are we so dumb? I am referring to the “intelligence” that our spy agencies have gathered at great cost in both massive secret black box budgets and, much more important, the surrender of our personal freedom to the snooping eyes of our modern surveillance state. “We know everything but learn nothing” would be an honest slogan for the NSA, CIA and lesser-known spy agencies that specialize in leading us so dangerously astray. For all of their massive intrusion into the personal lives of individuals throughout the world, it is difficult to recall a time when the “intelligence” they collected provided such myopic policy insight. Take the revelations in The New York Times’ exhaustive six-part investigation published Saturday demonstrating that the devastating 2012 attack in Benghazi, Libya, was an intelligence disaster. The Times “turned up no evidence that Al Qaeda or other international terrorist groups had any role in the assault” that led to the death of the U.S. ambassador and three other Americans. Instead, a local militia leader on the side of the U.S.-supported insurrection in Libya with no known affiliation with al-Qaida is a prime suspect, and he and others allegedly responsible were not on the radar screen of the 20-person CIA station in Benghazi because they were part of the insurgency the U.S. supported. As for the vast collection of phone and email intercepts maintained by U.S. spy agencies, it turned up only one bit of information, a phone call from someone involved in the mob attacking the U.S. post. He called a friend elsewhere in Africa who allegedly knew some folks in al-Qaida, but the friend “sounded astonished” at the news from Libya, “suggesting he had no prior knowledge of the assault,” according to U.S. officials. In short, the only evidence turned up by the vast spying apparatus was evidence that inconveniently contradicted the al-Qaida connection, so it was not made public. As The New York Times stated, the Benghazi incident has been billed as “the most significant attack on United States property in 11 years, since Sept. 11, 2001,” an event that launched the much-ballyhooed war on terror. But as with that attack 11 years earlier, the perps turned out to be people the U.S. secret agencies had once trusted. The enemy here was not al-Qaida, but rather a homegrown menace empowered by foreign intervention. “The attack was led,” the Times reported, “by fighters who had benefited directly from NATO’s extensive air power and logistic support during the uprising against Colonel Qaddafi.” These monsters of our own creation continually haunt us. It was, after all, the United States under both Presidents Jimmy Carter and Ronald Reagan that recruited and armed the anti-Soviet Muslim fanatics who later morphed into Osama bin Laden’s gang. Reagan even embraced them as “freedom fighters” in official ceremonies. So too did the U.S. recently rally an army of fundamentalists to oppose the regime of Moammar Gadhafi in Libya. Gadhafi, like Hussein in Iraq and Assad in Syria, was a defanged dictator and—inconvenient to the U.S. anti-terrorism narrative—like his fellow secular dictators, an avowed enemy of al-Qaida. But that did not stop the regime change ideologues in the U.S. government from meddling once again in a society that they could barely comprehend. As The New York Times summarized the origins of the Benghazi debacle: “The United States waded deeply into post-Qaddafi Libya, hoping to build a beachhead against extremists, especially Al Qaeda. It believed it could draw a bright line between friends and enemies in Libya. But it ultimately lost its ambassador in an attack that involved opponents of the West and fighters belonging to militias that the Americans had taken for allies.” We have left it to the secret state agents to determine the nature of our enemies, “the evil doers,” and never dare to question how often their “evidence” gets it wrong. In the process, debates about foreign policy are hijacked by those with access to secret information, be it Iraq’s nonexistent weapons of mass destruction or Iran’s threat to the stability of the Mideast. This last is the source of greatest irrationality in the war on terror that has committed the U.S. to the side of Sunni fanatics financed by Saudi Arabia in a war against anyone the Saudi theocracy holds in contempt. Just this week, the Saudi government pledged $3 billion to support the government of Lebanon in its confrontation with Hezbollah. That follows a $5 billion gift to the military dictators of Egypt who overthrew a democratically elected government whose Sunni leadership did not sufficiently cater to Saudi dictates. Then there are this year’s foreign aid bribes of $1 billion to Jordan, $3.25 billion to Yemen, $1.25 billion to Morocco and $750 million to Tunisia to docilely follow the decrees of the Saudi theocracy. The idiocy of anti-terrorism as a substitute for foreign policy is that Saudi Arabia, the one nation most accurately described as a breeding ground for terrorism, gets to play an outsized role, along with outlier Israel, in deciding U.S. policy for the entire region. If people dare dissent, say any Americans who loathe having their taxes committed in this way, they can be branded as soft on terror. If they go online and express such a view, will they too be picked up in the NSA’s catch-a-spy network? The excuse is that this sacrifice of our freedom will make us more secure, as in the misnamed “National Security Agency,” by knowing more about our “enemies.” But the record is unmistakably the opposite, that this relinquishing of privacy and transparency has stifled genuine public debate about the goals of our policy and left us both stupid and weak.

#### 6. US soft power incites terrorism and war. Matalin 09

John Matalin (CNN Commentator) 2009 “Matalin: Obama’s ’soft power’ makes us weak”, CNN's American Morning

John Roberts: The former vice president has said several times that the Obama administration’s policies are making America less safe. Where’s the evidence for that? Mary Matalin: Common sense and history… It’s one thing to say all of the things Obama said on the campaign trail but within hours of being the actual commander in chief, he was suggesting the previous seven years marked by no attacks were policies that were ineffective, were immoral, were illegal. That broadcast to our enemies a weakness. Weakness invites provocation. Secondly, as he was clear in his speech yesterday, he wants to return to a 9/10 law enforcement policy rather than a prevention policy. Three, the threshold and key tool for fighting this enemy is gathering intelligence. And he’s clearly demoralized and undermined those intelligence gatherers. Four, Gitmo, releasing the hardest of the hardened terrorists into some system, whatever system that might be, either would divulge classified material… if they put them in the prison population, they can hatch plots as was the case in New York. So I could go on and on. But some of these policies, by virtue of the former vice president speaking out, were stopped as in the release of the detainee photos. Roberts: But is there any empirical evidence that America is less safe today? Has anything happened around the world to suggest that we are less safe? There are many people who believe that this administration’s policy of engagement, in fact, will make this country more safe. Matalin: Well there’s no evidence of that either. In fact there’s evidence to the contrary. This so-called “soft power” has resulted in Iran being more verbose, launching a missile this week. North Korea’s pulled out of any negotiating posture. Soft power isn’t working. There’s no evidence for that. And there’s plenty of evidence to the contrary that weakness invites provocation. During the ’90s, when we did not respond to six attacks in six years, the ranks of al Qaeda swelled by some 20,000. That was the recruitment tool. Weakness and successful attacks is the recruitment tool. Roberts: Just to go back to what you said about Iran and North Korea — both of those countries did exactly the same thing during the Bush administration. Matalin: This supposedly “let’s sit down and talk,” was supposed to make them come to the table and talk. In fact, they’ve gotten more aggressive. So, he’s doing what he said he would do, which would render them putty in his hands as he thinks is the case as sometimes appears to be the case in America in his own party. That’s not what’s happening. That’s not real politics. So he’s been in there a couple of 16 weeks, three months, whatever it’s been. But if he were allowed to pursue un-debated, these sorts of policies that he’s put on the table and heretofore, they have been un-debated, it’s been a one-sided argument, there’s no doubt, and history shows and common sense would dictate that we would be a less safe country than we were for the past seven or eight years. Roberts: The president said yesterday he believes America is less safe because of the very existence of Guantanamo Bay, that it’s probably created more terrorists worldwide than it’s ever detained. Do you agree with that statement? Because the Bush administration, President Bush said he would like to close Guantanamo and just has to figure out how to do it. Matalin: Yeah, John, I’ll go to your construct. He offered no evidence for that. And it’s a tautological argument, as I just noted. The ranks of al Qaeda were absolutely exponentially swollen during the ’90s when we did not respond… This enemy existed way before Guantanamo. It makes no sense to say that fighting the terrorists makes the terrorist. That’s a tautological argument. Yes, President Bush wanted to close it. Some of us disagreed with that. For the very reasons we’re disagreeing with President Obama right now.vWhat are you going to do with these detainees? Even the ones that have been released, which were supposed to be the ones that could have been released, the D.O.D. and some suspect this is an under-estimate – one out of seven go back to the battlefield. The top operatives in Yemen, which is the new hot grounds, the top operatives in Waziristan, were released from Gitmo. It’s not good to close it down or release these into our population, certainly, or any population.

Terrorism causes extinction. **Myhrvold 14**

Myhrvold 14 (Nathan P [chief executive and founder of Intellectual Ventures and a former chief technology officer at Microsoft]; Strategic Terrorism: A Call to Action; cco.dodlive.mil/files/2014/04/Strategic\_Terrorism\_corrected\_II.pdf; kdf)

Technology contains no inherent moral directive—it empowers people, whatever their intent, good or evil. This has always been true: when bronze implements supplanted those made of stone, the ancient world got scythes and awls, but also swords and battle-axes. The novelty of our present situation is that modern technology can provide small groups of people with much greater lethality than ever before. We now have to worry that private parties might gain access to weapons that are as destructive as—or possibly even more destructive than— those held by any nation-state. A handful of people, perhaps even a single individual, could have the ability to kill millions or even billions. Indeed, it is possible, from a technological standpoint, to kill every man, woman, and child on earth. The gravity of the situation is so extreme that getting the concept across without seeming silly or alarmist is challenging. Just thinking about the subject with any degree of seriousness numbs the mind. The goal of this essay is to present the case for making the needed changes before such a catastrophe occurs. The issues described here are too important to ignore. Failing nation-states—like North Korea—which possess nuclear weapons potentially pose a nuclear threat. Each new entrant to the nuclear club increases the possibility this will happen, but this problem is an old one, and one that existing diplomatic and military structures aim to manage. The newer and less understood danger arises from the increasing likelihood that stateless groups, bent on terrorism, will gain access to nuclear weapons, most likely by theft from a nation-state. Should this happen, the danger we now perceive to be coming from rogue states will pale in comparison. The ultimate response to a nuclear attack is a nuclear counterattack. Nation states have an address, and they know that we will retaliate in kind. Stateless groups are much more difficult to find which makes a nuclear counterattack virtually impossible. As a result, they can strike without fear of overwhelming retaliation, and thus they wield much more effective destructive power. Indeed, in many cases the fundamental equation of retaliation has become reversed. Terrorists often hope to provoke reprisal attacks on their own people, swaying popular opinion in their favor. The aftermath of 9/11 is a case in point. While it seems likely that Osama bin Laden and his henchmen hoped for a massive overreaction from the United States, it is unlikely his Taliban hosts anticipated the U.S. would go so far as to invade Afghanistan. Yes, al-Qaeda lost its host state and some personnel. The damage slowed the organization down but did not destroy it. Instead, the stateless al-Qaeda survived and adapted. The United States can claim some success against al-Qaeda in the years since 9/11, but it has hardly delivered a deathblow. Eventually, the world will recognize that stateless groups are more powerful than nation-states because terrorists can wield weapons and mount assaults that no nationstate would dare to attempt. So far, they have limited themselves to dramatic tactical terrorism: events such as 9/11, the butchering of Russian schoolchildren, decapitations broadcast over the internet, and bombings in major cities. Strategic objectives cannot be far behind.

## A2 NAFTA Politics

#### 1. Their own uniqueness evidence non-uniques the DA – Trump won’t pursue NAFTA and there are alt causes to low PC. Anderson 1/31

Scott Anderson, 1-31-2017, "Will The Trump Policy Hype Match The Reality?," Forbes, <http://www.forbes.com/sites/scottanderson/2017/01/31/will-the-trump-policy-hype-match-the-reality/3/#1b7445d729fc> VC

A new administration only has so much political capital to spend on policy initiatives when it comes to Washington. It’s a pity it is currently being squandered on policies that will have mixed economic benefits at best, and could do real economic damage at worst. Refocusing on the tax cuts, infrastructure spending, and deregulation needs to be a top priority if the new Administration is to have any real chance of sustaining the optimism and financial market moves we have seen since November. Moreover, hitting the Trump Administration’s ambitious 4.0% GDP growth targets for the United States, even for a limited time, appears nearly unreachable. Add in protectionist trade policies and immigration limitations, and U.S. won’t get there.

#### 2. Not tied to Trump – the DOE made the codes, they get rid of the codes. McGrady 16

Michael Mcgrady (His work has been featured, republished, or cited in several publications across the nation including The Wall Street Journal, Washington Examiner, the New York Post, The Denver Post, The Hill, The Daily Caller, The Blaze, and policy publications for one America's leading free-market, libertarian think tanks), 11-11-2016, "We Must Repair The American College Campus Under Donald Trump's Presidency • REGATED," REGATED, <http://regated.com/2016/11/must-repair-american-college-campus-donald-trumps-presidency/> VC

On the policy side, a Trump administration needs to work on reeling in agencies such as the Departments of Education and Justice from mandating politically correct, unconstitutional speech code regulations for colleges all over the nation. As the Foundation for Individual Rights in Education pointed out, both agencies created policy guidance and regulation that violates people’s rights. Such an overreach goes back to the fact that under the current administration, the executive branch has become a strong executive branch. Through the usage of excessive executive orders, unconstitutional overreach, optional guidance to mandated regulation models, and discriminatory selective protection of social classes, the federal government single handedly created the current speech crisis in higher education. Trump needs to eliminate bad public policy and trade it for good public policy by shrinking, repairing and maintaining smaller, lesser government oversight in what students learn when they pay thousands for a college education. Only then, will we be able to move on and create a sane academia.

#### 3. Their uniqueness and impact don’t match – the uq is about renegotiations of NAFTA and the impact is about scrapping it

#### 4. No NAFTA renegotiation, Mexico and Canada have leverage and say no. Palmer 16

Doug Palmer, 12-28-2016, "Trump could hit a brick wall on NAFTA," POLITICO, <http://www.politico.com/story/2016/12/donald-trump-nafta-232992> VC

Meanwhile, whatever Trump decides to do on NAFTA, it won’t be as easy as simply issuing an edict. He’ll have to work closely with his counterparts in Mexico and Canada. Mexican President Enrique Peña Nieto and Canadian Prime Minister Justin Trudeau have each indicated their willingness to revisit parts of NAFTA, but they have some leverage considering the estimated 9 million American jobs that depend on trade with Canada and the 5 million that depend on trade with Mexico. And they won’t stand for tariffs or other punitive measures that Trump has suggested. Canada and Mexico are the second- and third-largest markets for U.S. farm goods, behind China. The three North American countries are also closely integrated in many manufacturing sectors, such as autos and steel, making any talk of U.S. tariff hikes to bring jobs back to the United States a double-edged sword because it could make the entire region less competitive. “What we’re looking for is to move forward, not backtracking,” Kenneth Smith Ramos, head of Mexico’s trade and NAFTA office in Washington, told POLITICO Pro earlier this month. “So, anything involving [an] increase in tariffs, anything along those lines, we feel is a big detriment. It’s shooting ourselves in the foot.” The veteran trade negotiator said he would also like to remind the incoming Trump administration that Canada and Mexico are the top two export destinations for the United States, taking in more than $500 billion in U.S. goods each year.

#### 5. Middle east war doesn’t escalate – its leaders want to minimize conflict. Maloney 7

Maloney, Brookings, 7 [Suzanne, Senior Fellow at the Saban Center for Middle East Policy, International Herald Tribune Why the Iraq War Won't Engulf the Mideast Iraq, Middle East, Islamic World, Civil War Ray Takeyh, Fellow Steven A. Cook, Fellow June 28, 2007 http://www.brookings.edu/views/op-ed/maloney20070629.htm]

Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

#### Empirics prove – wars in the Middle East don’t escalate. Drum 7

Drum 7 [Kevin, staff writer for Washington Monthly, 9/9/07, Political Animal,http://www.washingtonmonthly.com/archives/individual/2007\_09/012029.php]

Having admitted, however, that the odds of a military success in Iraq are almost impossibly long, Chaos Hawks nonetheless insist that the U.S. military needs to stay in Iraq for the foreseeable future. Why? Because if we leave the entire Middle East will become a bloodbath. Sunni and Shiite will engage in mutual genocide, oil fields will go up in flames, fundamentalist parties will take over, and al-Qaeda will have a safe haven bigger than the entire continent of Europe. Needless to say, this is nonsense. Israel has fought war after war in the Middle East. Result: no regional conflagration. Iran and Iraq fought one of the bloodiest wars of the second half the 20th century. Result: no regional conflagration. The Soviets fought in Afghanistan and then withdrew. No regional conflagration. The U.S. fought the Gulf War and then left. No regional conflagration. Algeria fought an internal civil war for a decade. No regional conflagration.

#### 6. Water conflicts is an alt cause to the impact and overwhelms – drags in every Middle East state. Vidal 14

John Vidal is the Guardian's environment editor 2 July 2014 "Water supply key to outcome of conflicts in Iraq and Syria, experts warn" [www.theguardian.com/environment/2014/jul/02/water-key-conflict-iraq-syria-isis](http://www.theguardian.com/environment/2014/jul/02/water-key-conflict-iraq-syria-isis)

The outcome of the Iraq and Syrian conflicts may rest on who controls the region’s dwindling water supplies, say security analysts in London and Baghdad.¶ Rivers, canals, dams, sewage and desalination plants are now all military targets in the semi-arid region that regularly experiences extreme water shortages, says Michael Stephen, deputy director of the Royal United Services Institute think tank in Qatar, speaking from Baghdad.¶ “Control of water supplies gives strategic control over both cities and countryside. We are seeing a battle for control of water. Water is now the major strategic objective of all groups in Iraq. It’s life or death. If you control water in Iraq you have a grip on Baghdad, and you can cause major problems. Water is essential in this conflict,” he said.¶ Isis Islamic rebels now control most of the key upper reaches of the Tigris and Euphrates, the two great rivers that flow from Turkey in the north to the Gulf in the south and on which all Iraq and much of Syria depends for food, water and industry.¶ “Rebel forces are targeting water installations to cut off supplies to the largely Shia south of Iraq,” says Matthew Machowski, a Middle East security researcher at the UK houses of parliament and Queen Mary University of London.¶ “It is already being used as an instrument of war by all sides. One could claim that controlling water resources in Iraq is even more important than controlling the oil refineries, especially in summer. Control of the water supply is fundamentally important. Cut it off and you create great sanitation and health crises,” he said¶ Isis now controls the Samarra barrage west of Baghdad on the River Tigris and areas around the giant Mosul Dam, higher up on the same river. Because much of Kurdistan depends on the dam, it is strongly defended by Kurdish peshmerga forces and is unlikely to fall without a fierce fight, says Machowski.¶ Last week Iraqi troops were rushed to defend the massive 8km-long Haditha Dam and its hydroelectrical works on the Euphrates to stop it falling into the hands of Isis forces. Were the dam to fall, say analysts, Isis would control much of Iraq’s electricity and the rebels might fatally tighten their grip on Baghdad.¶ Securing the Haditha Dam was one of the first objectives of the American special forces invading Iraq in 2003. The fear was that Saddam Hussein’s forces could turn the structure that supplies 30% of all Iraq’s electricity into a weapon of mass destruction by opening the lock gates that control the flow of the river. Billions of gallons of water could have been released, power to Baghdad would have been cut off, towns and villages over hundreds of square miles flooded and the country would have been paralysed.¶ In April, Isis fighters in Fallujah captured the smaller Nuaimiyah Dam on the Euphrates and deliberately diverted its water to “drown” government forces in the surrounding area. Millions of people in the cities of Karbala, Najaf, Babylon and Nasiriyah had their water cut off but the town of Abu Ghraib was catastrophically flooded along with farms and villages over 200 square miles. According to the UN, around 12,000 families lost their homes.¶ Earlier this year Kurdish forces reportedly diverted water supplies from the Mosul Dam. Equally, Turkey has been accused of reducing flows to the giant Lake Assad, Syria’s largest body of fresh water, to cut off supplies to Aleppo, and Isis forces have reportedly targeted water supplies in the refugee camps set up for internally displaced people.¶ Iraqis fled from Mosul after Isis cut off power and water and only returned when they were restored, says Machowski. “When they restored water supplies to Mosul, the Sunnis saw it as liberation. Control of water resources in the Mosul area is one reason why people returned,” said Machowski.¶ Increasing temperatures, one of the longest and most severe droughts in 50 years and the steady drying up of farmland as rainfall diminishes have been identified as factors in the political destabilisation of Syria.¶ Both Isis forces and President Assad’s army are said to have used water tactics to control the city of Aleppo. The Tishrin Dam on the Euphrates, 60 miles east of the city, was captured by Isis in November 2012.¶ The use of water as a tactical weapon has been used widely by both Isis and the Syrian government, says Nouar Shamout, a researcher with Chatham House. “Syria’s essential services are on the brink of collapse under the burden of continuous assault on critical water infrastructure. The stranglehold of Isis, neglect by the regime, and an eighth summer of drought may combine to create a water and food crisis which would escalate fatalities and migration rates in the country’s ongoing three-year conflict,” he said.¶ “The deliberate targeting of water supply networks ... is now a daily occurrence in the conflict. The water pumping station in Al-Khafsah, Aleppo, stopped working on 10 May, cutting off water supply to half of the city. It is unclear who was responsible; both the regime and opposition forces blame each other, but unsurprisingly in a city home to almost three million people the incident caused panic and chaos. Some people even resorted to drinking from puddles in the streets,” he said .¶ Water will now be the key to who controls Iraq in future, said former US intelligence officer Jennifer Dyer on US television last week. “If Isis has any hope of establishing itself on territory, it has to control some water. In arid Iraq, water and lines of strategic approach are the same thing”.

## A2 Hate Speech DA

### Original Block

#### 1.There’s no hate speech in newspapers on campus – editorial boards solve their offense.

#### 2. Turn – Newspapers get censored when they write about instances of racism on campus to protect the schools PR – That’s Peters

#### Case Outweighs – Advantage 1

#### The plan allows dissent and trains young people to make a difference through journalism and action which controls the internal link to stopping hate speech and outweighs into the future. That’s Majeed

#### Case Outweighs – Advantage 2

#### A. Warming kills everyone on earth which is irreversible – there’s at least a chance you stop getting harassed.

#### Exposure inevitable – people will get harassed on the internet. Risk of a turn outweighs.

#### CP doesn’t solve first amendment, driving underground causes more racist violence- Britain proves. Malik 12

(Kenan, . NBB/history of science @Imperial College <https://kenanmalik.wordpress.com/2012/04/19/why-hate-speech-should-not-be-banned/> 4-19)

PM: Do you support content-based bans of ‘hate speech’ through the criminal law, or do you instead agree with the American and Hungarian approach, which permits prohibition only of speech that creates imminent danger? KM: I believe that no speech should be banned solely because of its content; I would distinguish ‘content-based’ regulation from ‘effects-based’ regulation and permit the prohibition only of speech that creates imminent danger. I oppose content-based bans both as a matter of principle and with a mind to the practical impact of such bans. Such laws are wrong in principle because free speech for everyone except bigots is not free speech at all. It is meaningless to defend the right of free expression for people with whose views we agree. The right to free speech only has political bite when we are forced to defend the rights of people with whose views we profoundly disagree. And in practice, you cannot reduce or eliminate bigotry simply by banning it. You simply let the sentiments fester underground. As Milton once put it, to keep out ‘evil doctrine’ by licensing is ‘like the exploit of that gallant man who thought to pound up the crows by shutting his Park-gate’. Take Britain. In 1965, Britain prohibited incitement to racial hatred as part of its Race Relations Act. The following decade was probably the most racist in British history. It was the decade of ‘Paki-bashing’, when racist thugs would seek out Asians to beat up. It was a decade of firebombings, stabbings, and murders. In the early 1980s, I was organizing street patrols in East London to protect Asian families from racist attacks. Nor were thugs the only problem. Racism was woven into the fabric of public institutions. The police, immigration officials – all were openly racist. In the twenty years between 1969 and 1989, no fewer than thirty-seven blacks and Asians were killed in police custody – almost one every six months. The same number again died in prisons or in hospital custody. When in 1982, cadets at the national police academy were asked to write essays about immigrants, one wrote, ‘Wogs, nignogs and Pakis come into Britain take up our homes, our jobs and our resources and contribute relatively less to our once glorious country. They are, by nature, unintelligent. And can’t at all be educated sufficiently to live in a civilised society of the Western world’. Another wrote that ‘all blacks are pains and should be ejected from society’. So much for incitement laws helping create a more tolerant society. Today, Britain is a very different place. Racism has not disappeared, nor have racist attacks, but the open, vicious, visceral bigotry that disfigured the Britain when I was growing up has largely ebbed away. It has done so not because of laws banning racial hatred but because of broader social changes and because minorities themselves stood up to the bigotry and fought back.

#### Restrictions fail due to definition issues, and tradeoff with political challenges to egregious behavior. Malik 12

(Kenan, . NBB/history of science @Imperial College <https://kenanmalik.wordpress.com/2012/04/19/why-hate-speech-should-not-be-banned/> 4-19)

Peter Molnar: Would you characterize some speech as ‘hate speech’, and do you think that it is possible to provide a reliable legal definition of ‘hate speech’? Kenan Malik: I am not sure that ‘hate speech’ is a particularly useful concept. Much is said and written, of course, that is designed to promote hatred. But it makes little sense to lump it all together in a single category, especially when hatred is such a contested concept. In a sense, hate speech restriction has become a means not of addressing specific issues about intimidation or incitement, but of enforcing general social regulation. This is why if you look at hate speech laws across the world, there is no consistency about what constitutes hate speech. Britain bans abusive, insulting, and threatening speech. Denmark and Canada ban speech that is insulting and degrading. India and Israel ban speech that hurts religious feelings and incites racial and religious hatred. In Holland, it is a criminal offense deliberately to insult a particular group. Australia prohibits speech that offends, insults, humiliates, or intimidates individuals or groups. Germany bans speech that violates the dignity of, or maliciously degrades or defames, a group. And so on. In each case, the law defines hate speech in a different way. One response might be to say: Let us define hate speech much more tightly. I think, however, that the problem runs much deeper. Hate speech restriction is a means not of tackling bigotry but of rebranding certain, often obnoxious, ideas or arguments as immoral. It is a way of making certain ideas illegitimate without bothering politically to challenge them. And that is dangerous.

#### PICS snowball-create an incentive to promote violence, and progressives will be the deciders- expand into political speech. Morrissey 15

(Edward, 5-7 http://www.thefiscaltimes.com/Columns/2015/05/07/Coming-Demise-Free-Speech-America)

None of these cases is particularly esoteric, especially for those like Cuomo who are both lawyers and journalists. The ignorant arguments that arose in the media this week is problematic enough and might help explain why Americans are so uninformed about free speech in the US. The problem goes deeper than that, however. Media figures like Cuomo seem to be actively pushing for government controls on speech based on subjective notions of “hate.” McClatchy featured a story in response to the Garland shooting by Lindsay Wise and Jonathan Landay that openly asked whether the government should put limits on speech. Wise and Landay wrote, while getting the legal concepts of “fighting words” completely wrong, that public safety may have to trump the First Amendment and require regulation of “provocative” speech. Let’s leave aside the fact that this policy would incentivize the use of violence to prompt government intervention to silence critics – and we’d have even more violence as a result. The more fundamental question and danger is this: Who would get to decide what constitutes “provocative” speech that cannot be exercised? Who decides which opinions are “hate” and cannot bear the light of day? The answer appears to be the cultural elite who keep getting free speech wrong – and not just in the media. We have seen political correctness expand into stultifying speech codes on college campuses, pushed by progressive groups and enabled by administrators that have made a mockery out of higher education. That cone of silence has begun to extend into politics in general, ironically as more and more activists demand “conversations” on controversial topics but then demand that the opposing side be silenced or forced into byzantine processes to avoid “triggers.” All of this amounts to an attempt to control the political sphere by either silencing dissent or demonizing it as “bullying,” “bigoted,” and worse. The same applies in other First Amendment freedoms as well, especially the freedom of religious expression. The same pattern holds when people wish to live their faith in the entirety of their lives. Whether it comes from the government in contraception mandates or forced participation in same-sex marriage events, the media and political elites have decided that the liberty guaranteed in plain English in the Constitution no longer applies – as long as they can redefine the language to suit their purposes.

#### Pro censorship arguments misunderstand shifting power dynamics –pyrrhic victory. Blumner 16

(Robyn E., Int. J. Appl. Psychoanal. Studies 2016; 13: 245–246)

The essays are typically more about power than speech. Many work off this basic premise: The powerful white male majority is in a position to subordinate powerless ethnic and racial minorities and women, which transmogrifies demeaning speech into demonstrable acts of harm by normalizing and legitimizing discrimination and terrorizing and silencing the target. In an essay titled “Subordinating Speech,” Maitra argues that people who use hate speech, even if they have no apparent authority, can nonetheless gain authority through the act of speaking down to a racial minority. Which is one way to elide the modern‐day reality that our president and attorney general are Black while millions of white males hold no economic or political power. McGowan suggests some racial hate speech has the equivalent impact of a “Whites Only” sign – speech we may legally prohibit when used by a business proprietor.An essay by Caroline West says societal equality aside, free speech itself is enhanced by restricting racist hate speech, because racist speech silences and marginalizes the targets of the speech, making their speech less likely to be offered, heard or comprehended. Laura Beth Nielsen reinforces this silencing theme with an essay titled, “Power in Public: Reactions, Responses, and Resistance to Offensive Public Speech.” Nielsen suggests that street harassment of a sexual or racial variety leads people to choose no response rather than a potentially dangerous confrontation. All to suggest that the typical tonic for offensive speech – more speech – is an unreasonable and unworkable prescription. Nielsen compares First Amendment protection for racial and sexual hate speech with the raft of laws limiting aggressive pan handling. She claims that because targets of panhandling are society's privileged the courts allow the First Amendment to bend so elites may feel comfortable walking public streets, but no such consideration is granted women who receive unwanted catcalls. Failing to recognize that white male supremacy is an eroding model of social power is one of the blind spots in this book. Somehow, women, racial and ethnic minorities and gays and lesbians have been able to win tremendous gains despite America's commitment to free speech – and I would argue because of it. Who is powerful and who is powerless is becoming less clear. But the essays give no ground on this. Another blind spot is failing to recognize that not everyone agrees on what speech is harmful. One only need look at the throngs of Americans throwing enthusiastic support behind Donald Trump's GOP (Republican Party) presidential bid to understand that, as US Supreme Court Justice John Marshall Harlan wrote, “one man's vulgarity is another's lyric.” Trump's claim that Mexican immigrants are rapist; his demand that Muslims be barred from entering the country, undoubtedly sound like harmful hate speech to some. Yet, to others he is singing their song. Long ago I wrote that free speech is not a matter of good speech versus bad speech, but who has the power to decide which is which. Better that we not give anyone in government the power to censor. Because it just might be Trump who is the decider‐in‐chief.(246)

#### This turn o/w the disad. Moynihan 1/9

(Donald P., Public Affairs @UW Madison, https://mobile.nytimes.com/2017/01/09/opinion/whos-really-placing-limits-on-free-speech.html?mwrsm=Facebook&\_r=1)

This one-sided representation of campus speech doesn’t reflect my 14 years teaching in large public institutions in Michigan, Texas and Wisconsin. In that time, no student has ever demanded that my classes include a trigger warning or asked for a safe space. But my colleagues and I have been given much more reason to worry about the ideological agendas of elected officials and politically appointed governing boards. Students can protest on the campus mall, demanding that policies be changed; elected officials can pass laws or cut resources to reflect their beliefs about how a campus should operate. One group has much more power than the other.

#### Equating speech with violence causes actual physical violence and makes bigotry impossible to challenge – outweighs because it results in the destruction of liberal protections. Kasnetz 16

Alex Kasnetz is a law student at Duke University. The danger of equating speech with violence, Spiked, February 1, 2016 EE

Perhaps the most worrying trend among proponents of political correctness is equating words with violence. This philosophy, built on works like Words That Wound, has captured many young minds in a web of moral distortion. For example, in response to a speech at Oberlin University last year by Christina Hoff Sommers, a group of students urged others ‘to pull together in the face of this violence [her talk]’. Two weeks ago, a graduate student at my university, Duke, exemplified this moral confusion in the student newspaper, The Chronicle: ‘Key to [our broad interpretation of free speech] is a firm separation between speech and action… but…[w]ords hurt as much as actions; indeed, words are actions. Within the context of white supremacy, any distinction between a defaced poster, a racist pamphlet and legal or extralegal murder can be only of degree.’ The underlying assumption — that words can be violent — is illogical, deleterious in its consequences, and illiberal in its philosophy. First, the distinction between words and actions — between hurt feelings and broken bones — is not some arbitrary construct the Westboro Baptist Church created so that it can continue happily yelling homophobic slurs at dead soldiers’ funerals. Rather, that distinction is vital for a free society. Hurt feelings can only be attested to; the only adjudicator of hate speech is the target, because only he knows how those words impacted on him. Not so for actions. No one can deny that a broken bone is broken. The conflation of words and actions makes the target’s subjective morality into a universal standard of justice: each would judge his own case. Second, if words equal violence, one may justly respond to those words with actual violence. Maryam Namazie, an apostate from Islam and campaigner for secularism and women’s rights, recently spoke at Goldsmiths University in London. Her harsh critiques of Islamism threatened the ‘safety’ of some offended Muslim students. So they responded by physically intimidating her and sabotaging her presentation. As Brendan O’Neill noted: ‘We have the Kafkaesque situation where a bunch of blokes can physically intimidate a woman in the name of saving students from feelings of intellectual intimidation.’ Finally, and fundamentally, how can we, as rational agents in liberal democracies, work through disagreements in search of commonality and truth when harsh criticism is tantamount to murder? This ideology is not merely unworkable in a liberal society; it is antithetical to it. As the New Yorker’s Adam Gopnik put it in the aftermath of the Charlie Hebdo attacks: ‘It is not merely that an assault on an ideology is different from a threat made to a person; it is that it is the opposite of a threat made to a person. The whole end of liberal civilisation is to substitute the criticism of ideas for assaults on people.’ Cartoonists drawing pictures; jihadists gunning them down with Kalashnikovs. Criticising Black Lives Matter; killing a black boy in the street. The difference is not merely one of degree.

#### Hate speech codes breed hypersensitivity which causes reactionary violence – that outweighs. Lindsay 12/27

Tom Lindsay is an American educator and academic who briefly served as President of Shimer College. He was the Deputy Chairman of the National Endowment for the Humanities until December 2008. A Marxist Education In 'Hypersensitivity' As A Cause Of Violence On American Campuses, Forbes, December 27, 2016 EE

With the rise across America of campus protests, commencement speaker dis-invitations, “safe spaces,” “micro-aggressions,” and deprivations of free speech generally, the public is beginning to learn just how intolerant a growing number of colleges and universities have become. The nonpartisan Foundation for Individual Rights in Education (FIRE) recently issued its latest national study, titled, Spotlight on Speech Codes 2017: The State of Free Speech on Our Nation’s Campuses. It finds that 39.6 percent of the 449 colleges and universities it analyzed “maintain policies that seriously infringe upon the free speech rights of students.” (As alarming as this statistic is, censorship on campus has become so bad that this latest percentage of 39.6 actually represents an improvement over the recent past.) However, the public has yet to glean the psychological connection between the hypersensitivity studiously cultivated on campus and the inclination to commit violent acts. This point has been largely missed in the ongoing debate over whether many of the campus protesters come to college already hypersensitive or are made that way by faculty and administrators. An example of this debate is Judith Shulevitz’s “In College and Hiding from Scary Ideas,” which was responded to by Phoebe Maltz Bovy’s “Don't Blame Students for Being Hypersensitive. Blame Colleges.” Both Shulevitz and Bovy are largely right. American culture already makes K-12 students hypersensitive (think of how a young person accustomed to receiving “participation trophies” is likely to react later in life when finally confronted with struggle and failure). But, once in college, the effect of safe spaces, censorship, etc., promises only to exacerbate any preexisting hypersensitivity. As Clay Routledge observes, “More and more colleges are creating “bias response teams” that students can contact if they feel they have been victimized by micro-aggressions. There is an increasing demand for safe spaces and trigger warnings to protect students not from physical danger, but from ideas, course material, and viewpoints they may find offensive.” In sum, think of these colleges and universities as finishing schools for those bent on spending their lives competing in the Sensitivity Sweepstakes. However, much of the commentary on campus censorship suggests that the only, or worst, effect of the new “therapeutic” education is the production of “little snowflakes,” that is, weak individuals. What has been missed is the role hypersensitivity can play as a cause of violence. This nexus is one of the themes of Roy Baumeister’s Evil: Inside Human Cruelty and Violence. He identifies a number of individual psychological factors on whose basis it is possible to “begin to predict who is likely to be dangerous or violent . . . Hypersensitive people, who often think their pride is being assaulted, are potentially dangerous.” He goes on to explain how “hypersensitivity to insults also makes it possible to understand what might otherwise appear to be senseless violence. . . . Many violent people believe that their actions were justified by the offensive acts of the person who became their victim.” The hypersensitive person can become so irrational that subjectivity becomes all: “Even when a neutral observer would conclude that no serious provocation had occurred, it is still important to recognize that, in the perpetrator’s own view, he or she was merely responding to an attack.” From this it is not difficult to see how what is taught at a growing number of our universities can turn sensitivity into hypersensitivity. After all, these schools defend their creation of safe spaces and their prohibition on free speech on the grounds that “oppressed groups” face “institutional discrimination.” As one sociology professor states it, “Institutional Discrimination is the unequal distribution of rights or opportunities to individuals or social groups that results from the normal operations of society . . . Institutional discrimination is not the result of some bigot using his or her power to hurt minority groups. These are disparities that are created by people who are doing what they are supposed to. From this vantage point it’s easy to see how people could be totally oblivious to the fact that they are creating inequities.”

### 2AC Diversion Turn

#### Speech codes tradeoff with more effective measures like financial assistance

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Now I will comment on yet another reason why censoring hate speech may well undermine, rather than advance, equality causes: its diversionary nature. Focusing on biased expression diverts us from both the root causes of prejudice-of which the expression is merely one symptom-and from actual acts of discrimination. The track record of campus hate speech codes highlights this problem, too, just as it highlighted the previous problem I discussed, of discriminatory enforcement. Too many universities have adopted hate speech codes at the expense of other policies that would constructively combat bias and promote tolerance. In fact, some former advocates of campus hate speech codes have become disillusioned for this very reason. One example is the minority student who was initially a leading advocate of one of the earliest campus hate speech codes, at the University of Wisconsin, Victor DeJesus. After the ACLU successfully challenged that code under the First Amendment, Mr. DeJesus opposed the University's efforts to rewrite the code in the hope of coming up with something that would pass constitutional muster. As the New York Times reported: Victor DeJesus, co-president of the Wisconsin Student Association, said that he initially supported the hate speech rule, but that he had changed his mind because he felt the regents were using it as an excuse to avoid the real problems of minority students. "Now they can finally start putting their efforts into some of our major concerns like financial aid, student awareness, and recruitment retention," Mr. DeJesus said. n76

#### The tradeoff outweighs their link

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Recognizing the diversionary nature of campus hate speech codes, the ACLU policy on this subject expressly urges colleges and universities to respond to bias through a range of constructive alternatives. These alternative approaches, all of which could be implemented in the non-campus context as well, not only are consistent with free speech rights, but also would make a more meaningful contribution toward reducing intergroup prejudice, discrimination, and violence. These recommended approaches embody the "less restrictive alternative" concept that is so central to the Supreme Court's standards for protecting free speech and other constitutional rights. The Court consistently has held that even when government asserts a concern of compelling importance in an attempt to justify restricting a constitutional right, the restriction is still unjustified if there is any "less restrictive alternative"-another measure, less restrictive of the right, that would adequately promote the government's interest. n77 In the hate speech context, advocates of restrictions assert countervailing interests of great importance-reducing discrimination and promoting equality. However, those interests can be advanced effectively through measures that are less restrictive of free speech. Indeed, these alternative approaches may well be not only less restrictive of speech, but also more effective in reducing discrimination and promoting equality. Above, I argued that censoring hate speech is doubly-flawed, both violating free speech rights and also ineffective in advancing equality. The argument I make here is the complement of this earlier one: that non-censorial responses to hate speech are doubly desirable, since they both honor free speech rights and also effectively advance equality. Let me quote the pertinent portion of the ACLU policy: All students have the right to participate fully in the educational process on a nondiscriminatory basis. Colleges and universities have an affirmative obligation to combat racism, sexism, homophobia, and other forms of bias, and a responsibility to provide equal opportunities through education. To address these responsibilities, the ACLU advocates the following actions by colleges and universities: (a) to utilize every opportunity to communicate through its administrators, faculty, and students its commitment to the elimination of all forms of bigotry on campus; [\*273] (b) to develop comprehensive plans aimed at reducing prejudice, respondingpromptly to incidents of bigotry and discriminatory harassment, and protectingstudents from any such further incidents; (c) to pursue vigorously efforts to attract enough minorities, women and members of other historically disadvantaged groups as students, faculty members and administrators to alleviate isolation and to ensure real integration and diversity in academic life; (d) to offer and consider whether to require all students to take courses in the history and meaning of prejudice, including racism, sexism, and other forms of invidious discrimination; (e) to establish new-student orientation programs and continuing counseling programs that enable students of different races, sexes, religions, and sexual orientations to learn to live with each other outside the classroom; (f) to review and, where appropriate, revise course offerings as well as extracurricular programs in order to recognize the contributions of those whose art, music, literature and learning have been insufficiently reflected in the curriculum of many American colleges and universities; (g) to address the question of de facto segregation in dormitories and other university facilities; and (h) to take such other steps as are consistent with the goal of ensuring that all students have an equal opportunity to do their best work and to participate fully in campus life. n78

### 2AC Masking

#### Speech codes don’t solve – they only mask the least harmful kind of speech.

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

This was the conclusion of a 1995 book that

Alas, racial discrimination and other forms of discrimination and discriminatory violence are still endemic in the United States, as well as in many other countries. Therefore, I consider it tragic that so much energy has been spent on the most superficial manifestation of these deep-seated problems of racism and other prejudices: namely, a few words. I say "a few," because even those who advocate restrictions on hate speech recognize that such restrictions can punish only the most blatant, crudest expressions of racism; the more subtle, and hence the more insidious, expressions will necessarily go unredressed. My co-author Skip Gates made this point in our book with characteristic flair. He wrote: "In American society today, the real power commanded by racism is likely to vary inversely with the vulgarity with which it is expressed . . . Unfortunately, those who [advocate restrictions] . . . worry more about speech codes than coded speech." n19 Instead of banning a few of the crudest, most superficial symptoms of discriminatory attitudes, we should turn to more effective, constructive measures to counter the root causes of such attitudes, as well as actual acts of discrimination and violence.

### 2AC Hate Speech

#### Empirics show speech codes promote rather than combat discrimination

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Based on actual experience and observations in countries around the world, the respected international human rights organization, Human Rights Watch, concluded that suppressing hate speech does not effectively promote equality or reduce discrimination. In 1992, Human Rights Watch issued a report and policy statement opposing any restrictions on hate speech that go beyond the narrow confines permitted by traditional First Amendment principles. Human Rights Watch's policy statement explains its position as follows: The Human Rights Watch policy attempts to apply free speech principles in the anti-discrimination context in a manner that is respectful of both concerns, believing that they are complementary, not contradictory. While we recognize that the policy is closer to the American legal approach than to that of any other nation, it was arrived at after a careful review of the experience of many other countries . . . . This review has made clear that there is little connection in practice between draconian "hate speech" laws and the lessening of ethnic and racial violence or tension. Furthermore, most of the nations which invoke "hate speech" laws have a long way to go in implementing the provisions of the Convention for the Elimination of Racial Discrimination calling for the elimination of racial discrimination. Laws that penalize speech or membership are also subject to abuse by the dominant racial or ethnic group. Some of the most stringent "hate speech" laws, for example, have long been in force in South Africa, where they have been used almost exclusively against the black majority. n42 Similar conclusions were generated by an international conference in 1991 organized by the international free speech organization, Article 19, [\*259] which is named after the free speech guarantee in the Universal Declaration of HumanRights. That conference brought together human rights activists, lawyers, and scholars, from fifteen different countries, to compare notes on the actual impact that anti-hate-speech laws had in promoting equality, and countering bias and discrimination, in their respective countries. The conference papers were subsequently published in a book, Striking A Balance: Hate Speech, Free Speech, and Non-Discrimination. n43 The conclusion of all these papers was clear: not even any correlation, let alone any causal relationship, could be shown between the enforcement of anti-hate-speech laws by the governments in particular countries and an improvement in equality or inter-group relations in those countries. In fact, often there was an inverse relationship. These findings were summarized in the book's concluding chapter by Sandra Coliver, who was then Article 19's Legal Director: Laws which restrict hate speech have been flagrantly abused by the authorities. Thus, the laws in Sri Lanka and South Africa have been used almost exclusively against the oppressed and politically weakest communities. In Eastern Europe and the former Soviet Union these laws were vehicles for the persecution of critics who were often also victims of state-tolerated or sponsored anti-Semitism. Selective or lax enforcement by the authorities, including in the United Kingdom, Israel and the former Soviet Union, allows governments to compromise the right of dissent and inevitably leads to feelings of alienation among minority groups. Such laws may also distract from the need for effective legislation to promote non-discrimination. The rise of racism and xenophobia throughout Europe, despite laws restricting racist speech, calls into question the effectiveness of such laws in the promotion of tolerance and non-discrimination. One worrying phenomenon is the sanitized language now adopted to avoid prosecution by prominent racists in Britain, France, Israel and other countries, which may have the effect of making their hateful messages more acceptable to a broader audience. n44

### 2AC Rollback

#### Hate speech codes are content restrictions

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

In 1992, the Court articulated additional restrictions on the "fighting words" doctrine. In R.A.V. v. City of St. Paul, n25 a divided Court n26 struck down a Minnesota statute prohibiting expression that "arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender." n27 The state sought to justify the statute on the "fighting words" doctrine claiming that such expression had so little value that it could be prohibited. n28 The majority, however, held that the statute was "underbroad": that is, it included some words that might provoke anger or retaliation but not others. n29 The content of the speech, whether it involved race, color, or one of the other listed discriminatory bases, was the basis for determining whether it was prohibited. n30 The majority found this content-based regulation unacceptable, even assuming that the speech regulated fell under the "fighting words" doctrine. n31

## A2 GMO DA

#### 1. Biotechnology is the 21st form of Western imperialism Ho 6

Vickrey Research Professor of Law, Loyola University Chicago School of Law – 2006 (Cynthia M. Ho, University of Michigan Journal of Law Reform, “BIOPIRACY AND BEYOND: A CONSIDERATION OF SOCIO-CULTURAL CONFLICTS WITH GLOBAL PATENT POLICIES,” P: LN)

The patent imperialism claims are best understood against the historical backdrop of Western colonialism. In particular, there is a strong sensitivity to prior history of Western territorial expansion over lands that were seen as unowned, or at least occupied only by "native" or primitive peoples, and thus free for conquest by Western countries. [134](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) During the colonial era, indigenous groups found themselves forced out of their homes by Western claims of ownership over territory they had previously regarded as owned by none, except some higher spiritual order. [135](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) In the current twenty-first century, indigenous societies fear a reprisal of the same situation where their cultural and sacred knowledge is appropriated and they are excluded from use. [136](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) The Western notion of individual  [ 468]  ownership of property was and remains anathema to notions of community ownership as well as a communal relationship between societies and their environment. [137](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank)  The Western conquest analogy is not entirely identical to the extent that the actual land and raw materials of indigenous material are not being technically claimed by Western nations. Rather, the raw materials are being utilized as starting material to develop subsequent innovations that did not previously exist. According to Western patent norms, there is nothing illegitimate about creating patentable inventions based on natural materials. However, this process assumes that natural biological materials are "free" (or in the public domain) for use in this way in a manner that bears some resemblance to the prior colonialism assumption that land was free to be taken and improved upon. Just as land was considered sacred during the colonial era, natural resources are often considered sacred today, such that use of such resources would be considered immoral. [138](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank)  In addition, patent rights are seen as a tool that promotes and elevates Western norms in a manner that necessarily fails to acknowledge the value of traditional communities. Some have suggested that Western notions of property and public domain simultaneously trivialize the contributions of indigenous peoples while enabling such contributions to be appropriated under Western notions of patent rights. [139](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) In particular, the Western property view that considers all things either privately owned, or in the public domain and free for use by anyone, is inconsistent \with the  [ 469]  principles of many traditional communities that see some things as not owned by anyone. [140](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) Accordingly, patent rights are particularly suspect as a means to further consolidate Western resources - at the cost of developing nations. As described by Professor Keith Aoki, "Invaluable biological cultural resources [are] flowing out of the countries of the South as "raw materials' into the developed nations of the North where they are magically transformed in the laboratories of pharmaceutical and agricultural corporations into protected intellectual properties." **141**The TRIPS agreement can be seen as **the ultimate act of imperialism** to the extent that it forces countries opposed to patents to nonetheless tolerate and grant patents within their own countries. Not only do many indigenous communities oppose patent rights, but also the scope of patentable subject matter under TRIPS. In particular, many communities object to patent rights over any type of life forms, regardless of the amount of human intervention involved. [142](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank) This objection reflects their philosophy that life is sacred. However, their philosophies are inherently irreconcilable with the mandatory language under TRIPS that plant and animal varieties must be granted protection. [143](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank)  The negotiation of TRIPS is also considered an act of imperialism to the extent that it was conceived by Western countries and imposed upon developing countries that are widely acknowledged to have had no negotiation power. In particular, just as dominant Western nations previously "conquered" land without regard for the rights and interests of indigenous populations, so too TRIPS was imposed upon countries with less political power. [144](http://web.lexis-nexis.com/universe/document?_m=3444633b43b03cbff6e7752031044bec&_docnum=10&wchp=dGLbVlb-zSkVb&_md5=" \t "_blank)

#### 2. Impact turn: The use of GM crops cause honeybee colony depletion that spreads worldwide, destroying agriculture Hutaff 7

Hutaff, 07 (Matt, "Give Bees a Chance," The Simon, 1 May, http://www.thesimon.com/magazine/articles/canon\_fodder/01375\_give\_bees\_chance.html)

Rumor has it Albert Einstein once declared humanity could only outlive the bee by about four years. His reasoning was simple: "no more bees, no more pollination, no more plants, no more animals, no more man." Nothing like entomological doomsday scenarios from a classical physicist, right? Nonetheless, it looks like we're poised to find out if the godfather of relativity is right. Bees are disappearing at an alarming rate, particularly in the United States and Germany. And while it's normal for hive populations to fall during colder winter months, the recent exodus is puzzling beekeepers and researchers around the world. Are we witnessing the death throes of the human race firsthand? Will the bee go the way of the dodo? Not likely, but I'll tell you one thing – whatever's driving the collapse of the bee population, it's man-made. "During the last three months of 2006, we began to receive reports from commercial beekeepers of an alarming number of honey bee colonies dying in the eastern United States," says Maryann Frazier, an apiarist with Penn State University. "Since the beginning of the year, beekeepers from all over the country have been reporting unprecedented losses," including one gentleman who's lost 800 of his 2,000 colonies in less than four months. Those losses are atypical. The usual causes of death, aside from climate, are varroa mites, hive beetles, and wax moths, which infest hives weakened by sickness and malnutrition. Annual casualties tend to hover in the 20th percentile, and beekeepers work with entomologists to protect their investments via antibiotics, miticides, and advanced pest management. Not so today. The current blight has spread across the country rapidly, leaving abandoned hives full of uneaten food and unhatched larvae. Natural predators brave enough to enter behave erratically, "acting in a way you normally don’t expect them to act," says beekeeper Julianne Wooten. And whereas naturally abandoned hives are infested by other insects within a short period of time, hives affected by what is tentatively labeled colony collapse disorder (CCD) are avoided. California and Texas have been hit particularly hard by the sudden disappearance of bees, but dozens of other states are reporting major losses as well. And when you consider bees are big business as well as a critical part of the food chain, that vanishing act is no laughing matter. Consider: bees are essential for pollinating over 90 varieties of vegetables and fruits, including apples, avocados, blueberries, and cherries; pollination increases the yield and quality of crops by approximately $15 billion annually; and California's almond industry alone contributes $2 billion to the local economy, and depends on 1.4 million bees, which are brought in from all over the United States. Bees stimulate the food supply as well as the economy. So what's the cause of colony collapse? Suspicions are pointed in several different directions, including cell phone transmissions and agricultural pesticides, some of which are known to be poisonous to bees. But if these two factors are responsible, why are the deaths not a global phenomenon? The bee collapse began in isolated pockets before progressing rapidly around the nation. If cell phones are to blame, shouldn't the effect have been simultaneous, and witnessed years ago? And if pesticides are strictly to blame, shouldn't beekeepers near major farm systems be able to track those pollutants and narrow the field of possible suspects? Perhaps they have – and the culprit is bigger than we imagine. Several scientists have come forward with the startling claim that genetically modified food – you know, that blessing from above that would solve famine and put food in the belly of every undernourished, Third World child – is destroying bees. How could something so wondrous as pest-resistant corn kill millions upon millions of bees? Simple – by producing so much natural pesticide that bees are either driven mad or away. Most genetically-modified seeds have a transplanted segment of DNA that creates a well-known bacterium, bacillus thuringiensis (Bt), in its cells. Normally Bt is not a problem – it's a naturally-occurring pesticide that's been used as a spray for years by farmers looking to control crop damage from butterflies. And it's effective at helping beekeepers keep bees alive, too – Bt is sprayed under hive lids to keep those pesky wax moths from attacking. But "instead of the bacterial solution being sprayed on the plant, where it is eaten by the target insect, the genes that contain the insecticidal traits are incorporated into the genome of the farm crop," writes biologist and beekeeper John McDonald. "As the transformed plant grows, these Bt genes are replicated along with the plant genes so that each cell contains its own poison pill that kills the target insect. "Canadian beekeepers have detected the disappearance of the wax moth in untreated hives, apparently a result of worker bees foraging in fields of transgenic canola plants. [And] the planting of transgenic corn and soybean has increased exponentially, according to statistics from farm states. Tens of millions of acres of transgenic crops are allowing Bt genes to move off crop fields." McDonald's analysis stands up under scrutiny. A former agronomist has commented that the one trial of GM crops in the Netherlands quickly led to colony collapse within 100 kilometers of the fields, and it's reasonable to hypothesize nature's pollinators would bear an averse reaction to plants with poison coursing through every stem. "The amount of Bt in these plants is enough to trigger allergies in some people, and irritate the skin and eyes of farmers who handle the crops," writes Patrick Wiebe. "In India, when sheep were used to clear a field of leftover Bt cotton, several sheep died after eating it." If it can kill a sheep, it can certainly kill a bee. What can be done? Precious little if gene-modified plants are the genesis of colony collapse. "There is no way to keep genetically modified genes from escaping into the wild," says Mike Rivero. "Wild varieties of corn in Mexico have been found to contain artificial genes carried by the wind and bees. Indeed it is probable that the gene that makes the plant cells manufacture a pesticide has already escaped, which means this problem will only spread. "This is far more dangerous than a toxic spill, which confines itself to the original spill and the downwind/downstream plumes. A mistake in a gene, once allowed into the wild, can spread across the entire planet."

#### 3. Turn: Genetically modified crops will cause more resistant superweeds to devastate farmland – people will inevitably destroy crops further in attempts to remove them Carrell 3

Carrell, 03 (Severin, The Independent, “UK Told GM Crops Will Lead to ‘Environmental Catastrophe’,” 29 June, http://www.organicconsumers.org/ge/uk\_gm\_crops\_environment.cfm]

GM threatens a superweed catastrophe English Nature says the new crops could lead to farmers using toxins that would devastate the countryside By Severin Carrell 29 June 2003 Genetically modified farming will lead to a new generation of herbicide-resistant crops which could devastate the countryside, says English Nature. The Government's chief conservation agency says the inevitably far stronger weedkillers that would be needed would devastate hedgerows and verges and produce "superweeds" unless strict controls are imposed. English Nature has warned ministers to prepare for the "worst case" scenario if they press ahead with proposals to grow GM crops. If the worst case becomes reality, the agency fears that farmers could turn to highly toxic and old-fashioned weedkillers such as Paraquat and 2,4-D because they will be faced with GM "superweeds" that can resist most modern weedkillers. These superweeds will emerge because it is "inevitable" that weedkiller-tolerant genes will escape from GM crops such as sugar beet, maize and oilseed rape into normal plants, English Nature states. The dangerous genes will be carried by the pollen of GM crops, spread by the wind, by insects and by farmers moving between fields. Dr Brian Johnson, a co-author of the English Nature report, said: "If you hit them with most of the conventional herbicides they just smile at you. They certainly don't die." And - unless the use of GM weedkillers is very strictly policed - insects and birds that live off weeds, wild flowers and grasses will be killed off because farmers will be using herbicides at the wrong time of year.

#### 4. Turn: Biotechnology sparks famine and dependence Kowalski 2

Kowalski ‘02 - JD @ University of California at Davis (Tara, "International Patent Rights and Biotechnology: Should the United States Promote Technology Transfer to Developing Countries?," Loyola of Los Angeles International & Comparative Law Review, Winter, 25 Loy. L.A. Int'l & Comp. L. Rev. 41)

Biotechnology opponents fear that GM crops will increase the risk of famine by threatening biological diversity. 94 Reduced biological diversity in developing countries is particularly problematic because most of the world's biological diversity is found in developing countries. Opponents also fear that GM crops are unsafe, and that farmers in developing countries will become dangerously dependent on them. 95 Opponents have launched anti-biotechnology campaigns in order to conduct public protests and communicate their concerns. For example, in April 2001, protesters set fire to Monsanto's facilities in Italy. 96 In July 2001, thirty demonstrators from Thailand's provinces protested the use of GM crops by dumping garbage bins full of GM papayas, tomatoes, and corn on the steps of the U.N. building. 97 Further, in August 2001, hundreds of protesters in the Philippines destroyed GM corn grown by Monsanto. 98 It is unclear whether opposition to biotechnology actually impedes developing countries' access to biotechnology. However, such opposition should be considered in assessing the barriers to biotechnology in developing countries, along with three other factors: lack of infrastructure, capital, and trained scientists; privatization of biotechnology R&D and the industry's profit motives; and IP rights. International treaties and national legislation address some aspects of these barriers.

#### 5. Their ev is wrong – genetically engineered food makes the food shortage problem in Africa worse Bokor 4

Raymond K. Bokor, 04 -Agro-Ecological Technician working with the Agricultural Reform Movement in Ghana-04 (Synthesis/Regeneration, “Resistance to genetic engineering in Africa”, .11)

Uptake of biotechnology in Africa is growing at an increasing rate as multinational corporations continue to flood it with genetic engineering technology. This uptake cannot go without negative impact on biodiversity, the environment, producers and consumers. The most significant impact is on the numerous resource poor farmers. Most farmers will never be able to afford technology fees and the chemicals to grow these new GE seeds.It is even possible now to genetically engineer plantsto produce sterile seeds, stopping farmers from saving their seeds for replanting the next year. About a third of humanity (1.4 billion people) depends on saved seed for their survival. Genetic engineering in its present form cannot be part of the solution of the food crisis in Africa. It is part of the problem. Most farmers in Africa lead egalitarian lives and are able to save, sell and exchange seeds freely, so biotechnology will dissolve these good values andprohibit farmers from such practices.

## A2 ILaw DA

#### 1. Trump Shreds ilaw

Huffington Post 11-18-16

<http://www.huffingtonpost.com/entry/amal-clooney-says-trumps-ideas-are-violations-of-international-human-rights-law_us_582f276ce4b099512f826f60>\*bracketing in original

Amal Clooney did not mince words when taking on President-elect Donald Trump’s proposals at a recent women’s conference. The international human rights lawyer spoke at the Texas Conference for Women in Austin Tuesday in front of a crowd of 7,000, and spoke out against Trump’s plans for the Muslim community. “[Trump’s comments] that there should be a religious test imposed on entering the U.S. or the fact that there should be state-sponsored torture or that families of suspected terrorists should all be killed — all of those things are violations of international human rights law and the values that underlie that,” she said, according to The Hollywood Reporter.

#### 2. Their Cohen link evidence is a fake article from an anonymous troll- should assign it zero weight

Zavadski 15

(Katie, <http://www.thedailybeast.com/articles/2015/09/11/terrorist-troll-pretended-to-be-isis-white-supremacist-and-jewish-lawyer.html> 9-11)

When Joshua Goldberg wasn’t posing as an Islamic radical, he was pretending to be a white supremacist—and is accused of impersonating a Jewish lawyer. Goldberg had several online personas: an Islamic radical who was popular in ISIS social media; a white supremacist on hate site Daily Stormer; a feminist on Daily Kos; a radical free-speech advocate on Q&A site Ask.fm, and a sympathizer with GamerGate. Goldberg is also accused of being behind a Times of Israel blog post that called Palestinians “subhuman.” Goldberg’s trolling turned serious when he was arrested Thursday by the FBI on the grounds that he told a would-be terrorist how to build a bomb meant for a 9/11 attacks anniversary event in Kansas City, Missouri. The 20-year-old, who lived at home with his parents and was described as a recluse by neighbors, was a prolific tweeter through accounts with various permutations of the name @auswitness. Goldberg was so successful at his game that he was even retweeted by one of the pro-ISIS gunmen who attacked a “Draw Muhammad” event in Garland, Texas, last May, according to the FBI. “You might know me for inspiring the attacks in Garland, Texas, where two mujahideen entered an event mocking the Prophet Muhammad (PBUH) with intent to slaughter the kuffar in it,” he boasted as Australi Witness in a post on Justpaste.it. “All who defame the Prophet (PBUH) must be crushed.” “Australi Witness” claimed to have his own alter ego as a “moderate” Muslim who worked for major nonprofit groups like Amnesty International by day. But it was Australi Witness’s role in helping a confidential FBI informant plan an attack on the anniversary of 9/11 that brought Goldberg’s trolling to an end. (The complaint alleges that Goldberg confessed “in substance” to being the voice behind Australi Witness and affiliated accounts. Journalists at the Syndey Morning Herald say they uncovered Golberg's trolling and handed evidence over to police after one of the reporters discovered Goldberg impersonating her.) “Hopefully there will be some jihad on the anniversary of 9/11,” he wrote to the FBI informant through a direct messaging app as AusWitness on August 17, according to a criminal complaint. His wish seemed to come true when the online friend proposed carrying out an attack. The friend said he lived near Kansas City and that a memorial in honor of firefighters who died on 9/11 might be the perfect target. “Where do you think would be best near the firefighters or the crowd?” the informant asked. Goldberg egged him on. “Good thinking, akhi [brother]. Put the backpack near the crowd,” he allegedly wrote, adding that nails in the bomb should be soaked in rat poison to maximize their lethality. Feds say Goldberg didn’t deny pushing the man toward a real-life attack in interviews with them. Goldberg even allegedly confessed to it all, telling the FBI he believed that his instructions would work, that the other person was serious about making a bomb and “would actually attempt to use them to kill and injure persons.” Then Goldberg backtracked, according to the FBI, saying he hoped the wannabe terrorist would blow himself up making the bomb. If not, Goldberg said he would have called police just before the attack took place and then been hailed as a hero. The FBI says in the complaint that it wasn’t aware that Goldberg was not a real ISIS sympathizer when they began the investigation. Goldberg, who comes from a Jewish family, had Australi Witness spout a special kind of rage when discussing Jews. “The Jews are the worst enemies of Allah (SWT). When Islam conquers Australia, every single Jew will be slaughtered like the filthy cockroaches that they are,” he wrote on JustPaste.it. Goldberg as Australi Witness also threatened attacks on synagogues in Melbourne and Los Angeles on JustPaste.it and on 8Chan’s Islamic State page. He also had recurring obsessions with certain people and ideas, attacking them with one persona while praising them with another. Posing as “Michael Slay” on white supremacist site Daily Stormer, he viciously attacked an Australian Muslim activist Mariam Veiszadeh, calling her a “Moslem pig.” Yet Goldberg praised Veiszadeh as Australi Witness, calling her his “biggest inspiration.” Yet another alleged online identity, MoonMetropolis, cheered grotesque caricatures of Veiszadeh. Goldberg also had another alter ego, Tanya Cohen, whom he attacked using Michael Slay on the Daily Stormer. Cohen was evidently a parody of far-left social justice activists. Slay called her "a Jew bitch who specializes in writing about how the US needs to ban 'hate speech' and any other speech that goes against the Jewish cultural Marxist agenda." An email in Tanya Cohen's name was linked to Goldberg's IP address, and articles in her name appeared on Thought Catalog, Daily Kos, and Feministing's community site. On Twitter, Goldberg frequently posted about Gamer Gate, a controversy about sexism in gaming that resulted in personal attacks on feminist activists. While Goldberg doesn't appear to have posted any threats on social media, his tweets used the hashtag #gamergate to mock people he had previously derided as "social justice warriors." In articles published under the Moon Metropolis alias and under Goldberg’s own name on Thought Catalog, he expresses the opinions of a free-speech fundamentalist. “Nothing that anyone could possibly say could ever be worse than a law preventing them from saying it,” he wrote. “If you expressed the opinion that I should be killed, I would still defend your right to say that.” On Thought Catalog, Goldberg wrote “that neo-Nazis tend to look positively civil and rational when compared to SJWs [social justice warriors].” A Facebook account for a Joshua Goldberg used the MoonMetropolis handle in its URL. The profile image matched the one used by MoonMetropolis on Twitter.

#### 3. Link turn – Winning speech codes increase hate speech and racism means countries have even worse perceptions of the US – aff solves better than CP because we decrease racism more than the neg through counterspeech. Don’t let them go for the perception of speech codes argument – if less people have racist thought processes, that’s obviously aff offense.

#### 4. No intern link- campuses are a tiny part of the country- the CP doesn’t solve hate speech anywhere else- no chance this solves the net benefit

#### 5. Impact empirically denied- Abu Graib, Torture, Guantanimo, Drones, refusal to sign the ICC- the us destroys ilaw and soft power in myriad ways- their link isn’t reverse causal- even if hate speech hurts ilaw, no evidence says the CP fixes it

#### 6. link turns solve- if we win hate speech regulations are bad and cause more violence against minorities, we turn the net benefit

#### 7. Civic engagement turns- we stop far right leaders from taking over the government- this access a MUCH LARGER internal link to the net benefit

#### 8. Ignore her analytic impact calc- its unwarranted and empirically false- we have never regulated hate speech but have solved problems in the past

## A2 Policing DA

#### 1. Police presence on campus is high now—stastics prove.

Melinda D. Anderson. “The Rise of Law Enforcement on College Campuses”. The Atlantic. September 28, 2015. <https://www.theatlantic.com/education/archive/2015/09/college-campus-policing/407659/> AGM

According to a recent Justice Department report on 2011-12 data, what’s been described as the most comprehensive survey of its kind, the vast majority of public colleges and universities—92 percent—have sworn and armed campus officers. Unsurprisingly, they’re much less prevalent at private colleges: Slightly over a third (38 percent) of them are equipped with their own law enforcement. Since the 2004-05 school year, the percentage of both public and private colleges nationwide using armed officers increased from 68 percent 75 percent. Yet as the numbers of armed campus police have swelled, presumably in part as an effort to satisfy the Clery Act requirements, the Justice Department data reveals a string of contradictions. The report demonstrates that crime and the presence of law enforcement on campus have an inverse relationship: Increases to the numbers of officers on campuses are paralleled by declining rates of reported crimes at the schools. Yet even despite apparent reduction in crime, the numbers of campus officers have continued to expand—as have their responsibilities. Officers have increasingly gained the ability to arrest and patrol outside jurisdictions, and the growth to law-enforcement hires has outpaced that of student enrollment.

#### 2. Police use censorship to justify surveillance –prefer our evidence- recency and comprehensiveness

ACLU 10

(https://www.aclu.org/sites/default/files/field\_document/policingfreespeech\_20100806.pdf)

United States law enforcement agencies, from the FBI to local police, have a long history of spying on American citizens and infiltrating or otherwise obstructing political activist groups. Political spying was rampant during the Cold War under the FBI’s COINTELPRO, the CIA’s Operation Chaos, and other program. Unfortunately, it appears that these old tendencies have once again come to the fore. Law enforcement agencies across America continue to monitor and harass groups and individuals for doing little more than peacefully exercising their First Amendment rights. A thorough search and review of news accounts by the ACLU reveals that these law enforcement behaviors have taken place in at least 33 states plus the District of Columbia in recent years. Americans have been put under surveillance or harassed by the police just for deciding to organize, march, protest, espouse unusual viewpoints, and engage in normal, innocuous behaviors such as writing notes or taking photographs in public.

#### 3. Attacks on free speech through protest attract police – Berkeley proves. Newsome ‘2/17

Bruce Newsome is Lecturer in International Relations at the University of California Berkeley. He teaches courses on global security risks, international conflict, counterterrorism and counterinsurgency, and social scientific methods. Newsome previously consulted to governments on policy while employed by the RAND Corporation in Santa Monica, Calif. He has taught as standing faculty at the Defence Academy of the United Kingdom, the University of Pennsylvania, and the University of California.“When “PROTEST!” is wrong.” Berkeley blog. February 17, 2017. <http://blogs.berkeley.edu/2017/02/02/when-protest-is-wrong/> JJN

Another protest, another unsafe campus, another strike against free speech. On Wednesday evening, some protesters carried placards reading “hate speech is not free speech,” and they succeeded in stopping the free speech of an invited speaker (Milo Yiannopoulos). What would he have said? What is the crowd’s counter-argument? Who represents a crowd? In this case, I had never heard of Milo Yiannopoulos until that morning, when I received an email from the university warning staff of a protest, and advising them to leave campus early, so I looked him up. In other words, the protest attracted attention to the person whom the protesters were trying to deny. Now the violence has attracted international attention to the speaker, his new grievances, and the unsafety of UC Berkeley’s campus. What is the responsibility of the university’s administration? The university was supposed to have prepared, but its efforts to protect free speech were half-hearted and unsuccessful. The police did not man their own barricades, which protesters used as projectiles to smash the windows of the student union, and to turn over a generator, which burst into flames. Some students in passive support of the speaker were attacked with pepper spray, a pole, a bike lock, and fists. The event was canceled before anybody was even admitted. Campus was officially shut-down for hours. The protesters initially refused police orders to disperse, then marched through Berkeley into Oakland. Commercial properties were attacked with stones. On Thursday morning, outgoing UCB Chancellor Nicholas Dirks emailed the whole community to blame the violence on “individuals who invaded the campus, infiltrated a crowd of peaceful students, and used violent tactics to close down the event.” He went on to describe them as “100 armed individuals clad in Ninja-like uniforms who utilized paramilitary tactics to engage in violent destructive behavior designed to shut the event down.” This claim is contradicted by the students who admitted to that behavior on the night, and, two days earlier, the student organizer’s use of the campus newspaper to call for students to help to shut down the event. The Chancellor’s attempt to excuse the collapse of safety amounted to the statement that “The University went to extraordinary lengths to facilitate planning and preparation for this event, working in close concert with the Berkeley College Republicans. Dozens of police officers were brought in from UC campuses across the state. Numerous crowd control measures were put in place. But, we could not plan for the unprecedented.” He didn’t explain what was “unprecedented” about this protest, and I did not see anything unprecedented – prior university emails had warned of the potential for violence. He concluded: “The violence last night was an attack on the fundamental values of the university, which stands for and helps to maintain and nurture open inquiry and an inclusive civil society, the bedrock of a genuinely democratic nation. We are now, and will remain in the future, completely committed to Free Speech as essential to our educational mission and a vital component of our identity at UC Berkeley.” There more hypocrisies and contradictions arise: his administration did not succeed in defending free speech; and the normative protests on campus are disruptive to learning: for instance, the “J20 Coalition” advertised on campus for a “UC Berkeley Walk-Out” on 18 January, and on the day of the Presidential inauguration two days later. What was the only printed justification? “an art-build, direct action skill share, and finalizing our campus’s plans” – in other words, a walk-out from academia in order to develop capacity for more protests with no stated purpose.

#### Their evidence flows AFF – it proves that resentment to speech restrictions boils over into violence between protesters. The violence at Berkley only happened because the admin wouldn’t protect the speakers.

#### 

#### Police is high now – campuses have been arming over the last decade. Walter 15

Shoshana Walter [reporter for Reveal, covering human trafficking and public safety. ] / January 23, 2015 <https://www.revealnews.org/article/more-colleges-are-arming-campus-police-and-security-officers/>

More colleges and universities are arming on-campus guards and police officers, according to a Bureau of Justice Statistics survey released this week.¶ The voluntary survey included more than 900 four-year colleges with 2,500 or more students during the 2011-12 school year, 75 percent of which reported using armed officers. During the last survey in 2005, 68 percent of schools reported employing armed officers.¶ The vast majority of the officers were sworn police officers, according to the report. But an increasing percentage of schools also reported arming campus security guards.¶ In 2005, 2 percent of campuses reported using armed security guards. In 2012, that number jumped to 11 percent.¶ The trend mirrors the findings of a recent investigation by The Center for Investigative Reporting with CNN, Hired Guns, which found that many states are issuing armed guard licenses at unprecedented rates.¶ Bureau of Justice Statistics researcher Brian Reaves, author of the college report, said campuses increasingly are debating whether to use armed law enforcement officers or stick with security guards.¶ “Sworn officers are going to have, obviously, increased arrest authority. They come in with more training,” Reaves said. “And some campuses have decided they’d like to have a sworn armed presence to deter wrongdoers. Other campuses have decided to not go down that road at this time.”

#### Your own Anderson author agrees free speech can stop over policing.

MELINDA D. ANDERSON is a contributing writer for The Atlantic and is based in Washington, D.C. https://www.theatlantic.com/education/archive/2015/09/college-campus-policing/407659/ SEP 28, 2015

Similarly, public-record requests revealed that George Washington University’s campus police department was unlawfully detaining students and investigating noise complaints at private residences in Washington, D.C., according to a report published in the student newspaper in 2013. The article was part of a series of news reports—some dating as far back as 2008—by the paper examining the jurisdictional tensions and lack of transparency in the university’s policing. The public documents even revealed that GW’s campus force had exceeded its scope of authority to the extent that it was reprimanded by D.C.’s police force. With the wide saturation of campus police and their expanded powers, a reform movement is taking hold. And on the rare university campuses without armed police officers, some students are fighting to keep it that way. Recently at Portland State University students joined Black Lives Matter activists to protest the school’s plan to arm its campus police force. Polling shows PSU students and faculty oppose armed officers on campus.¶ While the school says armed officers will improve campus safety, student organizers disagree. “We feel we would be much safer without them, especially with the Portland Police Bureau office main precinct being about five blocks away,” Mason Ashwill told the local Fox affiliate. “(There’s no) real reason for having guns on campus and it makes me feel a lot less safe.”

Speech restrictions encourage policing and surveillance not the other way around. The most radical groups are policed with restrictions. Miron 11

Jeffrey Miron is senior lecturer and director of undergraduate studies in the economics department at Harvard University and senior fellow at the Cato Institute. Miron blogs at http://jeffreymiron.com/ and is the author of "Libertarianism, from A to Z."¶ <http://www.cnn.com/2011/OPINION/01/15/miron.arizona.free.speech/> 1/17/11

Are restrictions on inflammatory speech or government decrees that broadcasters be fair and balanced appropriate responses to the horrific acts committed in Tucson? Not in the least. Consider first Brady's suggestion that federal law limits inflammatory speech. No one knows whether political speech from Tea Partiers or others played any role in Loughner's actions, but that is not the point. It is possible, perhaps likely, that the occasional lunatic, psychopath or other misguided soul does commit violence in part because of inflammatory rhetoric from politicians or talk-show hosts.¶ The argument for free speech, however, does not assume free speech has no negatives, much less that free speech is always "civil."¶ The argument for free speech holds simply that the harms from government restrictions on speech are worse than the harms from free speech itself. If government can determine what constitutes acceptable speech, it will use that power to restrict speech in inappropriate ways.¶ Opponents of the civil rights movement, for example, could readily have argued that inflammatory speech by some civil rights leaders posed a violent threat, especially since a few civil rights advocates, like the Black Panthers, presented themselves as well-armed, and indeed committed (a few) acts of violence. Civil rights opponents could then have used real or alleged connections between violent and nonviolent groups to restrict speech by all civil rights advocates.¶ Virtually every major cause, including those on the left, receives support from individuals or groups who use inflammatory rhetoric and even commit violent acts. The anti-Vietnam war group known as the Weathermen embraced violent overthrow of the government, and it bombed the U.S. Capitol, the Pentagon and the State Department. The Women's Social and Political Union, a suffragette organization in England, burned homes and bombed public buildings. The Earth Liberation Front, a pro-environment group, has torched SUVs, burned down a ranger station and bombed laboratories conducting research on genetically modified foods.¶ The reality is that every movement, sensible or nutty, has a range of followers, and some go too far. Government must pursue and punish those who commit violent acts, but empowering government to restrict speech, as opposed to violence itself, gives authorities latitude to target almost any cause.¶ Re-instatement of the Fairness Doctrine is just as misguided as restrictions on inflammatory speech. If government requires broadcasters to provide time for important issues, it must choose which issues come under the doctrine's purview, since this was never explicit in the commission's rules; this cannot help but exclude issues that government considers fringe but that may be important for social well-being (for example, drug legalization).¶ Likewise, if government decides who gets to provide opposing views, and to what degree, the scope for inappropriate influence is immense. Does the FCC require broadcasters to air one opposing view? Three? Or a hundred? And how much time do these opposing views get? A one-minute public service announcement at 3 a.m.? By making these decisions, the FCC inevitably restricts speech.¶ Only by staying totally uninvolved, and allowing all speech, can government avoid both favoring the status-quo, "mainstream" views and squelching minority, fringe or unpopular views.¶ Thus the harms of free speech are the price we pay for the freedom to criticize our government and attempt to persuade others to share our views. This does not necessarily mean the right to free speech must be absolute in all arenas; when speech is virtually indistinguishable from action -- shouting fire in a crowded theater -- it is possible the benefits from restriction might exceed the harm. But political speech deserves the highest protection, since this speech is key to all other freedoms.¶ Free speech does mean, of course, that politicians have the right to call for misguided restrictions on speech. Let's just hope the rest of us have the good sense to ignore them.

#### Restrictions encourage policing student’s speech, which gives the admin/police an ability to investigate students on the whim of vague reports. USA Today 2/23

February 23, 2017 <http://college.usatoday.com/2017/02/23/bias-response-teams-college-speech-police/>

When students see something that makes them uncomfortable, hurt or offended, on many campuses they can report that language to the administration — in particular, to something called a bias response team.¶ There are at least 232 bias response teams on American campuses with jurisdiction over the speech of least 2.84 million students — at schools like the University of Utah, George Mason University and SUNY Buffalo — according to a new report from the Foundation for Individual Rights in Education (FIRE).¶ Bias response teams are collectives of administrators, faculty and other college officials. They encourage students to report speech that may be offensive, hurtful or marginalizing to minority groups — ultimately in an effort to help create a more inclusive campus. Once a student’s speech is reported, university officials investigate. If the panel concludes it was biased speech, he or she could be sanctioned by the administration.¶ “It’s difficult to know” how students are punished, the author of the report, Adam Steinbaugh, told USA TODAY College, because few colleges release information about their investigations into reported bias incidents. And those that do release information tend to only publish vague reports. “Often, a college will simply say that they provided an ‘educational’ response or performed an ‘investigation,’” Steinbaugh said in an email interview.¶ The “Bias Response Team Report 2017” is the first major report on these organizations.¶ Steinbaugh said he was motivated to investigate these organizations because he was troubled by the use of campus police and security officials to investigate students’ speech — 42% of college bias response teams include members of campus law enforcement, the FIRE report discovered.¶ “Many campuses, especially public universities, have police forces legally indistinguishable from your local police department. They have the power to investigate, detain and arrest,” Steinbaugh said. Most bias incidents that are reported are constitutionally protected speech, according to the report. But since bias incidents can potentially involve criminal conduct, the use of law enforcement officers is understandable, Steinbaugh noted.¶ However, “that means that police may be scrutinizing reports of protected speech, and it certainly sends the message that police will be monitoring reports of offensive speech,” Steinbaugh said. “That’s troubling.”¶ The full extent of the role of law enforcement in these teams, and what they investigate, is unclear. “Transparency is not often high on the agenda of universities and colleges,” Steinbaugh said.¶ Some schools, such as John Carroll University and Appalachian State University, have published logs of bias investigations, giving the public a rare look at what gets investigated on college campuses.¶ Other schools, such as Colby College, once had logs of bias incident reports available to the public, but no longer do. The Colby administration did not respond to requests for comment.¶ To uncover concrete examples of reported speech, FIRE had to rely mostly on public record requests and the work of journalists such as Jillian Kay Melchior of Heat Street and Robby Soave of Reason.¶ Soave seems to have been first to report on the University of Oregon’s Bias Response Team, finding that not only were students reporting other students, but that they were also making complaints about posters, parties, newspapers and signs.¶ Melchoir was apparently the first to report on a professor at the University of Northern Colorado, Mike Jensen, who was reported to a bias team after encouraging his students to discuss controversial issues, including transgender rights. The professor was not invited back to teach the following semester, though it’s not clear the bias report was why.

#### We solve their internal link; police only respond b/c the university doesn’t protect free speech. Fatzick 4/26

Joshua Fatzick SW 4/26/17 <https://www.voanews.com/a/us-colleges-confront-new-era-sometimes-violent-protest/3826959.html>

American universities have long allowed controversial public figures to speak publicly as part of a philosophy that encourages open debate as a means of education. But a series of recent protests appears to indicate shifting attitudes about free speech among today's students.¶ Since February, protests on college campuses like the University of California-Berkeley, Middlebury College, the Claremont colleges and California State University, Los Angeles, have erupted ahead of speeches scheduled by conservative political pundits. The protests, several of which turned violent, have drawn intense media coverage and condemnation from those who believe the demonstrations are aimed at shutting down controversial speakers.¶ Will Creeley, senior vice president of legal and public advocacy at the Foundation for Individual Rights in Education (FIRE), told VOA the incidents have become a growing concern for free speech advocates because he thinks schools could do more to protect invited speakers.¶ "Capitulating to threats of violence only goes to further embolden that illiberal response," he said. "Violence at these events will beget more violence and we are seriously concerned that someone is going to get hurt."¶ Last month, a student group at Vermont's Middlebury College invited Charles Murray, a political scientist and fellow at the conservative American Enterprise Institute, to speak on campus. Murray's controversial research has linked race and intelligence, leading groups such as the Southern Poverty Law Center to label him a white nationalist.¶ Murray was greeted by hundreds of protesters who shouted over him when he tried to speak. As the crowd refused to let up, college administrators escorted Murray to another building where his talk with Middlebury professor Allison Stanger was broadcast online.¶ As Stanger and Murray left the building, they were "physically and violently confronted by a group of protesters," college spokesman Bill Burger said in a statement.¶ Protesters "set upon [their] car, rocking it, pounding on it, jumping on and trying to prevent it from leaving campus," Burger said.¶ Stanger was treated at a hospital emergency room and left wearing a neck brace following the confrontation with protesters, one of whom grabbed her by the hair and yanked her backward. "I feared for my life," Stanger later wrote in a post on Facebook.¶ Students at Claremont took issue with a book MacDonald published last year called The War on Cops, which puts forth the idea that police officers are afraid to perform their jobs because of increased media scrutiny following the 2014 police shooting death of Michael Brown in Ferguson, Missouri.¶ MacDonald, who was also invited to speak on campus by a student group, saw protesters block the doors to the building where she was scheduled to speak. She was forced to deliver the speech via livestream to a largely empty room, as the protesters refused to allow anyone to pass.¶ The protesters banged on windows and shouted from outside the building until "the cops decided that things were getting too chaotic and I should stop speaking," MacDonald later said of the incident.¶ Police officers then had to sneak MacDonald out the building's back door so she could safely escape the protesters.¶ Following her speech, more than two dozen students signed an open letter to one of the school's presidents, David Oxtoby, assailing MacDonald as a "fascist" and demanding Claremont "take action" against an independent student newspaper for its coverage of the protests and its "continual perpetuation of hate speech."¶ Oxtoby had previously condemned the protests and defended MacDonald's right to speak on campus, citing the college's commitment to "the exercise of free speech and academic freedom."¶ The students argued that MacDonald is a well-known figure, with her views well-documented, so refusing her a platform to speak didn't violate her rights. Further, the students said, they consider MacDonald's mere presence on campus "a form of violence."

## **A2 Revenge Porn DA**

### 1AR Disad

#### 1. No revenge porn in newspapers – editorial boards solve and they can’t name a single example

#### 2. Exposure inevitable – CP doesn’t regulate things like the internet and social media. Risk of a turn o/w

#### Revenge porn is unconstitutional because of lack of consent- first amendment irrelevant

Barmore, JD Candidate, 15

(Cynthia, Criminalization in Context: Involuntariness, Obscenity, and the First Amendment, The Board of Trustees of Leland Stanford Junior University Stanford Law Review February, 2015 Stanford Law Review 67 Stan. L. Rev. 447)

The speaker's interests in revenge porn immediately run up against those of the person who never consented to distribution of his or her sexually explicit images. Unlike other speech that harms the person it is about, revenge porn visually communicates, in extreme detail, the most private of facts: how someone looks engaged in sexual acts. The speaker's interest in communicating disgust toward the victim is minute compared to the vast quantity of private information actually conveyed. This type of pornography, patently offensive for the violation of consent within sexual relationships rather than for the speaker's ideas, fits squarely within the Court's tradition of regulating obscenity. As the Court stated more than forty years ago, "to equate the free and robust exchange of ideas and political debate with ... exploitation of obscene material demeans the grand conception of the First Amendment and its high purposes in the historic struggle for freedom." n216 The First Amendment does not create a right to publicly distribute sexually explicit images without the consent of those depicted.

#### Prohibiting revenge porn blocks meaningful political speech and trades off with more effective civil action

Reisenwitz 13

(Cathy, is a sexuality and law writer, <http://talkingpointsmemo.com/cafe/revenge-porn-is-awful-but-the-law-against-it-is-worse> 10-16)

While well-intentioned, this kind of legislation is over-broad, poses serious free-speech threats and may not even be necessary going forward. The first thing it's important to keep in mind is that revenge porn laws criminalize speech. The only California state senator to vote against SB 255, Leland Yee, voiced concerns about the law. "First Amendment protections are fundamental to our free society," he said in a statement to NBC News. "While I appreciate the intent of this legislation, I feel it was too broadly drawn and could potentially be used inappropriately to censor free speech." While many would argue that there exists speech so egregious that banning it warrants violating the First Amendment, most would also agree on the extreme importance of keeping that bar very high. Banning revenge porn undoubtedly lowers that bar, and comes with some consequences which are problematic for freedom of the press. As the ACLU has discussed, such laws can be used to censor photos with political importance. As Jess Rem pointed out for Reason magazine, people such as Jeff Hermes, Director of the Digital Media Law Project at Harvard, share this concern about the law. Hermes has stated that revenge porn laws could have kept former New York Rep. Anthony Weiner's (D) nude selfies legally suppressed. Hermes said to take, for example: "Circumstances where photographs exist of a political candidate who has run their campaign on their squeaky-clean image," but there are photographs of that candidate in a compromising position. "The distribution of these photos could indicate (to voters) that candidate might be lying about their past." The difficulty in differentiating newsworthy stories and smut is the reason it's important to keep even uncomfortable speech free. Another important kind of speech the law might forbid is a photo or video which contains evidence of a crime. In talking with Katie Couric, Rebecca Wells discusses trying to work with law enforcement to get the photos taken down. As she describes it, nothing could be done because, up until now, distributing an uncopyrighted photo wasn't illegal. But this isn't entirely true. Civil lawsuits have always been available to victims. Late last year a Texas judge ordered an 'indefinite' lock on revenge porn site PinkMeth.com as Shelby Conklin sought "punitive damages of more than $1 million for intrusion on seclusion, public disclosure of private facts, appropriation of her name and likeness and intentional infliction of emotional distress." The case was eventually settled, and the offenders paid restitution instead of serving time in jail. This is just one example of the many successful lawsuits by victims of revenge porn. Before the law, there were already at least seven different kinds of laws revenge porn could have violated, depending on the circumstances. They include but are not limited to laws dealing with extortion and blackmail, child pornography, invasion of privacy, copyright infringement, voyeurism, intent and violation of the Consumer Protection Act. Lawsuits benefit the victims through compensation, cost the state less than imprisonment, and only go to trial in a case of serious harm. In addition, allowing the courts to deal with these individual cases poses far less threat to the First Amendment than more legislation.

## A2 Gorsuch PTX DA

#### 1. No link and turn – newspapers don’t link – maybe Trump supports generic free speech, but he hates the media. Seager 1-21

Susan Seager, 1-21-2017, "And So It Begins, Trump Botches First Libel Bully Media Attack," No Publication, <http://lawnewz.com/celebrity/and-so-it-begins-trump-botches-first-libel-bully-media-attack/> VC

The Trump transition team launched its first legal attack on the mainstream media this week, just days before the inauguration of President Donald Trump. And botched it. The move signals that President Trump will likely continue his 30-year history as a libel bully who sends empty threats to journalists and sometimes sues them, only to lose his libel cases in court. The Trump transition team and a law firm launched the attack by issuing a public retraction demand to CNN over its supposedly “false” report about Sen. Tom Price’s (R-Ga.) controversial stock purchases, a first step toward filing a defamation lawsuit. But the retraction demand ended up confirming the key facts in the CNN report. And the law firm — the global firm Dentons — quickly withdrew its letter after realizing that CNN is a client and threatening its own client presented a conflict. In another signal that Trump will continue his bullying ways, it was revealed this week that Michael Cohen, Trump’s aggressive personal lawyer, will continue to work for Trump in a private capacity. Cohen is known for threatening a Daily Beast reporter in 2015 by saying, “I’m warning you, tread very fucking lightly, because what I’m going to do to you is going to be fucking disgusting. You understand me?” A look at Trump’s past libel lawsuits and other suits against the media provides a preview of what is to come with President Trump and his administration. Trump and his companies have filed seven libel lawsuits against journalists and critics over the past 30 years – without winning a single one filed in a public court.

#### 2. Gorsuch will be nom. No filibuster, and Dems won’t fight

**Guskin 2/10**/17 – Washington Post (Emily, “There’s a very simple reason Democrats probably won’t filibuster Supreme Court nominee Gorsuch: Polls”, http://www.denverpost.com/2017/02/10/neil-gorsuch-supreme-court-polls/)

WASHINGTON – President Donald Trump’s Supreme Court nominee Neil Gorsuch will likely be confirmed to the high court since Republicans control the Senate and Democrats may want to hold their powder until the next court opening. But Americans’ initial positive reactions to his nomination are another reason for Gorsuch — and Trump — to be optimistic about his confirmation chances. In several polls conducted this month, Gorsuch received net positive ratings for his approval. He had a +13 point net approval rating among Americans in a Gallup poll, the same as in a CNN/ORC poll and a CBS News poll. In a Quinnipiac poll, Gorsuch received a +20 point net approval of his confirmation among registered voters. Approval of Gorsuch’s pick clearly outpaces Trump’s popularity overall, which continues to languish in negative territory in most national polls. Gorsuch’s ratings are slightly weaker, however, than Merrick Garland’s marks were in polls last year. Garland had a +23 point net approval among the general public in a Gallup poll and +19 from CNN, while Quinnipiac had Garland at a similar +21 among voters. Looking back at previous nominees, Gorsuch’s ratings are slightly lower than other Supreme Court nominees before him. Elana Kagan’s ratings in 2010 were remarkably similar to Gorsuch’s now: a +18 positive margin in Quinnipiac and CNN along with a +14 in Gallup. In May 2009, Sonia Sotomayor enjoyed higher +26 and +30 ratings from Gallup and Quinnipiac, respectively. And Samuel Alito saw a similar positive of +14 in Quinnipiac and a stronger +25 in Gallup in 2005. Gallup found even more positive ratings for John Roberts in 2005 (+37), Ruth Bader Ginsberg in 1993 (+39) and Clarence Thomas in 1991 (+35).

#### The hearing is too far away for the plan to be relevant and Gorsuch passes anyway. Min Kim 2-16

SEUNG MIN KIM, 2-16-17, "Gorsuch confirmation hearing set for March 20," POLITICO, <http://www.politico.com/story/2017/02/gorsuch-confirmation-hearing-set-for-march-20-235084> VC

Supreme Court nominee Neil Gorsuch's confirmation hearing before the Senate Judiciary Committee has been scheduled for March 20. The hearing for President Donald Trump’s most high-profile and consequential nominee this year is expected to last three to four days. Opening statements from senators on the committee and Gorsuch will be on March 20, and questioning of the 10th U.S. Circuit Court of Appeals judge will be held on March 21. Senators will also hear testimony from outside experts. “Judge Gorsuch has met every demand placed on him by the minority,” committee Chairman Chuck Grassley (R-Iowa) said in a statement announcing the hearings. “He’s a mainstream judge. He’s displayed independence. He’s met with dozens of senators who have nothing but positive things to say. He is well-qualified and respected. He worked diligently to return the bipartisan questionnaire. It’s time for him to have the opportunity to speak for himself before the Judiciary Committee.” Gorsuch has been making the rounds on Capitol Hill as he courts senators, particularly Democrats whose support he would need to win confirmation to fill the seat of deceased Justice Antonin Scalia. The judge has met with roughly 50 senators so far, and he has a full slate of sit-downs on Thursday, including Washington Sen. Patty Murray, a member of Democratic leadership; Sen. John McCain (R-Ariz.); and two Senate Democrats up for reelection in swing states next year, Tammy Baldwin of Wisconsin and Bob Casey of Pennsylvania. The Judiciary Committee said the confirmation timeline for Gorsuch is similar to that for now-Justices Sonia Sotomayor and Elena Kagan by a Democratic-controlled Senate for President Barack Obama. Gorsuch’s hearing is scheduled 48 days after he was nominated by Trump — the same timeline for Sotomayor. Kagan had her hearing 49 days after she was unveiled as the nominee.

#### 3. No impact to Gorsuch – he’s unpredictable and no one knows what he’s gonna do. Kindy et al 2-18

Kimberly Kindy, Sari Horwitz, William Wan, 2-18-2017, "Simply stated, Supreme Court nominee Neil Gorsuch is steadfast and surprising," chicagotribune, <http://www.chicagotribune.com/news/nationworld/politics/ct-supreme-court-nominee-neil-gorsuch-20170218-story.html> VC

By contrast, Gorsuch has been aggressively vetted for the court by conservative groups such as the Heritage Foundation, and they have backed him enthusiastically. These groups even scrutinized his attendance at St. John's Episcopal Church - which draws from the largely liberal population in Boulder, Colo., calls itself a largely liberal congregation and advertised on its website for the Women's March in Washington last month - and concluded it was not a strike against him. For their part, the church's leaders alluded in a recent newsletter and Sunday sermon to the political divide between most of its parishioners and Gorsuch. But they added that Gorsuch's views are not as narrow or predictable as some might think - or fear.

### Impact Turn

#### Gorsuch is good – he doesn’t defer to executive branch and is comparatively better. Bako 2/1

“In Gorsuch, Trump gave Democrats a gift. They should take it.” Washington Post, Radley Bako 2/1/17.

The Good: As far as I’m concerned, the most important thing to look for in a Supreme Court justice right now is a willingness to stand up to executive power. For at least the next four years (in all likelihood), the White House will be occupied by a narcissist with a proclivity for authoritarianism. We aren’t yet two weeks in to Trump’s administration, and we’re already barreling toward one or more constitutional crises. Oddly and perhaps in spite of himself, of the three names said to be on Trump’s shortlist (Gorsuch, Thomas Hardiman and William Pryor), Gorsuch appears to be the most independent and has shown the most willingness to stand up to the executive branch. Here’s President Obama’s acting solicitor general, Neal Katyal, in the New York Times today:¶ In particular, he has written opinions vigorously defending the paramount duty of the courts to say what the law is, without deferring to the executive branch’s interpretations of federal statutes, including our immigration laws.¶ In a pair of immigration cases, De Niz Robles v. Lynch and Gutierrez-Brizuela v. Lynch, Judge Gorsuch ruled against attempts by the government to retroactively interpret the law to disfavor immigrants. In a separate opinion in Gutierrez-Brizuela, he criticized the legal doctrine that federal courts must often defer to the executive branch’s interpretations of federal law, warning that such deference threatens the separation of powers designed by the framers.¶ A proven record of standing up to the executive branch when it oversteps its authority on immigration — that seems pretty important and relevant right now. Katyal’s passage above also references the Chevron deference, a doctrine under which the courts defer to regulatory agencies’ interpretations of law unless those interpretations are unreasonable. Gorsuch has been critical of the doctrine. As a libertarian, I think that’s generally a good thing. The deference is premised on the notion that the executive is more subject to democratic checks — if we don’t like the policies of one president, we can vote in a new one. But the non-political positions within regulatory agencies can still wield a lot of power, and the courts ought to serve as a check on them. Progressives who might be troubled by Gorsuch’s skepticism of deference to regulatory agencies should keep in mind that we’re now in the Trump era. Not only will Trump be staffing those agencies and setting policy for them, but also he’s more likely than any recent president to staff them with appointees with little respect for previous norms. Recall that during the transition, Trump’s team rather forebodingly asked agencies for lists of careerists who work on hot-button issues, such as climate change. Moreover, while progressives may be worried by what Gorsuch’s skepticism of the Chevron deference means for the Environmental Protection Agency or the Food and Drug Administration, his record shows that of a judge willing to apply it to an agency like the Department of Homeland Security. Again, that’s important right now.¶ [Gorsuch’s judicial philosophy is like Scalia’s — with one big difference]¶ His skepticism of executive branch power extends even to third-rail criminal-justice issues such as sex crimes. From CNN’s write-up of Gorsuch’s key rulings:¶ In this [United States v. Nichols], in a dissent from the full 10th Circuit’s refusal to rehear a three-judge ruling with which he disagreed, Gorsuch strongly objected to how much regulatory power a federal statute — the Sex Offender Registration and Notification Act (SORNA) — gave to the Justice Department to apply its rules to those guilty of sex crimes predating the act’s enactment.¶ In his words, “the framers of the Constitution thought the compartmentalization of legislative power not just a tool of good government or necessary to protect the authority of Congress from encroachment by the Executive but essential to the preservation of the people’s liberty …”¶ On the Fourth Amendment, Gorsuch’s record is also encouraging, particularly for a nominee from a president with Trump’s blustery law-and-order rhetoric. Despite his reputation, Scalia was often very good on the Fourth Amendment. Gorsuch’s limited record at least suggests that he’d continue in that vein. In United States v. Carlos, he wrote a dissent to a majority opinion holding that police did not violate a suspect’s Fourth Amendment rights by approaching and knocking on his door despite several “No Trespassing” signs prominently posted on the property. Reason’s Damon Root writes of Gorsuch’s opinions in these instances:¶ Gorsuch demonstrated admirable and reassuring judgment in these cases. Not only did he cast a principled vote against overreaching law enforcement, he cast a principled vote against the overreaching executive branch. It’s not difficult to imagine Gorsuch imposing the same severe judicial scrutiny against the misdeeds of the Trump administration.¶ In United States v. Ackerman, Gorsuch argued that when the National Center for Missing & Exploited Children searched a man’s laptop, it was acting as a government agent. Even though the search turned up child pornography, Gorsuch found the search unconstitutional.¶ Gorsuch is perhaps most known for his decision in the Hobby Lobby case, in which he wrote a strong opinion denouncing the birth-control mandate in the Affordable Care Act. Whether you think that’s a plus or a minus obviously depends on whether you prioritize reproductive rights or religious freedom. But even if you’re bothered by his opinion in that case, Gorsuch’s championing of religious freedom does at least seem to be careful and principled, and not partisan toward Christianity. In Yellowbear v. Lampert, a majority of his fellow appeals court judges ruled that a federal statute required the state of Wyoming to grant a Native American prisoner access to a sweat lodge on prison grounds. Gorsuch went farther, arguing that even prisoners still retain a right to practice their religion.¶ [No, obstruction of Neil Gorsuch is not about Merrick Garland]¶ Gorsuch is a critic of “overcriminalization,” or the massive and growing federal criminal and regulatory codes. I think that’s a good thing. The Volokh Conspiracy’s Ilya Somin points out that he has history of ruling that criminal laws should be read narrowly, with ambiguities resolved in favor of defendants. That, too, is a good thing.¶ I was also struck by Gorsuch’s acceptance speech. It was noticeably un-Trumpian. He was humble, reverent of institutions and deferential to the office for which he had just been nominated. Unlike the man who nominated him, he came off as someone devoted to the law, not someone who believes he is above it.

## A2 ACA PTX

#### 1. Turn: Trump lacks leverage with Congress and exacerbates divisions rather than uniting coalitions. Reynolds 4/28

Congress just dodged a government shutdown. Here’s what comes next, Washington Post, 4/28/17. Molly E. Reynolds is a fellow in governance studies at the Brookings Institution.

Another challenge for the current congressional GOP involves President Trump himself. Presidents do have some ability to set the agenda, and in this case Trump helped establish the terms of debate with his March proposal for an increase in defense spending, a cut in non-defense spending, and explicit funding for the border wall.¶ However, Trump’s persuasive power appears limited. This power is greater when the president is popular, and Trump’s approval ratings are obviously at historic lows for an early term president. So Trump lacks leverage with members of Congress and cannot necessarily provide political cover for members as he seeks to get them to cast difficult votes.¶ Presidents also face this dilemma: taking a public position on an issue can worsen existing disagreements between the parties. Trump’s hard line on the subsidy payments under Obamacare — threatening to stop making them unless Congress acts while simultaneously accusing Democrats of threatening to shut down the government over them — illustrates this dynamic well. While the debate over the payments had been one of many ongoing points of conflict on the final bill between the parties in Congress, Trump’s pronouncements helped elevate its profile as a potential stumbling block.¶ While Congress managed, for now, to escape the worst possible outcome, spending bills remain one of the institution’s few “must pass” items each year. The next set of bills won’t necessarily be easier, with questions about whether to relax the limits on discretionary spending put in place in 2011 and Trump’s first full set of budget requests on the horizon. Republicans’ intraparty divisions, Democrats’ attempts to exercise influence where they can, and a polarizing president likely mean a long summer (and fall?) of fiscal fights ahead.

#### 2. ACA repeal updates is a zero sum game – it’s lost moderate support and the Senate blocks it regardless. UQ overwhelms the link. Sullivan and Hellmann 4/28

“ObamaCare repeal: GOP seeks new game plan,” TER SULLIVAN AND JESSIE HELLMANN - 04/28/17 05:55 PM EDT, The Hill.

GOP lawmakers are expressing hope that a vote on legislation to repeal and replace ObamaCare can be held as soon as next week despite a severe divide in the conference that thwarted the White House's hopes of holding a vote within President Trump’s first 100 days in office.¶ GOP leaders say they won’t call a vote until the new legislation has enough support to pass, and that new version appears to have lost the votes of centrists as it has gained endorsement from conservatives.¶ Some lawmakers are also discussing changes to the bill to help bring moderates on board. ¶ How to balance the demands of the two groups is a difficult task, and no one has found the right formula yet. ¶ Rep. Charlie Dent (R-Pa.), co-chairman of the moderate Tuesday Group, said “it’d be hard” to design a bill that both he and the Freedom Caucus could support.¶ Dent also offered stark criticisms of the latest bill, which he saw as an “exercise in blame-shifting” to make centrists appear responsible for the failure to Trump instead of conservatives.¶ “I’m not aware of any members of the Tuesday Group who were a ‘no’ and became a ‘yes’ because of it,” he said.¶ “I suspect there were some who were maybe inclined to move in the other direction, either to undecided or a no. So, they didn’t pick up anybody from our group.”¶ Dent also raised a concern held by many moderate House Republicans that a vote to get the bill out of their chamber would be fruitless. Even if it passed it the House, he said, it would be blocked in the Senate.

#### 3. The missing I/L in their scenario is The Senate – landmines from moderates block ACA regardless of House caucuses. Connole 4/28

House Republicans Still Looking for Votes to Pass ACA Repeal and Replace, Patrick Connole, 4/28/17, The Provider.

Matthew Fielder, a fellow at the Brookings Institution, this week published new analysis that said the McArthur Amendment, named after Rep. Tom McArthur (R-N.J.), would charge sick people much more for coverage and deplete the insurance risk pool of healthy people.¶ ¶ “The framework created by the waiver would allow states to effectively eliminate community rating protections for all people seeking individual market coverage, including people who had maintained continuous coverage,” he said.¶ ¶ The intent of the amendment is to drive down the cost of health insurance, a priority for conservatives, despite objections by many moderate Republicans in the Tuesday Group who will not vote for a weakening of the pre-existing condition language in the ACA.¶ ¶ Democrats remain en bloc against the Ryan bill, the other name for the ACA repeal and replace effort, declaring it an attempt to gut health coverage for millions of Americans and leave many who remain covered with “skinny” health plans that lack the essential health benefits prescribed by the ACA. ¶ ¶ Experts watching the developments tell Provider there is no certainty the continuing struggle among conservative and moderate factions of the majority party will end any time soon, and certainly Republicans missed the chance to pass a bill during the first 100 days of the Trump administration, which ends April 29.¶ ¶ “They can have a fine bill, if they just did not need 216 votes [the number of lawmakers needed to pass a bill in the House],” joked Tom Miller, resident fellow at the American Enterprise Institute, who said it is clear Republicans want to avoid a repeat of March 24 when Ryan had to pull repeal and replace legislation for lack of support from within his own party.¶ ¶ Miller said the clock continues to tick on health care, and even if the House were to get something approved in the next week or two, there are “landmines” waiting in the Senate. There, moderates will likely want to scrap the most conservative elements of a House bill and revisit the bill’s revamp of the Medicaid funding system, which the Ryan bill would move to a per capita cap and block grant mechanism from the current open-ended funding approach in the federal-state program.

#### 4. No possible scenario for passage: popular support for ACA thumps – Rs don’t want it repealed bc their districts like it and the bill negligibly affects ACA. York 4/27

Byron York: Why can't House repeal Obamacare? Because a lot of Republicans don't want to, Byron York, Washington Examiner, 4/27/17.

By this time, it's becoming increasingly clear that Republicans have not repealed Obamacare because a lot of Republicans do not want to repeal Obamacare.¶ They don't even want to sorta repeal Obamacare. The bill currently on the table, like the bill pulled in March, falls far short of a full repeal of Obamacare. And yet Republicans still cannot agree on it.¶ About a week after the first Obamacare repeal failure, a House Republican, speaking privately, said the difficulty in passing the bill was not a parliamentary problem involving the complexities of the Senate and reconciliation. No, the lawmaker said, "It is a problem that we have members in the Republican conference that do not want Obamacare repealed, because of their district. That's the fundamental thing that we're seeing here."¶ "I thought we campaigned on repealing it," the lawmaker continued. "Now that it's our turn, I'm finding there's about 50 people who really don't want to repeal Obamacare. They want to keep it."¶ Other conservatives are saying similar things. In an email exchange Thursday afternoon, I asked one member where the latest bill stood. "We absolutely do not have the votes to repeal it," he answered. "The fact that some members are balking at even allowing states to waive out of some of Obamacare regulations is proof positive. We've gone from 'repeal it root-and-branch' to 'Mother-may-I opt out of some of Obamacare' — and we still are having trouble getting the votes."¶ In a phone conversation Thursday afternoon, another Republican, Rep. Steve King, quibbled a bit with the number of House Republicans who don't want to repeal Obamacare — he would put it in the 40s — but felt certain there are lots of Republicans who don't want to repeal. "If you don't want to get rid of federal mandates to health insurance, then it's pretty clear you don't want to get rid of Obamacare," King said.¶ "Whatever we come out with, it will say to the American people that a full repeal of Obamacare is no longer in the cards," King added.¶ Yet another Republican member, in an email exchange, estimated that there are 25 to 30 House Republicans "who don't want to be forced to make the repeal vote." Even that lower number would be enough to sink a repeal measure.¶ Other GOP lawmakers are openly conceding that whatever the House does — if it does anything — it won't actually repeal Obamacare. Large parts of Barack Obama's legacy legislation will remain standing, a fact that more Republicans are admitting as time goes by.¶ "It's not full repeal. I will be honest, it's not," Rep. Jim Jordan told Fox News on Wednesday. "But it's as good as we think we can get right now."¶ "We've given up on trying to get this bill repealed, basically," Rep. Louie Gohmert told Fox Business on Tuesday. "But we've been demanding at least let's repeal some of the provisions that we know will bring down rates."¶ Some Republicans remain optimistic, but in a much longer-term sense. "The process of removing a 2,300-page law with 20,000 pages of rules can't be done in one vote," says the member who estimated that 25 to 30 Republicans don't want to vote for repeal. "The process will take two years."¶ The Republican-controlled House and Senate both voted to repeal Obamacare in January 2016. In the House, 239 Republicans voted for repeal, while three voted against it and four did not vote. President Obama, of course, vetoed the bill.¶ Now, with a president who would sign an Obamacare repeal, there's no way Republicans could get as many votes as last year.¶ "A pure repeal would get less than 200 votes," said the second member quoted above. "It really is one of the biggest political shams in history — many of these members would not have been elected without promising repeal, and now they are wilting. Some are even complaining that [the Rep. Tom MacArthur amendment] pushes the bill too far right — even though is it far short of a full repeal."¶ When repeal first failed last month, a number of commentators blamed the conservative House Freedom Caucus. In the days since, caucus members have made the case, convincingly, that they have shown an enormous amount of flexibility in trying to reach agreement with the Tuesday Group, made up of House GOP centrists.¶ Now, the centrists — a number of Republicans refer to them as "the mods," for moderates — appear to be moving the goalposts, even as the conservatives offer concessions. Conservatives suspect the centrists were perfectly happy for conservatives to take the blame for killing the first bill, but now are showing their true colors by rejecting compromise on the second version. Whatever the circumstances, they don't want to vote to repeal Obamacare.¶ The reason is fear. When the lawmaker said colleagues don't want repeal "because of their district," that was another way of saying the members are all representatives, and the voters they represent don't want repeal. From The Hill on Thursday afternoon: "Many vulnerable Republicans are running scared. One moderate Republican was overheard in a House cafeteria this week telling an aide: 'If I vote for this healthcare bill, it will be the end of my career.'"¶ Whichever faction inside the Republican Party is to blame, it could well be that the conservatives' numbers are basically right: There are a lot of Republicans, say 40 to 50, who don't want to repeal Obamacare. Given unanimous Democratic opposition, that means that there are somewhere around 190, or maybe 195, House members who actually want to repeal Obamacare. That will never get the job done. Even a lower estimate, of 25 to 30 members who don't want repeal, would make success impossible. And if that is the case, the question is, why are Republicans trying?

### Old

#### No chance it passes- if Trump appeases moderate republicans the freedom caucus jumps ship and vice-versa

Julie Hirschfeld **Davis**, Robert **Pear and** Thomas **Kaplan 3-23**-2017 (Julie Hirschfeld Davis, Robert Pear and Thomas Kaplan, "House Vote to Repeal Affordable Care Act Is Postponed, Despite Trump’s Effort," New York Times, https://www.nytimes.com/2017/03/23/us/politics/health-republicans-vote.html)//RTF

WASHINGTON — House Republican leaders postponed a planned vote Thursday in the full House on legislation to repeal the Affordable Care Act as President Trump and his allies struggled to round up votes amid a tide of defections from the proposed replacement bill. House Speaker Paul D. Ryan was to address reporters Thursday afternoon, but that too was put off amid signs that legislation — years in the making — to eliminate President Barack Obama’s signature domestic achievement was in deep trouble. President Trump had agreed to many of the demands that the most conservative House Republicans had made, including ending requirements that health insurance plans provide a basic set of benefits like maternity care, emergency services, mental health and wellness visits. Sean Spicer, the White House press secretary, announced the change after a late-morning negotiating session that Mr. Trump held at the White House with the Freedom Caucus, the conservative coalition that has strongly disagreed with the measure. But it was not enough to lock down the group’s votes. Meantime, more centrist House Republicans were peeling away from the bill. The White House had resisted addressing the regulations as part of the bill set for a House vote on Thursday, arguing that doing so could imperil the bill’s chances in the Senate, but with Republicans revolting against the measure, the concession was a last-ditch effort to win a majority. “We walked out with more members in support of the American Health Care Act than we started the day with,” Mr. Spicer told reporters. “I anticipate that we will get there.” After all the negotiations, passage seemed, if anything, farther away. Some rank-and-file members balked at the removal of coverage and benefits their constituents depend on. The president scheduled a late-afternoon meeting at the White House with members of the centrist Tuesday Group. “We’re certainly trying to get to ‘yes,’” said Representative Mark Meadows, Republican of North Carolina and the chairman of the House Freedom Caucus. “We’ve made very reasonable requests and we’re hopeful that those reasonable requests will be listened to and ultimately agreed to.” As Mr. Trump pressed to persuade conservatives to support the measure, the changes he has incorporated have alienated some other Republicans who were already nervous about the bill. Those lawmakers have the potential to cost the bill vital support in the Senate. “There’s a little bit of a balancing act,” Mr. Spicer conceded. But he defended the removal of the so-called “essential health benefits” regulations, saying it would accomplish Mr. Trump’s stated goal of reducing health care costs. “Part of the reason that premiums have spiked out of control is because under Obamacare, there were these mandated services that had to be included,” he said. President Trump appealed to his supporters to weigh in, assuring them, “Go with our plan. It’s going to be terrific.” But the prospect of a vote on Thursday on a newly revised bill exposed Republicans to criticism that they were moving recklessly in a desperate bid to get their plan passed. Representative Jim McGovern, Democrat of Massachusetts, pleaded with Republicans to slow down. “This health care repeal affects millions upon millions upon millions of Americans,” he said. “Don’t jam a disastrous bill through the House with patched-up fixes.” And the changes could prove to be illusory. Under the strict budget rules being used to advance the bill, changes to the Affordable Care Act must have an impact on the federal deficit — positively or negatively. Regulatory measures that have an effect on private health policies would most likely be challenged by Senate Democrats. If the Senate parliamentarian rules in the Democrats’ favor, those hard-fought changes in the House would be stripped from the bill. The emerging power of the Freedom Caucus, a group that has been historically marginalized in policy-making but a thorn in the side of leadership, is one of the surprises of the rushed health care debate. The Freedom Caucus has been empowered by the addition of one of their own, former Representative Mick Mulvaney, to the senior White House staff as budget director, and Mr. Trump’s disengagement from policy details coupled with his intense desire to score a win after a rocky start to his presidency. Mr. Trump, Vice President Mike Pence and the House speaker, Paul D. Ryan of Wisconsin, worked on Wednesday to placate conservative House Republicans who said that the bill did not do enough to reduce health insurance costs by cutting federal regulations. The legislation would roll back major provisions of the Affordable Care Act, a pillar of President Barack Obama’s legacy. But in trying to satisfy conservatives, the Trump administration and House Republican leaders risked jeopardizing support for the bill among more moderate Republicans. Mr. Obama stepped into the fray on Thursday with a lengthy defense of his signature domestic achievement — and a call for bipartisan improvements. “I’ve always said we should build on this law, just as Americans of both parties worked to improve Social Security, Medicare, and Medicaid over the years,” he wrote in a mass email to followers on the seventh anniversary of signing the measure into law. “So if Republicans are serious about lowering costs while expanding coverage to those who need it, and if they’re prepared to work with Democrats and objective evaluators in finding solutions that accomplish those goals — that’s something we all should welcome. But we should start from the baseline that any changes will make our health care system better, not worse for hard-working Americans.” As the crucial vote approached, party leaders appeared to be short of a majority, as moderate Republicans continued to move away from the bill. Representative Jaime Herrera Beutler, Republican of Washington state, said Thursday that she would oppose the bill. “We can do better than the current House replacement plan,” she said. And late Wednesday night, Representative Charlie Dent, Republican of Pennsylvania and a leader of the moderate bloc of lawmakers known as the Tuesday Group, said that he would oppose the bill. “I believe this bill, in its current form, will lead to the loss of coverage and make insurance unaffordable for too many Americans, particularly for low- to moderate-income and older individuals,” Mr. Dent said. He added that he hoped that the House could “step back from this vote and arbitrary deadline to focus on getting health care reform done right.” Conservatives were still trying to win changes to make the bill more palatable to them. But the fight over the essential health benefits mandated by the Affordable Care Act has become a serious dividing line. The Affordable Care Act requires insurers to provide “essential health benefits” in 10 broad categories, including maternity care, mental health care and addiction treatment, preventive services, emergency services and rehabilitative services. Family planning groups and advocates for women’s rights criticized Republican plans to roll back these requirements. “Paul Ryan and his House members are willing to sell out the moms of America to pass this bill,” said Dawn Laguens, an executive vice president of the Planned Parenthood Federation of America. Conservatives say the mandates, as interpreted in rules issued by the Obama administration, add to the costs of health insurance and make it difficult for insurers to offer lower-cost options tailored to the needs of consumers. Seema Verma, the new administrator of the Centers for Medicare and Medicaid Services, has suggested that coverage of maternity care should be optional, not required, as it is now under the Affordable Care Act. In response to a question at her Senate confirmation hearing last month, Ms. Verma said: “Some women might want maternity coverage and some women might not want it, might not choose it, might not feel like they need that. So I think it’s up to women to make the decision that works best for them and their families.” Democrats say that the purpose of insurance is to share risk and that, without federal requirements, insurers would once again offer bare-bones policies. Before the Affordable Care Act took effect, maternity coverage was frequently offered as an optional benefit, or rider, for a hefty additional premium. Dr. Rebecca B. Parker, president of the American College of Emergency Physicians, said she was alarmed at the possibility that the requirement for essential health benefits might be eliminated. Without coverage of such services, she said, some patients might be afraid to seek care in an emergency. “We don’t want people clutching their chest and wondering if they should come to the emergency room,” Dr. Parker said. The tenacity and persistence of the conservatives appeared to give them outsize influence as Mr. Ryan struggled to round up votes for the repeal bill, which faces solid opposition from House Democrats. Supporters of their bill have put their faith in Mr. Trump, whose young presidency could be badly damaged by a public and consequential loss. “When the president calls someone and says, ‘I need your vote on this,’ it’s very hard to say no to the president of the United States when this torpedoes our entire conference, Trump’s entire presidency, and we end up losing the Senate next year and we lose members in the House,” said Representative Chris Collins, Republican of New York and a top Trump supporter in the House. A spokeswoman for the Freedom Caucus, Alyssa Farah, said Wednesday that more than 25 members of the caucus were considered “no” votes on the health care measure — enough to sink the bill in the House, though that count could not be independently verified. Representative Andy Harris, Republican of Maryland, said that despite recent changes to the health care bill, he was unable to vote for it. “This legislation simply won’t lower premiums as much as the American people need, and lowering the cost of coverage is my primary goal,” said Mr. Harris, an anesthesiologist and Freedom Caucus member.

Won’t pass – negotiations failing and appeasing the far right means centrists jump ship Ben **Kamisar 3-23**-2017 (Ben Kamisar, "GOP lawmakers leave Trump White House with no deal," TheHill, http://thehill.com/policy/healthcare/325456-gop-lawmakers-leave-trump-white-house-with-no-deal)//RTF GOP lawmakers leaving the White House after a meeting with President Trump said they have not reached a deal that would allow them to support an ObamaCare repeal-and-replace bill set for a vote Thursday. Republicans appear short of the 215 votes they'd need to win the tally, leading several lawmakers to predict that the vote will have to be delayed until Friday. The members streaming out of the White House just after 1 p.m. characterized the meeting positively but showed no signs of a shift toward more favorable ground for the White House. “Nothing new was agreed upon,” said Rep. Paul Gosar (R-Ariz.) He added the group will “go back and consider our options.” Freedom Caucus Chairman Rep. Mark Meadows (R-N.C.) said Thursday afternoon as he left a Freedom Caucus meeting that there is no deal yet but the group will "stay as long as it takes to get this done." "The president will get a victory," he added. Meadows said he is still a no but is "desperately trying to get to yes." He said he is in talks with the moderate Tuesday Group, as well. He cautioned that his group needs more time to read and understand sections of the bill, and said he did not know when a vote will be. Rep. Joe Barton (R-Texas) said leaving the meeting Thursday afternoon that the White House offered a repeal of essential health benefits at a meeting earlier in the day, calling the move "very substantive." However, other Freedom Caucus members said that is not enough and more regulations need to be repealed to bring down premiums. Republicans need 215 votes to win passage, meaning they can afford 22 defections. A whip list kept by The Hill shows that five dozen members are either planning to vote no, leaning against the bill or uncertain of how they vote. A full 30 members on that list are no votes. South Carolina Rep. Jeff Duncan told The Hill that Trump, who joined them in the meeting, didn't make an explicit ask. “He was very gracious, he laid out his points but no firm decision has been made by those in the room,” Duncan said. “And he didn't ask us, he didn't get on the table and ask us for that. He asked us to seriously consider the position we are in.” The White House released a readout just before 2 p.m. that lauded the meeting as “productive” and a “positive step” but offering little information about the specifics discussed. While Arizona Rep. Trent Franks would not reveal his position, he said that nothing in the meeting changed his mind. He instead praised House leadership and the White House for handling what he views as a difficult situation, lamenting the position the party faces as criticism mounts over the Republican plan for a repeal and a replacement. “One tragedy of all of this is that ObamaCare was put into place by all Democrats and now Republicans, in trying our best to alleviate the tragedy and save the country are going to have to take a lot of the punishment,” he said. Conservatives have been asking the White House to make changes to the bill, including ending the mandate that insurers cover “essential health benefits” that they argue raise premium rates. But changing the bill to meet demands from the right has caused some centrists to announce that they will oppose the legislation. Centrists have raised questions about whether their constituents would be better off with ObamaCare than the GOP replacement bill. A Quinnipiac Poll released Thursday found only 17 percent backed the GOP plan, compared to 56 percent of voters who oppose it. Trump plans to continue his healthcare pitch Thursday afternoon with a White House sit-down with members of the moderate House GOP Tuesday Group, according to press secretary Sean Spicer. The spokesman said the president has been on the phone with “scores of Republican members" late Wednesday night and into Thursday.

#### Trump’s done spending PC

Scott **Wong 3-23**-2017 (Scott Wong, "Trump threatens to leave ObamaCare in place if repeal bill fails," TheHill, <http://thehill.com/policy/healthcare/325568-trump-tells-gop-to-take-it-or-leave-it-on-obamacare-repeal>, note- if this stops being a developing story or the substance of the card changes, please tell me – currently 8:13PM on Thursday)//RTF

President Trump warned House Republicans on Thursday that he will leave ObamaCare in place unless they approve legislation to repeal and replace it. Trump officials meeting with the House GOP conference said Trump is done negotiating over the legislation, which was set to come up for a vote Thursday but was delayed. Budget Director Mick Mulvaney, a former member of the House Freedom Caucus that has been negotiating with Trump, told the GOP conference that Trump wants a vote on Friday during a dramatic closed-door meeting, according to a GOP source in the room. If the vote fails, Trump will move on to other priorities and ObamaCare will stay as the law of the land, Mulvaney said. Rep. Chris Collins (R-N.Y.) confirmed the Trump administration's message after the meeting. Trump is done negotiating, he said. "We have to have a vote tomorrow. He expects it to pass, but he's moving on if for some reason it didn't," Collins said. The developments set up a likely vote on the measure Friday afternoon. Dozens of Republicans have vowed to oppose the bill, putting them into a direct confrontation with their president. With all of the House's Democrats expected to vote against the bill, the GOP can only afford 22 defections.

#### No offense- GOP bill doesn’t “fix” Obamacare

Haislaimer, Senior fellow @Heritage, 3-7-17

(Ed, http://www.heritage.org/health-care-reform/commentary/house-republican-health-care-bill-misses-the-mark)

The key problem with the draft House health care bill is that it fails to correct the features of Obamacare that drove up health insurance costs. Instead, it mainly tweaks Obamacare’s financing and subsidy structure. Basically, the bill focuses on protecting those who gained subsidized coverage through the law’s exchange subsidies and Medicaid expansion, while failing to correct Obamacare’s misguided insurance regulations that drove up premiums for Americans buying coverage without

## A2 Wall PTX

#### Healthcare and Gorsuch thump the budget – no shutdown anyways because Republicans will negotiate

**Carney 3/17** (Jordain, Shutdown politics return to the Senate, 3/16/17, The Hill, <https://origin-nyi.thehill.com/homenews/senate/324395-shutdown-politics-return-to-the-senate>) PA

Debates over repealing and replacing ObamaCare and Judge Neil Gorsuch’s Supreme Court nomination are expected to dominate much of the Senate’s work heading into early April. Then, senators are expected to be out of town for two weeks and return to Washington five days before the funding deadline. Republicans are tamping down speculation of a potential government shutdown next month, noting Democrats howled for years after the 2013 shutdown. “I'm amused by the Democrats apparently warming up to the idea that threatening to shut down the government is a good idea. It seems to me everybody's got kind of memory loss on the other side,” McConnell told reporters. The government shut down for 16 days in 2013 after conservatives demanded that the spending bill cut off federal funding for Planned Parenthood and stop the implementation of ObamaCare. McConnell stressed that Democrats would be part of the negotiations over the funding bill. “They will have an opportunity to ball it up, once again,” he said. “I've been hoping the fever's going to break here at some point and we'll get into an operational mode. ... We haven't seen much of that so far.” McConnell has repeatedly accused Democrats of suffering from a "fever" since the 2016 elections, which he argues is leading them to oppose almost anything partly in an attempt to satisfy their liberal base. Republicans will likely get help pressuring Democrats to come to the negotiating table. After top Democrats sent their letter to McConnell, The Washington Examiner floated nicknaming the Senate’s top Democrat “Shutdown Schumer.”

#### Wall won’t pass – Dems are unified in opposition

**Golshan 3/15** (Tara, 3/15/17, Senate Democrats are threatening a government shutdown over Trump’s border wall, Vox, <http://www.vox.com/policy-and-politics/2017/3/15/14937546/senate-democrats-government-shutdown-wall>) PA

Republicans have been warned: Any attempt to fund the southern border wall could lead to a government shutdown fight in Congress. Democrats may not have control of the House or the Senate, but when it comes to appropriating funds for the border wall, they have leverage. Congress needs to pass the appropriations bills by April 28 to keep the government open. Democrats can block the Department of Homeland Security funding in a filibuster. A delay that lasts beyond April 28 will lead to a shutdown of the department. On Wednesday, one senior GOP congressional aide told Politico a shutdown fight “looks like it probably is going to happen." The White House is expected to ask Congress for supplemental funding on Thursday to begin construction on the border wall between the US and Mexico. Reportedly, the supplemental budget request will only be for a fraction of the estimated price tag, which ranges anywhere from $13 billion to $21 billion. Minority Leader Sen. Chuck Schumer (D-NY) and fellow Senate leaders told Republicans that any attempt to pass funding for the border wall in the 2017 appropriations bill would be met with unified Democratic resistance. “We believe it would be inappropriate to insist on the inclusion of such funding in a must-pass appropriations bill that is needed for the Republican majority in control of the Congress to avert a government shutdown so early in President Trump’s Administration,” the Senate Democratic leadership team wrote in a letter addressed to Senate Majority Leader Mitch McConnell on March 13. Unlike the American Health Care Act and President Trump’s Cabinet confirmations, which only needed a simple majority of 51 votes, Republican senators will need 60 votes to end debate on the appropriations bill and get it passed — which means they need to get their party in line and eight Democrats on their side. Schumer says that’s not going to happen. Even some Republicans have suggested they might defect.

## A2 Budget PTX

#### 1. Turn: Trump lacks leverage with Congress and exacerbates divisions rather than uniting coalitions. Reynolds 4/28

Congress just dodged a government shutdown. Here’s what comes next, Washington Post, 4/28/17. Molly E. Reynolds is a fellow in governance studies at the Brookings Institution.

Another challenge for the current congressional GOP involves President Trump himself. Presidents do have some ability to set the agenda, and in this case Trump helped establish the terms of debate with his March proposal for an increase in defense spending, a cut in non-defense spending, and explicit funding for the border wall.¶ However, Trump’s persuasive power appears limited. This power is greater when the president is popular, and Trump’s approval ratings are obviously at historic lows for an early term president. So Trump lacks leverage with members of Congress and cannot necessarily provide political cover for members as he seeks to get them to cast difficult votes.¶ Presidents also face this dilemma: taking a public position on an issue can worsen existing disagreements between the parties. Trump’s hard line on the subsidy payments under Obamacare — threatening to stop making them unless Congress acts while simultaneously accusing Democrats of threatening to shut down the government over them — illustrates this dynamic well. While the debate over the payments had been one of many ongoing points of conflict on the final bill between the parties in Congress, Trump’s pronouncements helped elevate its profile as a potential stumbling block.¶ While Congress managed, for now, to escape the worst possible outcome, spending bills remain one of the institution’s few “must pass” items each year. The next set of bills won’t necessarily be easier, with questions about whether to relax the limits on discretionary spending put in place in 2011 and Trump’s first full set of budget requests on the horizon. Republicans’ intraparty divisions, Democrats’ attempts to exercise influence where they can, and a polarizing president likely mean a long summer (and fall?) of fiscal fights ahead.

#### 2. Dems are the I/L to preventing shutdown – Rs need to appease Senate Dems to avoid the filibuster which alienates House conservatives so they have to court House Dems. Reynolds 4/28

Congress just dodged a government shutdown. Here’s what comes next, Washington Post, 4/28/17. Molly E. Reynolds is a fellow in governance studies at the Brookings Institution.

The process has also dragged out because the Republicans need Democratic votes. Thanks to the threat of a filibuster, any final deal needs to attract the votes of at least eight Democrats to pass the Senate.¶ But adding and removing provisions from that final bill to win Democratic votes in the Senate has the potential to alienate conservative Republicans, especially in the House, where current levels of intraparty division are high. There may also be Republicans who oppose the final deal less because of specific grievances and more because they object to its overall level of spending or because they believe that large, omnibus measures are not the appropriate way to handle decisions about federal resources.¶ If that group of House Republicans willing to vote against the final bill is big enough, leaders will have to turn to Democrats for help getting across the finish line. (They narrowly avoided needing them on today’s one-week extension.) This dynamic — which should feel familiar from the repeated similar fights during the Obama years — is part of why the process has dragged out for so long. Because Democrats know their support will be needed for a bill that keeps the government open through September, they have attempted to extract concessions from Republicans.

#### 3. No impact to the budget – Dems have all the chips and are removing conservative nonsense from the bill. Yorkley 4/28

“Congress Averts Shutdown as Talks Continue on Broader Funding Package,” Morning Consult, Eli Yorkley, 4/28/17, Morning Consult.

Congress approved a short-term spending resolution on Friday, avoiding a government shutdown on President Donald Trump’s 100th day in office and buying lawmakers another week to reach a longer-term agreement.¶ The Senate cleared the bill unanimously via voice vote after it passed the House 382-30.¶ If Friday’s vote was any indication, House Republican leaders will need some Democratic support next week in order to pass a broader omnibus spending bill to fund the government through September. The short-term continuing resolution was supported by 207 Republicans — nine votes short of the simple majority required to pass the bill.¶ Lawmakers have been negotiating on the omnibus package for weeks, with Democrats demanding funding be removed for Trump’s border wall with Mexico and pressing for commitments from the Trump administration to continue making Obamacare payments to health insurers. Senators on both sides of the aisle, including Majority Leader Mitch McConnell (R-Ky.), are also working to secure a permanent extension of health benefits for retired coal miners and their families.¶ “I will continue to fight on their behalf to secure a permanent solution on this issue in the larger funding bill,” McConnell said on the Senate floor Friday before the vote.¶ Senate Minority Leader Chuck Schumer (D-N.Y.) said there is still work to be done.¶ “Not all the poison pill riders have been eliminated — some have,” he said on the Senate floor before the vote. “We’re willing to extend things for a little more time in hopes that the same kind of progress can continue to be made. We still have a ways to go.”¶ In a statement Friday, House Appropriations Committee Chairman Rodney Frelinghuysen (R-N.J.) said, “I am optimistic that a full-year Appropriations package will be completed soon.”¶ Speaking on the House floor, House Majority Leader Kevin McCarthy (R-Calif.) said it was his goal to provide the catchall funding measure to members as early as Monday, giving lawmakers three days to review it.¶ Funding on the short-term stopgap measure expires midnight next Friday.

#### 4. ACA funding is the budget’s poison pill – Dems won’t pass any bill without it and Rs won’t pass a bill with it. Yorkley 4/26

“Ryan: Obamacare Insurer Payments Won’t Be in Spending Bill,” ELI YOKLEY | APRIL 26, 2017 | 12:06 PM, Morning Consult.

House Speaker Paul Ryan on Wednesday said Republicans would not include money for federal cost-sharing reduction payments to health insurers in legislation to fund the government through the end of September.¶ “We’re not doing that,” the Wisconsin Republican told reporters at a Capitol Hill news conference. “That is not in an appropriation bill. That’s something separate the administration does.”¶ The insurer payments, called cost-sharing reductions, help the Affordable Care Act’s lower-income enrollees afford out-of-pocket costs, and health care industry groups say they are crucial to stabilizing the individual exchanges. The payments are currently subject to an ongoing lawsuit filed by House Republicans against the Obama administration in 2015.¶ While Congress was away for recess, President Donald Trump threatened to end the payments, using them as leverage to bring Democrats to the table and negotiate on his health care bill. Top congressional Democrats, Senate Minority Leader Chuck Schumer (D-N.Y.) and House Minority Leader Nancy Pelosi (D-Calif.), responded by demanding that funding for those payments be included in the spending bill to keep the government open past Friday.¶ On Tuesday night, Pelosi told Office of Management and Budget Director Mick Mulvaney that language to fund the payments must be included in must-pass spending legislation, an aide familiar with the conversation said. Mulvaney told Pelosi the Trump administration had not yet decided if it would make the cost-sharing reduction payments in May, according to the aide.¶ The aide said Mulvaney told Pelosi the White House would end the payments without congressional action. But a Mulvaney spokesman on Wednesday disputed that account.¶ “The only thing standing in the way of a landmark defense and border security bill is a handful of Democrats who are insisting on an 11th hour bailout of Obamacare,” Mulvaney said in a statement. “This administration has made CSR payments in the past, and the only reason some are raising this now is to hold the government hostage and find an excuse to oppose a bipartisan agreement.”¶ Aside from the CSR payments, Ryan said, “We’re very, very close on everything else.” Other issues still on the table are whether to include a permanent extension of health care benefits for retired coal miners, which has bipartisan support in the Senate, and Medicaid funding for Puerto Rico.¶ On the other side of the Capitol Wednesday, Senate Majority Leader Mitch McConnell (R-Ky.) said on the Senate floor that Democrats should “take their own advice” about not including “poison pills” in order to reach a “good agreement that both sides can support.”¶ If lawmakers can’t put the final touches on an omnibus spending bill before funding lapses on April 29, they could pass a short, stopgap measure to keep the government running while negotiators hash out the details.

# Frontlines – CP

## A2 Generic PICs

### 1AR – Generic PICs

#### O/V: PICs against affs that defend all speech are bad – moots 6 minutes of AC offense and there’s an infinite number of small things to PIC out of for hyper-specific speech scenarios – kills fairness. PICs are a voting issue – prevents my ability from generating substantive offense so evaluate before other flows

#### 1. The CP is the worst form of censorship-its lets the state arbitrate content. Nimick 06

Nimick, JD, 06

(Virinia J, SCHOOLHOUSE ROCKED: HOSTY V. CARTER AND THE CASE AGAINST HAZELWOOD Journal of Law and Policy Volume 14 Issue 2 SCIENCE FOR JUDGES VI: Techniques for Evidence-Based Medicine)

The Supreme Court held in favor of the students.152 The Court found that because the University had offered to pay third-party contractors on behalf of private speakers to convey their own messages, it was not entitled to “silence the expression of selected viewpoints.”153 Accordingly, WAP could not constitutionally be denied funding on the ground that it espoused a certain religious perspective. Justice Kennedy explained: Vital First Amendment speech principles are at stake here. The first danger to liberty lies in granting the State the power to examine publications to determine whether or not they are based on some ultimate idea and, if so, for the State to classify them. The second, and corollary, danger is to speech from the chilling of individual thought and expression. That danger is especially real in the University setting, where the State acts against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition.154 The Court concluded that the University’s viewpoint-based denial of funding for certain student expression amounted to “suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”155(965-6)

#### 2. The PIC is a reasonable TPM –it’s not competitive. Perm: do both

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Of course, some kinds of speech are unprotected even under our First Amendment, including child pornography, obscenity (meaning hard-core pornography, not simple swear words), and libel. However, the Supreme Court takes special pains to limit these restrictions to a handful of narrow categories in order to protect as much speech as possible and is hesitant to create new exceptions. Also, state officials, including administrators at public colleges, have the power to place reasonable “time, place, and manner” guidelines on some speech as long as it is done in a “content neutral” way. So a college is within its rights to stop a protest that is substantially disrupting the university. For example, nothing prevents colleges from stopping student takeovers of administrative buildings, from kicking a disruptive student out of class, or from punishing students for trying to disrupt a speech. (Throughout this book, you will see administrators exploit even that humble power beyond recognition.)(19)

#### 3. Negative arguments assume a rational, organized censorship policy- the SQ allows arbitrary decisions by administrators. Goodman 05

Goodman, Director Student Press Law Center, 05

( S. Mark Goodman, Michael C. Hiestand, Student Press Law Center 2005 WL 2736314 (U.S.) (Appellate Petition, Motion and Filing) Supreme Court of the United States. Margaret L. HOSTY, Jeni S. Porche, and Steven P. Barba, Petitioners, v. Patricia CARTER, Respondent. No. 05-377. October 20, 2005. On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit Brief of Amici Curiae Student Press Law Center, Associated Collegiate Press, College Media Advisers, Community College Journalism Association, Society for Collegiate Journalists, Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, National Newspaper Association, Newspaper Association of America, Society of Professional Journalists, Associated Press Managing Editors, College Newspaper Business and Advertising Managers, National Federation of Press Women, National Lesbian and Gay Journalists Association and the Independent Press Association/Campus Journalism Project in Support of Petition of Margaret L. Hosty, Jeni S. Porche, and Steven P. Barba for Writ of Certiorari Of Counsel: S. Mark Goodman, Michael C. Hiestand, Student Press Law Center, 1101 Wilson Blvd., Ste 1100, Arlington, VA 22209-2211, (703) 807-1904. Richard M. Goehler, (Counsel of Record), Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202, (513) 651-6800, Counsel for Amici Curiae.)

Hazelwood is sui generis. Prior to 1988, the standard enunciated in Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 513 (1969) (holding that school officials can only censor student expression when they can reasonably forecast a material and substantial disruption of school activities or an invasion of the rights of others) had uniformly been applied to censorship of all student expression at high schools. See, e.g., Nicholson v. Board of Education, 682 F.2d 858, 863 n.3 (9th Cir. 1982); Gambino v. Fairfax County School Board, 479 F. Supp. 731, 736 aff’d, 564 F.2d 157 (4th Cir. 1977) (citing 4th Cir. decisions that rely explicitly on Tinker); Trachtman v. Anker, 563 F.2d 512, 516 (2nd Cir. 1977), cert. denied, 435 U.S. 925 (1978); Zucker v. Panitz, 299 F. Supp. 102, 105 (S.D.N.Y. 1969). In Hazelwood, however, the Court upheld the decision of a high school principal to censor a high school student newspaper because: (1) the paper was produced by a journalism class and had not been opened by the school as a public forum for student expression; (2) as a nonpublic forum, Tinker was inapplicable; rather school officials would be allowed to censor such student speech if their actions were “reasonably related to legitimate pedagogical concerns,” Hazelwood, 484 U.S. at 273, and (3) the principal’s decision to prevent the publication of the articles was reasonably related to legitimate pedagogical concerns. The Hazelwood Court found it key that the student \*11 speech at issue occurred in a school-sponsored student newspaper produced as part of a journalism class. It was also significant, the majority found, that the newspaper contained material that might be viewed as being endorsed by the school. Such factors, the Court said, permitted high school officials to exercise greater control over student expression than would be permitted under the more protective Tinker standard, which the Court concluded applied only to non-school-sponsored, independent student speech or speech in a designated public forum. Hazelwood drastically shifted the balance. Where the First Amendment once required school officials to show that student speech was materially and substantially disruptive to normal school activities - or otherwise unlawful - Hazelwood, where it applied, now permitted a high school official to censor student speech that he or she deemed to be, for example, “poorly written,” “biased or prejudiced,” or thought to advocate “conduct otherwise inconsistent with ‘the shared values of a civilized social order.”’ Hazelwood, 484 U.S. at 271-272. By any measure, the Hazelwood decision has given high school and elementary school officials far greater authority to censor the otherwise lawful speech of private citizens than is extended to any other group of government officials, except perhaps prison wardens. See e.g., In re Williams, 205 Cal. Rptr. 903 (Cal. App. 1984) (state may censor prison newspapers where prison officials can demonstrate actions achieve “legitimate penological objective.”) Courts continue to point to the expansive authority of Hazelwood in upholding administrative censorship of high school student and faculty speech in surprising ways and a \*12 variety of contexts. Phillips v. Oxford Separate Mun. School Dist., 314 F.Supp.2d 643 (N.D.Miss. 2003) (censorship of religious-oriented student government campaign poster); Brandt ex rel. Brandt v. Board of Educ. of City of Chicago, 326 F.Supp.2d 916, 921 (N.D. Ill. 2004) (ban on individual student T-shirts allowed where school officials can demonstrate ban is “reasonably related to legitimate pedagogical concerns”); Bannon v. School Dist. of Palm Beach County, 387 F.3d 1208 (11th Cir. 2004) (censorship of student murals containing religious words and phrases); Fleming v. Jefferson County School Dist. R-1, 298 F.3d 918 (10th Cir. 2002), cert. denied, 537 U.S. 1110 (2003) (censorship of student-designed wall tiles with religious themes); Walz ex rel. Walz v. Egg Harbor Tp. Bd. of Educ., 342 F.3d 271 (3rd Cir. 2003), cert. denied, 541 U.S. 936 (2004) (censorship of pencils and candy canes handed out to kindergarten classmates with religious message attached); Boring v. Buncombe County Bd. of Educ., 136 F.3d 364, 370 (4th Cir. 1998) (en banc), cert. denied, 525 U.S. 813 (1998) (upholding transfer of high school drama teacher after selecting controversial play for drama competition). While some have argued that Hazelwood is best explained “in terms of the school’s power to control its communicative resources [when these resources are a part of the official school curriculum], rather than as a power to regulate students’ speech,” William G. Buss, School Newspapers, Public Forum, and the First Amendment, 74 Iowa L. Rev. 505, 513 (1989), seventeen years of living with Hazelwood have shown that school officials and other state actors have not read the decision so narrowly, using it to justify the regulation of virtually any form of teacher and student speech. \*13 Lower courts, too, have had great difficulty determining what, exactly, the Hazelwood standard is and how to apply it. This difficulty is exemplified by the New Jersey Supreme Court’s decision in Desilets v. Clearview Regional Board of Education, 647 A.2d 150, 154 (N.J. 1994). In that case, the trial court summarily held that a junior high school principal’s censorship of two movie reviews from a student newspaper was reasonably related to a legitimate pedagogical concern under Hazelwood. The appellate court reversed this portion of the trial court’s holding and the New Jersey Supreme Court affirmed the appellate court. Although the high court agreed the movie reviews “[did] not appear to raise educational concerns that call for the kinds of editorial control exemplified by the Supreme Court in Hazelwood,” it was unsure what exactly the Hazelwood standard meant. Id. at 154. The court noted the “inherent complexity surrounding the nature and scope of educational policy affecting expressional activity” and wished for guidance from the state educational agency. Id. See also, Martha M. McCarthy, Post Hazelwood Developments: A Threat To Free Inquiry In Public Schools, 81 Ed. Law. Rep. 3, 689 (June 1993) and cases cited therein.

#### 4. The speech disad turns the net benefit

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

In his 1994 book, Hate Speech: The History of an American Controversy, Samuel Walker shows that, throughout the twentieth century, the equality rights of African- Americans and other minority groups were dependent on a robust free speech concept. He further shows that, realizing the importance of protecting even speech viewed as hateful or dangerous-because their own speech certainly was so viewed in many Southern and other communities-the major American civil rights organizations consistently opposed efforts to restrict hate speech. As Walker concluded, "The lessons of the civil rights movement were that the interests of racial minorities and powerless groups were best protected through the broadest, most content-neutral protection of speech." n51

#### 5. CP doesn’t solve any of the first amendment advantage- protecting the worst speech is crucial

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

In his 1965 book, The Negro and the First Amendment, University of Chicago Law Professor Harry Kalven documented that the Civil Rights Movement depended on free speech principles. These principles allowed protestors to carry their messages to audiences who found them highly offensive and threatening to their most deeply cherished views of themselves and their way of life. Equating civil rights activists with Communists, subversives, and criminals, government officials mounted inquisitions against the NAACP, seeking compulsory disclosure of its membership lists and endangering the members' jobs and lives. As Kalven concluded, "Only strong principles of free speech and association could-and did-protect the drive for desegregation." n52 Martin Luther King, Jr., wrote his historic letter from a Birmingham jail, n53 but the Birmingham parade ordinance that King and other demonstrators had violated eventually was declared an unconstitutional invasion of their free speech rights. n54 Moreover, the Civil Rights Act of 1964, which these demonstrators championed, did become law. The more disruptive forms of civil rights protest, such as marches, sit-ins, and kneel-ins-which some observers credit as being the most effective-were all especially dependent on generous judicial constructions of the free speech [\*264] guarantee. n55 Notably, many of these protective interpretations initially had been formulated in cases brought on behalf of anti-civil rights demonstrators. But the same principles and precedents also sheltered the insulting and often racist language that militant black activists hurled at police officers and other government officials. n56

#### 6. Content restrictions gut the heart of the first amendment

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

First Amendment speech protection clashes with the desire of university administrators to provide a safe and supportive learning environment for all students, making the creation and maintenance of speech codes problematic. The Supreme Court has historically been hostile to content-based regulations of speech. n4 Regulating speech on the basis of what is said, or the message that is communicated, strikes at the very heart of the free speech protections guaranteed in the Constitution. Speech generally cannot be prohibited based solely on the regulator's dislike for the ideas expressed, much to the dismay of administrators seeking to ensure civility among the university's students. Speech codes, which are by definition content-based, raise constitutional red flags when the ban might also sweep in protected speech alongside unprotected speech.

#### 7. Risk of solvency deficit outweighs any net benefit

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

The struggle over free speech continues at universities today. In addition to speech codes, some universities have adopted "free [\*227] speech zones." n134 In these zones, students and other protesters are free to express themselves on any issue they choose. After creating these zones, the universities then use them as leverage to justify limiting speech on other parts of the campus. n135 These "free speech zones" have not yet been challenged in court, but they are as unlikely to withstand constitutional challenge as are speech codes. Donna Shalala, as Chancellor of the University of Wisconsin in 1988, spoke about universities and the First Amendment: The First Amendment is not something that we can honor when we choose and disregard when we do not like what we hear ... freedom is never easy, and a great university is not a place to play with constitutional rights. It is a laboratory for open debate, a haven for diverse opinions. It must be a special place where those rights are protected and where principles of freedom are taught to citizens ... University administrators cannot abandon those principles to satisfy the will of a few, or even of many, at the expense of civil rights guaranteed to us all. n136 A robust exchange of ideas, even offensive, sometimes hurtful ideas, is a central part of the learning and intellectual exploration essential on university campuses. While preserving civility on campuses is a noble goal, it is a goal that must take second place to the freedoms guaranteed by the First Amendment.

### 1AR Rollback

#### 1. PICS are rolled back- no chance they survive constitutional challenge

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

These two cases remain the only two challenges to campus speech codes in federal court. In both cases, the district courts [\*216] struck down the codes as unconstitutionally vague and overbroad. This track record does not bode well for public university administrators who seek to protect their campus and students by limiting student speech. The speech that administrators want to prohibit through speech codes is difficult to precisely define. If the code covers too much speech, the courts are likely to find that the code is overbroad. If the code covers too little speech, administrators are unlikely to achieve their goal of a safer campus because much of the speech they seek to prohibit will be allowed. If the speech code seeks to be undefined enough to cover all the speech the administrators find harmful, the courts are likely to find that the code is unconstitutionally vague. If speech codes can be written in a way that satisfies both the Constitution and the goal of a safe and supportive campus, the road to such a code is a narrow one indeed.

#### 2. Speech codes are impossible to defend vs breadth challenges

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

Content-based regulation is not the only stumbling block faced by those who would institute campus speech codes. Another crucial problem with campus speech codes is that they are both overbroad and vague because the codes prohibit protected speech as well as speech outside the protection of the First and Fourteenth Amendments. Also, the exact language prohibited by the codes can be hard to define, giving those students punished under the codes little or no advance notice as to exactly what speech has been prohibited. Several Justices disagreed with the majority's rationale in R.A.V., but agreed with the result. n41 Instead of using the "underbreadth" theory presented by the majority, these Justices would have struck down the Minneapolis ordinance because it was overbroad. n42 In addition to prohibiting a narrow category of "fighting words," the ordinance also prohibited "a substantial amount of expression that, however repugnant, is shielded by the First Amendment." n43 Justice White reiterated the Court's long-standing position that hurt feelings alone are not sufficient grounds for removing First Amendment protection from speech. n44 The ordinance was "fatally overbroad and invalid on its face" n45 because so much protected speech was affected by the ordinance. The overbreadth theory may make it nearly impossible to write a campus speech code that would survive a constitutional challenge; any such code needs to be extremely narrowly tailored to avoid sweeping in protected, if "repugnant," speech.

#### 3. Empirics prove true for university speech codes

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

Federal district courts have cited to the overbreadth problem when striking down campus speech codes. In Doe v. University of Michigan, n46 the district court declared the speech code adopted by the University of Michigan to be unconstitutional. n47 The court first drew a distinction between "pure" speech and conduct, stating that the latter was open to prohibition and punishment while speech alone generally was not. n48 The court went on to discuss the types of speech that the university might be able to regulate, including "fighting words" and speech "which has the effect of inciting imminent lawless action." n49 Regulations aimed at prohibiting such speech must be carefully targeted so it affects only the unprotected speech. If the regulation also bans a significant amount of speech protected by the First Amendment, the regulation is overbroad and cannot withstand constitutional challenge. The Michigan speech code was not so carefully targeted. Instead it prohibited both protected speech and potentially unprotected speech. n50 The University's code vaguely described which types of speech were prohibited and the administration never considered whether the speech complained of might be protected by the First Amendment. n51 The University noted that speech that did violate the code included classroom discussions on the origins of homosexuality n52 and informal [\*214] discussions about the challenges faced by dentistry students. n53 Intense debate over the treatment of minorities in an academic program or the reasons an individual is homosexual are not the kind of speech contemplated by the "fighting words" doctrine. n54 Yet those topics were exactly the kind of speech the university saw as sufficiently harmful to warrant full hearings, counseling, and forced apologies. n55 Such an overbroad scope ensured the unconstitutionality of the speech code because it conflicted with the protections of the First Amendment. n56

#### 4. CP would be void for vagueness

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

The district court also held that the Michigan speech code was void for vagueness because it was not sufficiently clear to put students on notice as to what was prohibited. n57 When a regulation places limits on a constitutional right, the standards by which the regulation will be applied must be even clearer. n58 The University attempted to set the standards by noting that if the effects were to "stigmatize" or "victimize" an individual, then such language was not protected. However, the general terms "stigmatize" and "victimize" were held to be too vague to give students a clear understanding of what was prohibited by the Michigan speech code. n59 No clear standards for distinguishing between protected and unprotected speech were ever established. n60 Absent clear standards as to what language was permissible and what was not permissible, the court was unwilling to allow the university to limit its students' First Amendment rights and found the code unconstitutional.

#### 5. Their specification doesn’t solve- the court gets medieval on speech codes

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

The code's failure to differentiate intent from effect was also a concern for the district court. First, the court held that the phrase "discriminatory comments, epithets or other expressive behavior" was not vague but was "clear and definite in the context of the phrase and the rule." n67 The court also found that the term "demean" was not vague in the context of the rule. n68 However, the court held that the standards for determining when speech was prohibited were ambiguous. n69 The court held that the code did not make clear "whether the regulated speech must actually demean the listener and create an intimidating, hostile, or demeaning environment for education, or whether the speaker must merely intend to demean the listener and create such an environment." n70 Regardless of the interpretation of the standard, the code retained its overbroad scope and, therefore, the court refused to interpret the speech code. n71

#### 6. It’s a double bind

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

Campus speech codes present numerous problems for public universities. These codes tend to be overbroad, trying to eliminate any potentially offensive speech from the campus. The broad sweep of these codes keeps them from surviving a constitutional challenge. The codes also are, of some necessity, vague. It is probably impossible for a university to list all types of speech prohibited by such a code; however, conversely, when prohibited speech is not specified the codes are unconstitutional. These two barriers to speech codes, overbreadth and vagueness, create a narrow definition of what a constitutional speech code is and illustrates the difficulty posed by the creation of such codes.

## A2 Speech Code PIC – Generic

### 1AR – Generic Speech Code PIC

#### Spillover DA – Newest reports find university administrators want to censor student press. Kovacs ‘12/1

Kasia Kovacs is Inside Higher Ed's fall 2016 reporting intern. She is a graduate student at the University of Missouri, where she’s studying investigative journalism. She covered the Mizzou campus protests while working at a projects reporter for the Columbia Missourian. She has also worked for Investigative Editors and Reporters, the American Press Institute and the Kansas City Star. She graduated in 2013 from William Jewell College, where she studied English literature and wrote for the Hilltop Monitor. “Student Press Under Pressure.” Inside Higher Ed. December 1, 2016. <https://www.insidehighered.com/news/2016/12/01/student-reporters-face-retaliation-university-administrators-new-report-says> JJN

Student news organizations face threats of censorship and intimidation from university administrators, sometimes in the form of budget cuts in the wake of unflattering articles and sometimes with the firings of faculty advisers who encourage aggressive student journalism. These are the findings of a report released today called “Threats to the Independence of Student Media.” The report aggregated instances of administrative pressure on student media organizations from incidents gathered by the Student Press Law Center and surveys from the College Media Association. The study is a joint effort of those two groups, the American Association of University Professors and the National Coalition Against Censorship. The publication is not meant to be a quantitative measure of threats to student press freedom, but rather a list that shines light on the sometimes confrontational relationships between student media and university administrations, said Hank Reichman, professor emeritus of history at California State University at East Bay and chair of the AAUP's Committee A on Academic Freedom and Tenure. The report cites seven examples in which faculty advisers of student news organizations lost their jobs after reporters pursued controversial stories. For instance, last year at Northern Michigan University, the student newspaper's board of directors ousted its adviser, Cheryl Reed, and denied the promotion of a student from managing editor to editor in chief. According to the report, these decisions followed “attempts by student journalists to aggressively cover the administration.” As The Detroit Free Press reported at the time, the ouster of Reed followed open records requests from the student journalists on contracts for a coffee shop at the university and reporting on board members' spending on travel. But Derek Hall, assistant vice president of marketing and communications at Northern Michigan, said the university's decisions were not made in retaliation for coverage. “It basically came down to the fact that people on the board could not communicate and were not getting along,” Hall said. The newspaper board, which is made up of students, the adviser, a community member, a faculty representative and the vice president of student services, was divided, Hall said, which was the reason for the ouster. Hall denied that the decision amounted to censorship. At another institution, Fairmont State University, in West Virginia, administrators removed a newspaper adviser in 2015 after the paper published a two-part story investigating mold on campus, the report asserts. The report also states that the university's president asked students to cover less controversial stories, but a spokeswoman for the university denied this. “No member of the administration at Fairmont State University has ever asked the student newspaper not to print a story or not to cover a story," Amy Baker, a Fairmont State official, said via email. Those examples are part of a larger trend, the report notes. In a poll conducted by the CMA last spring, nearly two dozen advisers said administrators had pressured them to control or censor content. Constraining or firing newspaper advisers is not the only form of administrative pressure. According to the report, the University of Redlands cut funding for a student newspaper after a story included a quote from a student who was concerned that funds from a $35 million donation would go to “rich, white males.” However, a university spokesman said the funding was not suspended because of one specific quote, but because of concerns about "journalistic ethics, accurate reporting, student representation, the advisory structure of the Bulldog Weekly and the fact that nearly $40,000 -- the full cost of the newspaper, funded completely by student activity fees -- was spent yearly on a print newspaper with low readership." The University of Kansas student government association halved the budget for The University Daily Kansan, a move that was ratified by administrators. The student newspaper then sued the university's chancellor, claiming the funding was slashed in retaliation for unfavorable editorial coverage by the Kansan. At some institutions, administrators attempted to control coverage by thwarting access to meetings and documents. The report states, “It has become commonplace for colleges and universities to make requesters wait months for the fulfillment of even the simplest requests for public records or simply to ignore the requests entirely. For example, student journalists at the University of North Carolina at Chapel Hill report that it is not uncommon to wait two years or more to receive documents responsive to open-records requests to their institution." In an emailed response to Inside Higher Ed, a UNC spokesman, Mike McFarland, said, "The university acknowledges there has been a significant past backlog in requests that we’re working diligently to reduce. Over the past three months, the university has reduced the number of requests pending prior to 2016 by almost 70 percent. The office has new leadership and is pursuing best-practice technology changes that we believe will further streamline our process as well as improve efficiency and response time." McFarland added that 69 of The Daily Tar Heel's 74 requests from 2015 have been fulfilled; this year, 19 of the newspaper's 24 requests have been fulfilled. Contentious relationships between university administrators and student newspapers are not a new phenomenon, said Reichman of the AAUP. It’s also impossible to quantify whether student press freedoms have gotten better or worse over the past few decades because data are so limited. But these recently recorded incidents seem to feed into a larger trend of what Reichman calls the “corporatization of universities." In other words, when universities to attempt to brand themselves, they tend to see student media as a part of that brand and want these student-run organizations to shy away from controversial or critical stories. The report concludes with a call for greater safeguards for the student press to combat the tightening reins on press freedom -- for instance, boundaries to separate editorial content from the financial management of student news organizations so that administrators cannot threaten students with financial consequences.

#### Speech codes result in animosity between groups, turns their hate speech impacts. Even the most seemingly reasonable speech codes get misapplied and spillover. Haidt and Lukianoff 17

Jonathan Haidt is a social psychologist at New York University and author of The Righteous Mind: Why Good People are Divided by Politics and Religion. Greg Lukianoff is a constitutional lawyer and president and CEO of the Foundation for Individual Rights in Education (FIRE). On U.S. Campuses, Free Inquiry Is Taking a Beating, Philanthropic Roundtable, January 2017, EE

There’s something called pluralistic ignorance, where essentially everyone thinks that everybody agrees on certain issues, but when you survey people individually, it actually turns out that the group is more intellectually diverse. But the illusion makes people feel they have to conform. We’re having a breakdown in production of interesting new ideas today, partially because of this perception that 99 percent of people agree, so I better not go beyond the pale and be controversial. A concerted effort to sanitize the public sphere has resulted in a situation where people are only talking to folks who they already agree with. We’re polarizing, and becoming more certain of what we believe, without good reason. And this can lead to isolation of different groups, because people are afraid to talk across lines of difference. Sometimes critics will say I’m just protecting hate speech. It’s easy to overwhelm this with counterexamples. One of the best known cases in FIRE history is from Indiana University-Purdue University Indianapolis, where a student was accused of racial harassment because he was reading a book called Notre Dame vs. the Klan. Even though the book was about a KKK march on Notre Dame that was thwarted, he was chastised because the book had the word “Klan” on the cover, which made some people uncomfortable. These kinds of cases are one reason we’re now getting more professors coming to us at FIRE. They are scared of their students right now. They realize how easy it has become to say the “wrong” thing.

#### 2. Pitfalls to whoever defines “offensive”

Rabe, MA/JD, 03

(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)

First, who decides what is offensive? If the majority decides, unpopular speech may be censored simply for being out of favor. n129 If the minority decides, speech that seems innocent to the majority may, unexpectedly, be found to be offensive and therefore [\*226] punishable. n130

#### 3. Speech codes fail to address the root cause of offensive beliefs

Helwink, PhD/JD, 16

(Jonathan, history professor at a college in Chicago. He is also an attorney licensed to practice law in Illinois <http://thefederalist.com/2016/11/16/safe-spaces-make-world-more-dangerous/> 11-16)

Error seems to be everywhere on campus, and there is no shortage of people willing to clamp down on it. Speech that is deemed offensive or prejudicial by campus activists and college administrators must be stamped out. But this approach is mistaken. It injures the students and our democracy. Error is not the insulting or assaultive speech—it is the prejudice behind the speech. When certain speech is punished, or forbidden by trigger warnings or safe spaces, students are not constructively confronted about their (alleged) racism, sexism, et cetera, through reasoned argument. Instead, they are silenced through intimidation and threatened punishments. In the meantime, the erroneous thoughts are not displaced; instead, they persist without challenge.

### 2AC Diversion Turn

#### Speech codes tradeoff with more effective measures like financial assistance

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Now I will comment on yet another reason why censoring hate speech may well undermine, rather than advance, equality causes: its diversionary nature. Focusing on biased expression diverts us from both the root causes of prejudice-of which the expression is merely one symptom-and from actual acts of discrimination. The track record of campus hate speech codes highlights this problem, too, just as it highlighted the previous problem I discussed, of discriminatory enforcement. Too many universities have adopted hate speech codes at the expense of other policies that would constructively combat bias and promote tolerance. In fact, some former advocates of campus hate speech codes have become disillusioned for this very reason. One example is the minority student who was initially a leading advocate of one of the earliest campus hate speech codes, at the University of Wisconsin, Victor DeJesus. After the ACLU successfully challenged that code under the First Amendment, Mr. DeJesus opposed the University's efforts to rewrite the code in the hope of coming up with something that would pass constitutional muster. As the New York Times reported: Victor DeJesus, co-president of the Wisconsin Student Association, said that he initially supported the hate speech rule, but that he had changed his mind because he felt the regents were using it as an excuse to avoid the real problems of minority students. "Now they can finally start putting their efforts into some of our major concerns like financial aid, student awareness, and recruitment retention," Mr. DeJesus said. n76

#### The tradeoff outweighs their link

Strossen, ACLU president, 01

(Nadine, Law @NYU, Incitement to Hatred: Should There Be a Limit Copyright (c) 2001 Board of Trustees of Southern Illinois University Southern Illinois University Law Journal Winter, 2001 25 S. Ill. U. L. J. 243)

Recognizing the diversionary nature of campus hate speech codes, the ACLU policy on this subject expressly urges colleges and universities to respond to bias througha range of constructive alternatives. These alternative approaches, all of which could be implemented in the non-campus context as well, not only are consistent with free speech rights, but also would make a more meaningful contribution toward reducing intergroup prejudice, discrimination, and violence. These recommended approaches embody the "less restrictive alternative" concept that is so central to the Supreme Court's standards for protecting free speech and other constitutional rights. The Court consistently has held that even when government asserts a concern of compelling importance in an attempt to justify restricting a constitutional right, the restriction is still unjustified if there is any "less restrictive alternative"-another measure, less restrictive of the right, that would adequately promote the government's interest. n77 In the hate speech context, advocates of restrictions assert countervailing interests of great importance-reducing discrimination and promoting equality. However, those interests can be advanced effectively through measures that are less restrictive of free speech. Indeed, these alternative approaches may well be not only less restrictive of speech, but also more effective in reducing discrimination and promoting equality. Above, I argued that censoring hate speech is doubly-flawed, both violating free speech rights and also ineffective in advancing equality. The argument I make here is the complement of this earlier one: that non-censorial responses to hate speech are doubly desirable, since they both honor free speech rights and also effectively advance equality. Let me quote the pertinent portion of the ACLU policy: All students have the right to participate fully in the educational process on a nondiscriminatory basis. Colleges and universities have an affirmative obligation to combat racism, sexism, homophobia, and other forms of bias, and a responsibility to provide equal opportunities through education. To address these responsibilities, the ACLU advocates the following actions by colleges and universities: (a) to utilize every opportunity to communicate through its administrators, faculty, and students its commitment to the elimination of all forms of bigotry on campus; [\*273] (b) to develop comprehensive plans aimed at reducing prejudice, respondingpromptly to incidents of bigotry and discriminatory harassment, and protectingstudents from any such further incidents; (c) to pursue vigorously efforts to attract enough minorities, women and members of other historically disadvantaged groups as students, faculty members and administrators to alleviate isolation and to ensure real integration and diversity in academic life; (d) to offer and consider whether to require all students to take courses in the history and meaning of prejudice, including racism, sexism, and other forms of invidious discrimination; (e) to establish new-student orientation programs and continuing counseling programs that enable students of different races, sexes, religions, and sexual orientations to learn to live with each other outside the classroom; (f) to review and, where appropriate, revise course offerings as well as extracurricular programs in order to recognize the contributions of those whose art, music, literature and learning have been insufficiently reflected in the curriculum of many American colleges and universities; (g) to address the question of de facto segregation in dormitories and other university facilities; and (h) to take such other steps as are consistent with the goal of ensuring that all students have an equal opportunity to do their best work and to participate fully in campus life. n78

## A2 3D Guns PIC

### 1AR – 3D Guns PIC

#### 1. Courts have ruled it’s unconstitutional to share codes for 3D weapons. Perm: do both, it’s not competitive. Alec 16

Alec. "Sharing 3D printed gun blueprints remains illegal as Defense Distributed loses court case." 3ders.org. September 22, 2016. Accessed March 21, 2017. http://www.3ders.org/articles/20160922-sharing-3d-printed-gun-blueprints-remains-illegal-as-defense-distributed-loses-court-case.html. SP

The verdict is in, and the 5th Circuit Court of Appeals has decided that the online distribution of 3D printable gun designs remains illegal – as national security concerns trump free speech. This 2-1 decision has just closed another controversial chapter in the history of Texas-based promotor of 3D printed guns Defense Distributed. The organization, which was first ordered to remove their 3D printable designs for the single-shot Liberator gun from the web in 2013, sued the State Department back in 2015 by referring to their right to free speech. It’s an issue with a long history. Back in 2013, it was discovered that Defense Distributed’s 3D printed gun designs were downloaded more than 100,000 times – by people from all over the world. This worried the State Department and lawmakers throughout the US, as the guns in question can be completely made from plastic and remain virtually undetectable. Though they have a tendency to explode in the user’s hands after more than one shot, the Liberator is arguably a potent tool in the hands of terrorists for whom self-harm isn’t a big concern. But banning anything related to guns isn’t easy in the US, so the State Department turned to ITAR – the International Traffic in Arms Regulations, the set of rules design to regulate the exportation of military data and weapons. In this line of reasoning, the online sharing of 3D printable gun blueprints is the legally the same thing as shipping a crate of guns to another country. In this case, the State Department focused on 10 different designs, including those of the Liberator.

#### 2. There’s no enforcement of the CP – it’s impossible to regulate Internet files, illicit music downloads prove. Langvardt 16

Langvardt 16 [Kyle; Associate Professor of Law, Lecturer in Business Law and Ethics at Indiana University, Bloomington, Associate with Locke, Lord, Bissell & Liddell in Chicago; Minnesota Journal of Law, Science & Technology; Volume 17, Issue 2; 2016; “Remarks on 3D Printing, Free Speech, and Lochner”; <http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1413&context=mjlst> SP

I find this argument to be badly overstated. Surely 3D printed guns and other digital things can never be eradicated entirely; determined people with the know-how will always be able to get them. But if that qualifies a regulation as futile then all regulations are futile. Regulations never set up a hermetic seal against violation. Instead, at their best, they contain violation by making it costly. And by that more appropriate measure, some reasonably effective regulation of 3D-printed products must be achievable. Consider the Napster episode, in which an orgy of online file sharing around the turn of the century nearly cratered the music industry.45 The disruption that occurred might easily be read as evidence that the Internet is fundamentally wild and unregulable. But it is more accurate to say simply that music distribution is less regulable than it once was. It is possible, of course, to get a pirated copy of whatever you want, and it is not terribly difficult. But for a user of average sophistication, it takes a lot more time and hassle than it once did, and the reason is that intellectual property owners have used legal remediesmost prominently the notice-and-takedown procedures of Digital Millennium Copyright Act (DMCA), discussed belowto drive the exchange of proprietary content underground.46 Simple inconvenience has driven many wouldbe pirates back to industry-sanctioned markets such as iTunes and Spotify.47 So while the copyright wars do demonstrate the Internets disruptive power, they hardly demonstrate that the Internet is completely impervious to control. Instead, they demonstrate that mainstream Internet use is meaningfully responsive to regulatory pressures

#### 3. The PIC isn’t protected – court rulings prove. Atherton ‘15

Kelsey Atherton is a technology writer based in Albuquerque, New Mexico. “3D-Printed Gun Files Aren't Free Speech, Court Rules.” September 22, 2015. Popular Science. <http://www.popsci.com/3d-printed-guns-not-free-speech-court-rules> JJN

The first two protections in the U.S. Bill of Rights guarantee freedom of speech and a right to bear arms, respectively. But what about when those collide? The founders who wrote it likely never imagined a world where that freedom of speech would apply to electronically encoded files on computers, nor could they have pictured a day when those same files could be used to tell a machine to print, on demand, a pistol. (The Founders also, likely, didn’t foresee militia systems falling out of use). Yet we now live in a world where the files to print a gun exist, and people have indeed printed guns. Is this an activity the constitution protects? Decidedly no, according to a ruling handed down earlier this week from the 5th Circuit Court of Appeals. The case, Defense Distributed v. United States Department of State, goes back to the creation of the first 3D printing of a gun, by the activist group Defense Distributed, in May, 2013. The Liberator pistol is not, by any metric, a good gun. The original design is single-shot, and while almost all of the gun is printed, it still uses a cheap nail as a firing pin. As part of the broader aim of a gun that exists outside government control, Defense Distributed made the plans for the gun available online. That’s when they ran into trouble with the State Department, which told Defense Distributed to take down the gun plans. The State Department was the federal agency that acted in this case, and not the more obvious Bureau of Alcohol, Tobacco, and Firearms (ATF), because by the nature of the internet, the 3D-printed gun files can cross international borders. The State Department seized on this fact to say that transferring technical data like this counted as an export. Shortly afterwards, Defense Distributed took down the files and then reached out to the Electronic Frontier Foundation to see if they could help with this as a free speech fight. Last December, the EFF filed a brief in support of Defense Distributed, arguing that the State Department’s enforcement of arms regulations this broadly was in fact a threat to free speech. So is hosting files for printing a gun protected under the 1st Amendment? Not if there’s national security at stake, ruled the 5th Circuit Court of Appeals. From the ruling: Ordinarily, of course, the protection of constitutional rights would be the highest public interest at issue in a case. That is not necessarily true here, however, because the State Department has asserted a very strong public interest in national defense and national security. Indeed, the State Department’s stated interest in preventing foreign nationals—including all manner of enemies of this country—from obtaining technical data on how to produce weapons and weapon parts is not merely tangentially related to national defense and national security; it lies squarely within that interest. That’s weird as heck! The ruling goes on to note that “The fact that national security might be permanently harmed while Plaintiffs-Appellants’ constitutional rights might be temporarily harmed strongly supports our conclusion that the district court did not abuse its discretion in weighing the balance in favor of national defense and national security.” As Ars Technica notes, the opinion of the dissenting judge finds instead a complete lack of concern for free speech from the State Department, is using such a broad interpretation of the law to stop the sharing of these specific files online. Unless Defense Distributed appeals the ruling, it looks like files for printing guns aren’t protected by both the 1st and 2nd Amendments, but are instead protected by neither.

## A2 Alcohol Ads

### 1AR – Alcohol PIC

#### Perm do the counterplan: It’s not protected; 4th circuit precedent goes AFF – bans on ads in college newspapers are narrowly tailored enough to pass muster. Redd Jd candidate MA 11

Justin Akihiko Redd.[ J.D. Candidate, University of Maryland Francis King Carey School of Law, May 2012; M.A. Leadership in Teaching] “Educational Media Company at Virginia Tech, Inc. v. Swecker: First Amendment Lite Waters Down Commercial Speech Protection” 7 J. Bus. & Tech. L. 201

The Fourth Circuit panel reviewed the district court's grant of summary judgment de novo, viewing the facts in the light most favorable to the Board. 82 The district court had found the statute facially unconstitutional and had not reached the question of whether it was unconstitutional as applied to the college newspapers. 83 The Fourth Circuit thus considered only whether 5-20-40(B) (3) is unconstitutional on its face. 84¶ Both parties agreed that the four-part Central Hudson test would be dispositive of the question whether 5-20-40(B)(3) violates the college newspapers' First Amendment rights. 85 First, the Fourth Circuit considered whether the commercial speech in this case concerns lawful activity and is not misleading. 86 The Board argued that 5-20-40(B)(3) concerns unlawful activity because it applies only to student newspapers primarily intended for distribution to persons under twenty-one [\*210] years of age. 87 The court rejected this argument based on precedent, holding that "advertisements for age-restricted-but otherwise lawful-products concern lawful activity where the audience comprises both underage and of-age members." 88 In this facial, pre-enforcement challenge, the court assumed that the speech was not misleading because the Board offered no evidence that the speech was actually misleading. 89 The court held that the First Amendment protects alcohol advertisements in college newspapers. 90¶ The college newspapers did not dispute the Board's contention that it has "a substantial interest in combating the serious problem of underage and abusive drinking by college students." 91 Accordingly, the court then found that the asserted government interest was substantial enough to satisfy the second prong of the Central Hudson test. 92¶ Next, the court inquired into the third prong of the Central Hudson test: whether 5-20-40(B)(3) "directly and materially advances the government's substantial interest." 93 Focusing on the relationship between the State's interests and the advertising ban, the court stated that while the "relationship, or link, need not be proven by empirical evidence . . . it may be supported by history, consensus, and simple common sense." 94 The court qualified, however, that "the link is insufficient if it is irrational, contrary to specific data, or rooted in speculation or conjecture." 95 The court reasoned that the college newspapers target college students and "play an inimitable role on campus," strengthening the correlation between advertising contained in them and student demand for those products and services. 96 In support of this conclusion, the court attempted to use common sense, stating that "the fact that alcohol vendors want to advertise in college student publications" established the link between advertisements and demand, because it would be counterintuitive for restaurant owners to spend their money if they did not believe the advertisements would stimulate college student demand. 97 Because the college newspapers failed "to provide evidence to specifically contradict this link or to recognize the distinction between advertisements in mass media and those in targeted local media," the Fourth Circuit held that the advertising ban directly and materially advanced the asserted substantial government interest in curbing [\*211] underage and abusive drinking by college students, satisfying the third Central Hudson prong. 98¶ Finally, the court considered whether the restrictions under 5-20-40(B) (3) were "narrowly drawn." 99 The majority stressed that a state must consider alternative means of regulation. 100 The court reasoned that because Virginia has a comprehensive scheme to serve its interest in reducing underage and abusive drinking, the Board could not use commercial speech regulations to replace alternatives that do not limit speech. 101¶ The Fourth Circuit found that 5-20-40(B)(3) is narrowly tailored to serve the Board's substantial interest because the ban only prohibits certain types of advertisements and the restriction only applies to college student publications. 102 First, the court observed that the provision is not a complete advertising ban and allows restaurants to indicate what types of alcohol they serve. 103 Second, the court noted that the ban applies only to college student publications that are targeted to underage students, and does not apply on its face to all possible student publications. 104¶ The court also noted that 5-20-40(B)(3) complements the Board's other non-speech related efforts, such as education and enforcement programs. 105 The college newspapers argued that the advertising ban is not the least restrictive means to achieve the asserted government interest, but the court rejected that argument because 5-20-40(B)(3) needs only to be in proportion to the interest it serves, and the Board showed the reasonable fit required under Central Hudson and Board of Trustees v. Fox. 106¶ The United States Court of Appeals for the Fourth Circuit found that 5-20-40(B)(3) concerned commercial speech protected by the First Amendment, but held that the advertising ban passed Constitutional muster under Central Hudson because it is a narrowly tailored regulation that directly and materially advances a substantial government interest. 107 The Fourth Circuit denied the college [\*212] newspapers' petition for rehearing and ordered the permanent injunction vacated. 108

#### Regulation is ineffective and tramples newspaper freedom to advertise, which has massive free speech effects. Redd Jd candidate MA 11

Justin Akihiko Redd.[ J.D. Candidate, University of Maryland Francis King Carey School of Law, May 2012; M.A. Leadership in Teaching] “Educational Media Company at Virginia Tech, Inc. v. Swecker: First Amendment Lite Waters Down Commercial Speech Protection” 7 J. Bus. & Tech. L. 201

Given the ubiquity of alcohol advertising in media, a ban on advertising in college newspapers will have a negligible effect on the total number of advertisements a person reads, sees, or hears. 171 Instead, the Board can more [\*220] effectively combat underage and abusive drinking by tapping the flow of beer money currently leaking through its fingers because of the advertising ban, and use the funds to further its educational and enforcement efforts. 172 As Judge Moon alluded in his dissenting opinion, lost potential revenue to the Board was not adequately figured into the balance of restricting commercial speech in this case. 173¶ The court in Educational Media v. Swecker did not adequately weigh the costs and benefits of the college newspaper advertising ban. In the Fourth Circuit, the government must carefully calculate the costs and benefits associated with a commercial speech regulation. 174 The majority points to the Board's limited resources as justification for the advertising ban. 175 However, infringing on the right to free speech must be a "last - not first - resort," 176 and there are other non-speech restrictive means readily available, not to mention measures which could increase the Board's revenue. 177 Meanwhile, the college newspapers rely on advertising money for almost their entire budgets and the regulation cost each of them at least $ 30,000 per year in lost advertising fees. 178 Though there is no constitutional right to profitability, college newspapers exist largely in recognition of students' right to free speech. 179 Lost revenue limits the length of the papers, the quality of their equipment and facilities, and most importantly, the number of students who can participate in publishing them. 180 The Board's advertising ban limits opportunities [\*221] for college students to train as journalists, and although this fact in itself does not violate any constitutional right, it underscores the irrationality of a law that has no demonstrable benefit while doing such tangible harm. 181¶ Instead of a nearly complete ban, if the Board mandated that to advertise alcohol in college newspapers, advertisers must also purchase a portion of ad space that discourages underage drinking or that promotes safe drinking habits, the alcohol advertisers would in effect pay for the government's message. 182 Alternatively, the Commonwealth could require alcohol advertisers to pay an assessment to the Board, to use to publish its own advertisements, increase other educational initiatives, and enforce the drinking age more stringently. 183 In either case, these alternatives show that the regulation is irrational and not narrowly drawn because of other available means that are less speech-restrictive. The Board's deprivation of the college newspapers' First Amendment rights should warrant, under § 1983, the granting of a permanent injunction against the enforcement of 5-20-40(B)(3) and entitle the college newspapers to monetary damages.

#### Kills first amendment – creation of vice exception goes against the purpose of the first amendment. Keller 02

Kerri L. Keller [JD candidate] 36 Akron L. Rev. 133 2002

"The extent to which government ought to regulate the promotion of so-called "vice' products like tobacco and alcohol, and activities such as gambling, is one of the most controversial contemporary advertising issues." 266 Nevertheless, the Supreme Court has refused to apply a "vice" exception to the commercial speech doctrine. 267 Because there is [\*179] no vice exception, the argument that strict scrutiny should apply to content-based restrictions of a commercial nature is even stronger because states will undoubtedly attempt to circumvent Central Hudson to prohibit the advertising of so-called "vices." 268¶ D. Strict Scrutiny Prevents the Erosion of First Amendment Principles¶ ¶ It is important that the Court strike a balance between valid, legitimate government interests and maintainence of First Amendment safeguards. 269 The First Amendment focuses not only on the rights of the speaker, but also on the rights of the listener. 270 It is important the listener have access to truthful, non-misleading information in order to prevent government encroachment on individual rights. 271 Strict scrutiny would ensure that the principles of the First Amendment are [\*180] upheld by forcing states to prove the necessity of any proposed regulations and by ensuring that the state regulates speech only as a last resort. 272

### A2 Tobacco Ads PIC

#### Perm do the aff and do the cp in the case of deceptive ads; solves their offense and net benefit is the first amendment advantage. Virelli JD 00

Louis J. Virelli III [J.D. Candidate 2000, University of Pennsylvania; M.S.E. 1997, University of Pennsylvania; B.S.E. 1996, Duke University.] 2 U. Pa. J. Const. L. 529 March 2000

The Court has clearly stated that misleading advertising is not protected in the same way as non-misleading commercial speech. 129 Deceitful information frustrates the First Amendment's purpose of encouraging open discourse, and may even do affirmative damage to consumers who rely on such information to make economic decisions. 130 Tobacco advertisements, such as those regulated by the Congress' Proposal, are frequently misleading forms of communication and therefore have little claim to First Amendment protection under Central Hudson. For example, tobacco ads portray smoking as a glamorous and athletic pursuit, without adequately representing the extreme danger inherent in tobacco consumption. In a recent issue of a national magazine, an advertisement for a popular brand of cigarettes depicted three rodeo cowboys posing for what appeared to be a post-contest victory picture. 131 The ad unfolded to reveal another cowboy [\*551] riding a bucking bronco above the caption "just warming up." 132 The mandatory Surgeon General's Warning in the bottom corner of the ad simply stated that "Cigarette Smoke Contains Carbon Monoxide." 133 As a result of this advertisement, a consumer who is not aware of the medical effects of carbon monoxide on the body remains uninformed as to the true consequences of using cigarettes, and is left with the impression that smoking is associated with a daring and exciting lifestyle. Similarly, an ad for a different brand of cigarettes promotes "Mighty Tasty Lifestyles." 134 The Surgeon General's Warning in the corner of this ad indicated that "Quitting Smoking Now Greatly Reduces Serious Risks to Your Health." 135 This warning is also insufficient to convey the actual risks of smoking to the consumer, downplaying smoking's dangers and allowing it to be falsely associated with a glamorous lifestyle.¶ These examples represent the dominant trend in tobacco advertisements: a denial of the unquestionably dangerous and addictive nature of tobacco in hopes of appealing to adults and young children to begin smoking in pursuit of a more exciting and glamorous life. 136 The warnings required by law are woefully deficient representations of the dangers of smoking: they neglect to inform an often misguided smoking public about the probable negative consequences of their actions. 137 Tobacco advertisements, because of their failure to communicate accurate information to their audience, are not worthy of First Amendment protection under the Central Hudson test. 138 They are of low informational value because they are typically misleading. 139

#### Justifies mass censorship and trades off with more effective means of preventing the speech. Calvert et al JD 10

Clay Calvert\*, Wendy Allen-Brunner\*\* & Christina M. Locke[P rofessor & Brechner Eminent Scholar in Mass Communication and Director of the Marion B. Brechner First Amendment Project at the University of Florida, Gainesville, Fla. B.A. (with Distinction), 1987, Communication, Stanford University; J.D. (Order of the Coif), 1991, McGeorge School of Law, University of the Pacific; Ph.D., 1996, Communication, Stanford University. Member, State Bar of California.¶ \*\* Doctoral student and Alumni Fellow in Mass Communication at the University of Florida, Gainesville, Fla. M.A., 2008, Communication, University of Central Florida; B.A., 1999, Communication, University of Central Florida.¶ \*\*\* Doctoral student and Joseph L. & Marion B. Brechner Research Fellow at the University of Florida, Gainesville, Fla. J.D. (with Honors) and M.A.M.C. ¶ (with Distinction), 2007, University of Florida. Member, State Bar of Georgia. 36 J. Legis. 201 2010

Tobacco companies possess a First Amendment right to try to persuade the public and the government on political issues. 329 What's more, as one court recently observed, "the First Amendment does not tolerate viewpoint-based discrimination by the government." 330 This means that "may not discriminate between speakers who will speak on the topic merely because it disagrees with their views." 331 The Supreme Court, in particular, has deemed viewpoint-based discrimination "an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction." 332 It further has emphasized that "when the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant." 333¶ The Act's restrictions on FDA-related statements by tobacco makers smack of viewpoint-based discrimination, as they bar them from expressing their views and opinions on the topics of the FDA's regulation of tobacco products. In a nutshell, the government can say anything what it wants, but the tobacco companies can say nothing. The latter's constitutional right to persuade simply is denied.¶ [\*242] The modified-risk product and FDA statement provisions, to the extent that they are content-based regulations that chill political speech, would be subject to a strict scrutiny standard of review. As described earlier in this Article, strict scrutiny is a tougher standard than the requirements of Central Hudson. 334 Under the strict scrutiny standard, the law restricting speech must further a compelling government interest and be narrowly tailored to achieve that interest. 335¶ While the Court in Lorillard alluded to the government's compelling interest in protecting youth from smoking, 336 it was less clear on whether the government has a compelling interest in protecting adults from smoking. The modified-risk product and FDA provisions of the Act appear to be aimed at protecting adults from the influence of tobacco companies. However, the right of adults to receive information, rather than be protected by a paternalistic government, is well established 337 and could prevent the government from establishing a compelling interest under the strict scrutiny standard of review. In fact, the Lorillard Court commented on such a situation: "Applied to adults, an interest in manipulating market choices by keeping people ignorant would not be legitimate, let alone compelling." 338¶ Even if a compelling interest were to exist, the modified-risk and FDA statement restrictions would fail on the second prong, which requires that the "least restrictive means" 339 be utilized to advance the interest. 340 As articulated above in this Article's analysis of the fourth Central Hudson step, 341 the speech restrictions of the Act are not sufficiently tailored. 342 Obviously, if the speech restrictions are not sufficiently tailored, they also would fail to meet the more rigorous standard of being narrowly tailored, as required under strict scrutiny. As for less restrictive alternatives that the government might utilize to protect minors from smoking, the Commonwealth Brands plaintiffs suggest several [\*243] means, including: (a) criminalizing underage tobacco possession; (b) more funding for anti-smoking ads; and (c) targeting manufacturers who actually seek to deceive consumers. 343 Thus, the two parts of the Act that have the greatest potential for strict scrutiny review seemingly would fail to meet this standard and, as a result, be declared unconstitutional.

#### PIC justifies viewpoint decimation based on ideas the state disagrees with – spillover is guaranteed especially in conservative states. Abortion proves. Keller 02

Kerri L. Keller [JD candidate] 36 Akron L. Rev. 133 2002

According to Justice Thomas, it is important to apply Central Hudson only to those cases for which it was designed. 213 The commercial speech doctrine, therefore, should be limited to the "particularly commercial harms that commercial speech can threaten ... ." 214 This would include commercial harms, such as illegal, deceptive, or misleading advertising. 215 Alternatively, the commercial speech doctrine should be limited to those situations that do no more than [\*168] propose a commercial transaction. 216 The proper question is "not what qualifies commercial speech for First Amendment coverage, but what, if anything, disqualifies it?" 217¶ a. Central Hudson Applies Only To Certain Forms of Advertising¶ ¶ Certain cases would clearly qualify for Central Hudson because they do no more than propose a commercial transaction. 218 For instance, in Virginia Pharmacy, the pharmacists sought to publish price information about prescription drugs. This was the only message the advertisements were transmitting. 219 Similarly, in Florida Bar v. Went For It, Inc., the lawyer advertisements sought only to solicit new business, and no other message was transmitted. 220 Because false, deceptive, or misleading information is subject to regulation, it would only be appropriate to apply Central Hudson to those regulations that are [\*169] designed to prevent commercial harms. 221¶ b. Strict Scrutiny Should Otherwise Apply¶ ¶ While Central Hudson should apply to some forms of commercial advertising, strict scrutiny should apply to others. 222 When an advertiser promotes more than mere prices and services, the regulations should be subject to strict scrutiny, especially if there is a risk that the state is seeking to prohibit the advertising on the basis of its content. 223 For instance, in Bolger v. Youngs Drug Products Corp., the state sought to prohibit the unsolicited advertisement of contraceptive devices. 224 Although the Court analyzed the case under Central Hudson, it would have been more appropriate to apply strict scrutiny because the state sought to restrict the advertisements because it did not approve of the content. 225¶ Similarly, in Bigelow v. Virginia, the state regulations sought to prohibit the advertisement of abortions. 226 Again, the Court analyzed the regulation under Central Hudson, but it would have been more appropriate to analyze it under strict scrutiny because the government's purpose was to prohibit speech based solely on its content. 227 Because [\*170] the purpose of the commercial speech doctrine is to protect consumers from such things as fraud or deception, "laws which attempt to limit commercial speech for some other purpose ... can be valid only if they withstand full First Amendment scrutiny." 228¶ c. Preventing Commercial Harms¶ ¶ The Massachusetts regulations are arguably within the ambit of the commercial speech doctrine because the stated purpose was to "eliminate deception and unfairness in the way cigarettes and smokeless tobacco products are marketed, sold and distributed... ." 229 However, the regulations do more than merely attempt to prevent commercial harms. 230 For instance, the Massachusetts regulations do not deal exclusively with preventing deception. Moreover, the federal government has already legislated the issue of deception in the FCLA. 231 It is clear that the major portion of the regulations were designed to [\*171] prevent children from seeing tobacco advertisements. 232 Because the regulations do not address purely commercial harms, the commercial speech doctrine should not have been applied. 233¶ 2. No Clear Rationale¶ ¶ According to Justice Thomas, the Court has been inconsistent in applying the commercial speech doctrine. 234 This is in part because there is no basis for asserting that commercial speech is deserving of a lower level of constitutional protection. 235 In contrast, there is a firm [\*172] basis for arguing that strict scrutiny should be applied to content-based regulations - the First Amendment, which prohibits the state from restricting free speech. 236 Arguably, the Court has been inconsistent in applying the commercial speech doctrine because there is no clear rationale behind it. 237

#### Kills first amendment – creation of vice exception goes against the purpose of the first amendment. Keller 02

Kerri L. Keller [JD candidate] 36 Akron L. Rev. 133 2002

"The extent to which government ought to regulate the promotion of so-called "vice' products like tobacco and alcohol, and activities such as gambling, is one of the most controversial contemporary advertising issues." 266 Nevertheless, the Supreme Court has refused to apply a "vice" exception to the commercial speech doctrine. 267 Because there is [\*179] no vice exception, the argument that strict scrutiny should apply to content-based restrictions of a commercial nature is even stronger because states will undoubtedly attempt to circumvent Central Hudson to prohibit the advertising of so-called "vices." 268¶ D. Strict Scrutiny Prevents the Erosion of First Amendment Principles¶ ¶ It is important that the Court strike a balance between valid, legitimate government interests and maintainence of First Amendment safeguards. 269 The First Amendment focuses not only on the rights of the speaker, but also on the rights of the listener. 270 It is important the listener have access to truthful, non-misleading information in order to prevent government encroachment on individual rights. 271 Strict scrutiny would ensure that the principles of the First Amendment are [\*180] upheld by forcing states to prove the necessity of any proposed regulations and by ensuring that the state regulates speech only as a last resort. 272

## A2 BioSynth PIC

### 1AR – BioSynth PIC

#### 1. No competition – perm: do the counterplan – research isn’t protected free speech.

#### Their legal interp is outdated – academic freedom is no longer protected under the 1st amendment. Moshman 10

David Moshman (president of the ACLU of Nebraska and of the Academic Freedom Coalition of Nebraska. A professor emeritus of educational psychology at the University of Nebraska−Lincoln. His books include Liberty and learning: Academic freedom for teachers and students (2009)), 11/16/10, “Academic Freedom is Not Protected by the First Amendment,” Huff Post.

There, I said it, right in the title. And however much it hurts I’ll say it again: Academic freedom is not protected by the First Amendment. Recognizing this is the first step in defending academic freedom.¶ We should be clear from the start that academic freedom is not simply a First Amendment right. Academic freedom is intellectual freedom in academic contexts, which is both more and less than the constitutional requirement that the government “make no law... abridging the freedom of speech” (see my “Liberty & Learning: Academic Freedom for Teachers and Students”).¶ For a substantial portion of the 20th century, however, the First Amendment did protect important aspects of academic freedom. Alas, it no longer does. Here’s a two-minute summary of the constitutional history:¶ In West Virginia vs. Barnette (1943), the United States Supreme Court ruled that public schools may not require students to salute the flag and pledge their allegiance. It was a violation of the First Amendment for public education to be used for the purpose of indoctrinating a captive audience.¶ In Sweezy vs. New Hampshire (1957) the Court recognized the constitutional status of academic freedom in finding for a Marxist economist targeted by McCarthyism. The plurality and concurring opinions disagreed, however, as to whether constitutional academic freedom is primarily a right of individual teachers or a right of colleges as institutions.¶ In Keyishian vs. Board of Regents (1967), the Court proclaimed: “Our nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”¶ In Tinker vs. Des Moines (1969), involving secondary school students wearing black armbands to protest the United States military intervention in Vietnam, the Court reinforced the applicability of the First Amendment in schools at all levels of education. Neither students nor teachers, it insisted, shed their First Amendment rights at the schoolhouse gate.¶ They shed them, it turned out, at the classroom door. In Hazelwood vs. Kuhlmeier (1988), the Court ruled that because a student newspaper was part of the journalism curriculum it therefore fell largely outside the domain of the First Amendment. Without argument or analysis the Court simply assumed that the First Amendment in schools applies only to speech outside the curriculum.¶ Federal courts since Hazelwood have been increasingly clear that, in matters of curriculum, school officials have broad latitude to determine the school’s message and restrict expression accordingly. Curriculum at all levels of education is a First Amendment-free zone. Teachers are hired to teach whatever they are told to teach and students are there to learn it.¶ Just as it seemed things couldn’t get worse, the Supreme Court determined in Garcetti vs. Ceballos (2006) that public employees in general do not have First Amendment rights when they are doing their jobs. Lower courts have applied this ruling to teachers at all levels of education, thus reinforcing Hazelwood.¶ By the time of Morse vs. Frederick (2007), it was clear that the First Amendment does not apply within the curriculum and thus provides no constitutional protection for academic freedom. The question was how far around the school the freedom-free zone extends. The Supreme Court found that it extends even across the street if one is holding a sign that says “Bong Hits 4 Jesus.”

#### 2. Solvency Deficit – restrictions like the PIC’s squash scientific innovation and other regulations solve. The ban is censorship and can’t solve the case. Granick 07

JENNIFER GRANICK [executive director of the Stanford Law School Center for Internet and Society and teaches the Cyberlaw Clinic.] 04.25.07 “Will Bioterror Fears Spawn Science Censorship?” https://www.wired.com/2007/04/circuitcourt-0425/

As a lawyer for computer security researchers, it is impossible to regard this prospect with anything but dread. For example, the proposal (.pdf) broadly defines "dual use research of concern" as any "research that, based on current understanding, can be reasonably anticipated to provide knowledge, products, or technologies that could be directly misapplied by others to pose a threat to public health and safety, agriculture, plants, animals, the environment, or materiel."¶ That's a perfectly reasonable description of an article or paper worth a closer look before publication. But if this language becomes a statute that prohibits publication under some circumstances, the author risks criminal prosecution if law enforcement disagrees with a scientist, university or peer-review publication's decision that the research should be published.¶ And, legally, I'd find it extremely difficult to advise the author with any certainty whether publishing the research is lawful or not. Whose "current understanding" applies? What does "reasonably anticipated" mean? When is research "directly" misapplied, or merely indirectly used? How much of a risk "poses a threat"?¶ The NSABB draft also sets out a procedure to follow once a scientist has identified research of concern. Instead of outright suppression in every case, the proposal suggests a risk/benefit analysis, which can result in a variety of options for communicating the research to the public.¶ This seems flexible and case-specific, which again, is great in a guideline, but terrible when you are trying to advise a client how to avoid the risk of jail. We know that reasonable scientists can and do disagree about these things. What do prosecutors, judges and juries think?¶ Rejecting new regulation doesn't mean we have to be subject to the whims of bioterrorists. Voluntary self-regulation, ethical training, peer review and additional practices currently followed by recombinant DNA researchers, microbiologists and other scientists all have a track record of success. And smart federal laws can control access to pathogens — and prohibit dangerous practices — while steering clear of restricting scientific publications.¶ Until recently, U.S. policy has been to allow the publication of information, with only narrow controls on classified information. Then, in 2002, the president signed the National Security Act, which requires federal agencies to create procedures to protect "sensitive but unclassified" knowledge. The statute is unclear about whether these procedures should take the form of voluntary guidelines, or regulations with the force of law, and whether they'll apply outside of federal agencies. But the NSABB report appears to be part of the effort to craft such procedures.¶ The scientists on the board have good reasons for wanting to be involved in crafting the guidelines. They want to stop terrorists, and they take the dangers from dual-use research seriously. They also want to protect the scientific process, and they believe correctly that if regulation is going to happen, it would be much, much better if scientists were involved.¶ Once such scientist is NSABB board member David A. Relman, M.D., associate professor of medicine, microbiology and immunology at Stanford University School of Medicine. He told me about a 2004 addition to federal law which criminalizes possession of the smallpox virus. Unfortunately, the statute defines the pathogen as any virus that contains 85 percent or greater sequence similarity to smallpox, effectively outlawing a whole range of pox viruses, including the smallpox vaccine. The maximum penalty for violating the law is a fine of $2 million dollars and 25 years in prison.¶ Doctor Relman views his role on the NSABB as helping the government avoid a similar kind of mistake in the future. He and his colleagues are doing us a service by participating, but they have to be extremely careful that their work is not used to legitimize regulation. Any guidelines should be crystal clear that they are good only as that — guidelines.¶ If the NSABB is not careful, its well-balanced recommendations may become a precursor for abandoning voluntary self-regulation in favor of federal regulation of scientists. Once we have regulations, we will also have penalties for non-compliance. At that point, the only question left will be how much scientific self-determination remains.

#### 3. Solves over-population and o/w’s your net benefit – try or die. McFadden 12

Johnjoe McFadden Thursday 29 March 2012 <https://www.theguardian.com/commentisfree/2012/mar/29/synthetic-biology-best-hope-mankind>

Synthetic biology may provide at least some of the answer. Scientists have already developed genetically modified crops that can provide higher yields from less land and more resistance to drought, disease and pests. But SB technology is to GM as a car designer is to a mechanic. Whereas a mechanic can improve the performance of an automobile, only a designer can make a Maserati 250F. No amount of tinkering will ever turn a Ford Cortina into a Ferrari.¶ Current GM crops are the Ford Cortinas of agriculture, but synthetic biologists aim to make Ferrari plants that perform photosynthesis more efficiently by harvesting light from wider regions of the spectrum, or even capture nitrogen directly from the air so they won't need nitrogen fertiliser. New microbes are being designed that eat and degrade toxic pollutants or turn agricultural waste into electricity.¶ Of course there are dangers. But doing nothing is also dangerous. Unchecked population growth is likely to cause far more extinctions than any synthetic organism. The current generation of synthetic organisms is being built with genetic weaknesses that will disable them if they escape from the laboratory.¶ Of course, for uses such as clearing up an oil spill, SB organisms will need to get out of the laboratory so they must be designed to at least survive in the environment. So could released synthetic bugs kill us? The astronomer Fred Hoyle famously compared the chances of random forces generating a living organism as similar to that of a hurricane blowing through a junkyard assembling a Boeing 747. A synthetic biologist would argue that the chances of an engineered oil-eating microbe being able to cause disease in humans would be similar to the chances of a Boeing 747 flying to the moon. Pathogens and environmental microbes are very different beasts and extremely unlikely to succeed in each other's territory.¶ Nothing is without risk but SB's forerunner, GM, is probably the only technology that, as far as we know, has never caused significant harm (and yet has fed millions). SB technology has, so far, been extremely safe. Far from being a threat to the planet, synthetic biology may be our best hope for a healthy future.¶

#### 4. No threat of weapons from synth bio – multiple warrants. Lentzos et al 14

Filippa Lentzos, Catherine Jefferson, Claire Marris [All three are researchers at the Kings college London] <http://thebulletin.org/myths-and-realities-synthetic-bioweapons7626> 18 SEPTEMBER 2014

¶ This narrative rests on misleading assumptions about both synthetic biology and bioterrorism, and these five myths are challenged by more realistic understandings of the scientific research currently being conducted in both professional and do-it-yourself laboratories, and by an analysis of historical cases of bioterrorism.¶ ¶ Synthetic biology is not easy. The assumption that synthetic biology makes it easy for anybody to “engineer biology” is not true. The underlying vision holds that well-characterized biological parts can be easily obtained from open-source online registries and then assembled, by people with no specialist training outside professional scientific institutions, into genetic circuits, devices and systems that will reliably perform desired functions in live organisms.¶ ¶ This vision, however, does not even reflect current realities in academic or commercial science laboratories, let alone the situation facing people with no specialist training who work outside professional scientific institutions. Academic and commercial researchers are still struggling with every stage of the standardization and mechanization process. ¶ ¶ Even if the engineering approaches offered by synthetic biology make processes more systematic and more reproducible, skills do not become irrelevant, and all aspects of the work do not become easier. Certainly, advances in synthetic biology do not make it easier for anybody to engineer biological systems, including dangerous ones. An analogy to aeronautical engineering is useful: Planes are built from a large number of well-characterized parts in a systematic way. But this does not mean that any member of the general public can build a plane, make it fly, and use it for commercial transportation.¶ ¶ Do-it-yourself biology is not particularly sophisticated. Developments in synthetic biology are seen to be closely associated with the growth of the do-it-yourself bio-community, and some observers have expressed concerns that do-it-yourselfers could offer knowledge, tools, and equipment to bioterrorists seeking to do harm.¶ ¶ But the link between synthetic biology and DIYbio, and the level of sophistication of the experiments typically being performed, is grossly overstated. Do-it-yourself biologists typically comprise a wide range of participants of varying levels of expertise, ranging from complete novices with no prior background in biology to trained scientists who conduct experiments in their own time. Some do-it-yourself biologists work in home laboratories assembled from everyday household tools and second-hand laboratory equipment purchased online; the majority conduct their experiments in community labs or “hackerspaces.”¶ ¶ Studies of scientific practice in community labs demonstrate the challenges that amateur biologists face while trying to successfully conduct even rudimentary biological experiments. These amateurs particularly lack access to the shared knowledge available to institutional researchers, highlighting the importance of local, specialized knowledge and enculturation in laboratory practices.¶ ¶ Building a dangerous virus from scratch is hard. DNA synthesis is one of the key enabling technologies of synthetic biology. There are now a number of commercial companies that provide DNA synthesis services, so the process can be out-sourced: A client can order a DNA sequence online and receive the synthesized DNA material by post within days or weeks. The price charged by these companies has greatly reduced over the last 20 years and is now around 3 cents a base pair, which puts the cost within reach of a broad range of actors. This has led to routine statements suggesting that it is now cheap and easy to obtain a synthesized version of any desired DNA sequence. There are however several challenges that need to be taken into account when assessing the potential for misuse that inexpensive DNA sequencing might enable.¶ ¶ Even specialized DNA synthesis companies cannot easily synthesize, de novo, any desired DNA sequence. Several commercial companies provide routine gene synthesis services for sequences of less than 3,000 base pairs, but length is a crucial factor; the process is error prone, and some sequences are resistant to chemical synthesis. A number of entirely new synthesized DNA fragments would have to be assembled to produce a full genome, and, even if doing so were not already regulated by guidelines, simply ordering the full-length genome sequence of a small virus online is not possible.¶ ¶ Ordering short DNA sequences and assembling them into a genome requires specialist expertise, experience, and equipment available in academic laboratories but not easily accessible to an amateur working from home.¶ ¶ For longer sequences, assembly of DNA fragments becomes the crucial step. This was the major technological feat in the work conducted at the J. Craig Venter Institute that produced a “synthetic” bacterial genome, and the Gibson assembly method developed for that project is now widely used. The description of that work, however, demonstrates how the assembly of smaller fragments into larger ones and eventually into a functioning genome requires substantial levels of expertise and resources, including those needed to conduct trouble-shooting experiments to identify and correct errors when assembled DNA constructs do not perform as expected.¶ ¶ Constructing a genome-size DNA fragment is not the same as creating a functional genome. In particular, ensuring the desired expression of viral proteins is a well-documented, complex challenge. ¶ ¶ Even experts have a hard time enhancing disease pathogens. Some observers have also expressed concerns that synthetic biology could be used to enhance the virulence or increase the transmissibility of known pathogens, creating novel threat agents.¶ ¶ Mousepox and bird flu (H5N1) experiments are frequently cited to demonstrate how dangerous new pathogens could be designed. But assessments of this threat tend to overlook a salient fact: In both these experiments, the researchers did not actually design the pathogens. With respect to H5N1, researchers had indeed been trying to design an air-transmissible virus variant for some time, without success. The ferret experiment was set up as an alternative approach, to see whether natural mutations could generate an air-transmissible variant. The researchers had no influence on the specific mutations induced. In the mousepox experiment, researchers inserted the gene for interleukin-4 into the mousepox virus to induce infertility in mice and serve as an infectious contraceptive for pest control. The result—that the altered virus was lethal to mice—was unanticipated by the researchers. In other words, it was not planned.¶ ¶ Moreover, some of the key lessons that came out of the extensive Soviet program to weaponize biological agents involve the trade-offs between improving characteristics that are “desired” in the context of a bioweapons program—such as virulence—and diminishing other equally “desired” characteristics, such as transmissibility or stability. Pleiotropic effects—that is, when a single gene affects more than one characteristic—and genetic instability are common in microorganisms. While it is too simple to say that increased transmissibility will always be associated with reduced virulence, this is often the case for strains produced in laboratories.¶ ¶ The bioterror WMD myth. Those who have overemphasized the bioterrorism threat typically portray it as an imminent concern, with emphasis placed on high-consequence, mass-casualty attacks, performed with weapons of mass destruction (WMD). This is a myth with two dimensions.¶ ¶ The first involves the identities of terrorists and what their intentions are. The assumption is that terrorists would seek to produce mass-casualty weapons and pursue capabilities on the scale of 20th century, state-level bioweapons programs. Most leading biological disarmament and non-proliferation experts believe that the risk of a small-scale bioterrorism attack is very real and present. But they consider the risk of sophisticated large-scale bioterrorism attacks to be quite small. This judgment is backed up by historical evidence. The three confirmed attempts to use biological agents against humans in terrorist attacks in the past were small-scale, low-casualty events aimed at causing panic and disruption rather than excessive death tolls. ¶ ¶ The second dimension involves capabilities and the level of skills and resources available to terrorists. The implicit assumption is that producing a pathogenic organism equates to producing a weapon of mass destruction. It does not. Considerable knowledge and resources are necessary for the processes of scaling up, storage, and dissemination. These processes present significant technical and logistical barriers.¶ ¶ Even if a biological weapon were disseminated successfully, the outcome of an attack would be affected by factors like the health of the people who are exposed and the speed and manner with which public health authorities and medical professionals detect and respond to the resulting outbreak. A prompt response with effective medical countermeasures, such as antibodies and vaccination, can significantly blunt the impact of an attack.¶ ¶ More than sloppy shorthand. We have identified a number of assumptions that underlie policy discourse on the security threat posed by synthetic biology and characterized them as myths. Use of the term “myths” is not intended to imply falsity. We are not simplistically opposing myth and reality, and we are not arguing that there is no threat. Rather, we aim to convey the pervasiveness of misleading assumptions about both synthetic biology and bioterrorism that frequently underlie discussions about the dual-use threat of synthetic biology. In doing so, we hope to present some of the subtleties that frequently disappear from these discussions.¶ ¶ We acknowledge that these particular myths have power and perform real functions; they mobilize support for resources and action to deal with the bioterror threat. The dominant narrative we describe influences the way in which the problem is defined, and, therefore, the kinds of solutions that are proposed. In short, these myths are real enough to influence policy in significant ways, which makes it all the more important to examine them more carefully than they have been in the run of public discourse to date.

#### 5. No risk of bioterror Keller 13

Keller 13 (Rebecca, 7 March 2013, Analyst at Stratfor, “Bioterrorism and the Pandemic Potential,” Stratfor, http://www.stratfor.com/weekly/bioterrorism-and-pandemic-potential)

The **risk of an accidental release of H5N1 is similar to that of other infectious pathogens** currently **being studied. Proper safety standards are key**, of course, **and experts in the field have had a year to determine the best way to proceed, balancing safety and research benefits**. Previous work with the virus was conducted at biosafety level three out of four, which requires researchers wearing respirators and disposable gowns to work in pairs in a negative pressure environment. While many of these labs are part of universities, access is controlled either through keyed entry or even palm scanners. There are roughly 40 labs that submitted to the voluntary ban. Those wishing to resume work after the ban was lifted must comply with guidelines requiring strict national oversight and close communication and collaboration with national authorities. **The risk of release** either **through accident or theft cannot be completely eliminated, but given the established parameters** the risk is minimal**. The use of the pathogen as a biological weapon requires an assessment of whether a non-state actor would have the capabilities to isolate the virulent strain, then weaponize and distribute it.** Stratfor has long held the position that **while terrorist organizations may have rudimentary capabilities regarding biological weapons, the** likelihood **of a** successful attack **is** very low**. Given that the laboratory version of H5N1 -- or any** influenza **virus, for that matter -- is a contagious pathogen, there would be two possible modes that a non-state actor would have to instigate an attack. The virus could be refined and then aerosolized and released into a populated area, or an individual could be infected with the virus and sent to** freely circulate **within a population. There are** severe constraints **that make** success **using either of these methods** unlikely**.** **The technology needed to refine and aerosolize a pathogen** for a biological attack **is** beyond the capability **of most non-state actors. Even if they were able to develop a weapon, other factors such as** wind patterns **and** humidity **can render an attack** ineffective. **Using a human carrier is** a **less expensive** method, **but it requires that the biological agent be a contagion**. Additionally, **in order to infect the large number of people necessary to start an outbreak, the infected carrier must be mobile while contagious, something that is** doubtful **with a** serious disease like small pox. **The carrier** also **cannot be visibly ill because that would limit the necessary human contact**.

## A2 Black Safe Space (Generic)

### 1AR – Black Safe Space Generic

#### 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage imossible

#### Perm do the counterplan: student groups can have control over classrooms as a reasonable TPM – Peters JD and law prof at Kansas 15

Jonathan Peters [An attorney, he is an assistant professor of journalism at the University of Kansas, where he teaches and researches media law and policy, with an affiliate research position exploring big data and Internet governance in the KU Information & Telecommunication Technology Center. Peters has blogged on free expression for the Harvard Law & Policy Review, and he has written for Esquire, The Atlantic, Sports Illustrated, Slate, The Nation, Wired, and PBS.] DECEMBER 1, 2015¶ “Examining a journalist’s right of access to college and university campuses” <http://www.cjr.org/united_states_project/examining_a_journalists_right_of_access_to_college_and_university_campuses.php>

Meanwhile, the two Kansas incidents—at KU and Emporia State—raise the right of access to a public university’s campus. Such places are open to the general public, but school officials can set the expectations for an individual’s presence there. That means they can impose reasonable time, place, and manner restrictions on First Amendment activities that occur on campus, and they can restrict an individual’s access if he violates university policies or poses a risk to campus safety.¶ Keep in mind also that the public can access only certain areas of a public campus, for certain purposes: Places like the quad at Mizzou may be public forums, but academics buildings are not wholly open. Further, if the university uses some of its rooms for non-school meetings that are open to the general public, those rooms, at those times, may be treated as public forums.¶ And, sometimes, a group using a space on a public campus does have the authority to set these rules. For example, a group that rents a room for a news conference typically enjoys tenancy rights and the corresponding ability to control access to it. That may apply in the case involving Rock Chalk Invisible Hawk, according to my understanding of events. ¶ But that wasn’t the case at Emporia State, where the town-hall meeting probably did constitute a public forum—and, as officials have acknowledged, it was improper under the First Amendment to keep journalists away. It’s also worth noting, though, that with some exceptions, bars on town-hall meetings do not usually amount to violations of state open-meetings laws.¶ “The meeting must typically be one involving members of a decision-making body coming together to deliberate,” LoMonte said, adding that that’s not the case at most town-hall meetings.¶ For a wider lens on the press’s rights to cover assembly activities, including tips on how to avoid or manage confrontations with the police, see this primer that the SPLC released last week or this one that I published during the first round of Ferguson protests.¶

#### The Counterplan relies on authenticity tests of who is students decide is black enough. Johnson 03

Johnson, E. Patrick. Appropriating blackness: Performance and the politics of authenticity. Duke University Press, 2003.

The title of this book suggests that ‘‘blackness’’ does not belong to any one individual or group. Rather, individuals or groups appropriate this complex and nuanced racial signifier in order to circumscribe its boundaries or to exclude other individuals or groups. When blackness is appropriated to the exclusion of others, identity becomes politi- cal. Inevitably, when one attempts to lay claim to an intangible trope that manifests in various discursive terrains, identity claims become embattled, or as noted in the quotation above by Baldwin, ‘‘color’’ or ‘‘blackness’’ becomes a ‘‘dangerous phenomenon.’’ Because the con- cept of blackness has no essence, ‘‘black authenticity’’ is overdeter- mined—contingent on the historical, social, and political terms of its production. Moreover, in the words of Regina Bendix: ‘‘the notion of [black] authenticity implies the existence of its opposite, the fake, and this dichotomous construct is at the heart of what makes authenticity problematic.’’4 Authenticity, then, is yet another trope manipulated for cultural capital.¶ That said, I do not wish to place a value judgment on the notion of authenticity, for there are ways in which authenticating discourse enables marginalized people to counter oppressive representations of themselves. The key here is to be cognizant of the arbitrariness of authenticity, the ways in which it carries with it the dangers of fore- closing the possibilities of cultural exchange and understanding. As Henry Louis Gates Jr. reminds us: ‘‘No human culture is inaccessible to someone who makes the effort to understand, to learn, to inhabit another world.’’5¶ When black Americans have employed the rhetoric of black au- thenticity, the outcome has often been a political agenda that has ex- cluded more voices than it has included.6 The multiple ways in which we construct blackness within and outside black American culture is contingent on the historical moment in which we live and our ever- shifting subject positions. For example, black Americans, whose vo- cality, leadership, and rhetoric flourished at the historical moment in which they lived, contested popular constructions of blackness in order to further their own political agendas and occasionally to stake out a space from which to argue for the inclusion of other signs of ‘‘blackness.’’¶ Indeed, if one were to look at blackness in the context of black American history, one would find that, even in relation to national- ism, the notion of an ‘‘authentic’’ blackness has always been contested: the discourse of ‘‘house niggers’’ vs. ‘‘field niggers’’; Sojourner Truth’s insistence on a black female subjectivity in relation to the black polity; Booker T. Washington’s call for vocational skill over W. E. B. Du Bois’s ‘‘talented tenth’’; Richard Wright’s critique of Zora Neale Hurston’s focus on the ‘‘folk’’ over the plight of the black man; Eldridge Cleaver’s caustic attack on James Baldwin’s homosexuality as ‘‘anti-black’’ and ‘‘anti-male’’; urban northerners’ condescending attitudes toward rural southerners and vice versa; Malcolm X’s militant call for black Ameri- cans to fight against the white establishment ‘‘by any means nec- essary’’ over Martin Luther King Jr.’s reconciliatory ‘‘turn the other cheek’’; and Jesse Jackson’s ‘‘Rainbow Coalition’’ over Louis Farra- khan’s ‘‘Nation of Islam.’’ All of these examples belong to the long- standing tradition in black American history of certain black Ameri- cans critically viewing a definition of blackness that does not validate their social, political, and cultural worldview. As Wahneema Lubiano suggests, ‘‘the resonances of [black] authenticity depend on who is doing the evaluating.’’7¶ White Americans also construct blackness.8 Of course, the power relations maintained by white hegemony have different material ef- fects for blacks than for whites. When white Americans essentialize blackness, for example, they often do so in ways that maintain ‘‘white- ness’’ as the master trope of purity, supremacy, and entitlement, as a ubiquitous, fixed, unifying signifier that seems invisible.9 Alter- nately, the tropes of blackness that whites circulated in the past— Mammy, Sapphire, Jezebel, Jim Crow, Sambo, Zip Coon, pickaninny, and Stepin Fetchit, and now enlarged to include welfare queen, pros- titute, rapist, drug addict, prison inmate, etc.—have historically in- sured physical violence, poverty, institutional racism, and second- class citizenry for blacks.¶ An even more complicated dynamic occurs when whites appro- priate blackness. History demonstrates that cultural usurpation has been a common practice of white Americans and their relation to art forms not their own. In many instances, whites exoticize and/or fetishize blackness, what bell hooks calls ‘‘eating the other.’’10 Thus, when white-identified subjects perform ‘‘black’’ signifiers—norma- tive or otherwise—the effect is always already entangled in the dis- course of otherness; the historical weight of white skin privilege nec- essarily engenders a tense relationship with its Others.

#### This outweighs their net benefit – essentialism constructs hierarchies of blackness that relegate other black struggles to the margins and is self-defeating. Pabst 03

Pabst, Naomi [assistant professor of African American studies and American studies at Yale University]. "Blackness/mixedness: Contestations over crossing signs." Cultural Critique 54.1 (2003): 178-212.

Questions of black/white interraciality are also questions of essentialism, authenticity, difference, and belonging. Similarly, these latter issues are central to overlapping black discourses of pluralism, feminism, queerness, and diaspora. These discourses are, like black/white interracial ones, regulated, disciplined, and punished by being cast as inauthentic, as "white" and/or "white-like." Black feminists have had to contend with allegations that they are engaged in a white women's agenda that is irrelevant for, if not damaging to, blacks collectively. Those who have called out black homophobia and centralized black gay, lesbian, bisexual, and transgender issues have [End Page 188] been accused of mimicking, even promoting, unacceptable white ways. Those who have addressed the reality of a long-existing and ever-enlargening black middle class have been dismissed as elitists catering to whites and whiteness. And those who have attempted to cast blackness in a transnational light have been seen by some as whitewashed internationalists who fail to grasp the depth and magnitude of antiblack racism and the essence of African-Americanness locally.¶ What is important for my purposes here are the "chains of equivalence," to borrow Chantal Mouffe's terminology (Laclau and Mouffe 1986,100), and the overlaps between the articulations of black pluralism, feminism, queerness, and diaspora. Indeed, these articulations are not mutually exclusive and are often in fact inextricable, and what they share is the status of being policed and punished, banished to the racial outskirts, to inauthenticity, to whiteness. These discourses are all cognizant of the magnitude of overarching systems of white domination and the legacies of overt and covert racism in which we all remain enmeshed, and have insisted on the continuing importance of blackness as a political category. At the same time, these respective treatments of black difference also testify unapologetically to the ways in which blackness is regulated and homogenized such that marginalization within blackness becomes not only possible, but also a bona fide form of oppression. For the exclusions and hierarchizations of blacks within the category of blackness precisely reifies dominant power structures most blacks seek to dismantle. These issues of belonging or not belonging within blackness are brought to bear in provocative ways within writings on racial and cultural mixedness. For interraciality and transculturalism are locations within the sign of blackness that are rendered "invisible, untenable, and/or fraudulent," to borrow George Hutchinson's phrase (1997, 330).¶ Meanwhile, the prevailing discourses of difference within blackness also share a common disavowal, repression, and amnesia about mixed-race blackness. Very rarely are issues of mixed race treated directly within black feminism, black queer, black diaspora, and black pluralist discourses, though the issues of color-line crossing and black-boundary transgression often lurk there awkwardly, unaddressed or inadequately addressed. On the one hand, then, mixed race is a site of amnesia. But such forgetting is active and ongoing, mandating [End Page 189] the "consistent expenditure of force" that Gregory Stephens cautions his readers about in On Racial Frontiers (1999, 27). Emplotting Freud's notion of the return of the repressed into the realm of racial mixedness, Stephens argues that "the greater force we use in repressing a forbidden or taboo subject or psychic content, the greater will be the force of its return, often in mutated or disguised form, in unexpected places and unanticipated moments" (27). This brings us to the other hand, then, the coterminous fact that interraciality is contended with, and not altogether infrequently, but usually dismissively, in the service of active repression à la Freud. Mixedness is cast as—among other things—inauthentic, irrelevant, tragic, and a site of unmitigated privilege within blackness. All of these assumptions serve to curtail a serious treatment of interraciality and the taking seriously of mixed-race subjectivity, and as such, they reify long-standing taboos around mixed-race subjectivity as a social location and as a site for critical excavation. Even the fact that this topic is so often met with loud proclamations of the inherent blackness of mixedness or the inherent mixedness of blackness effectively paralyzes further, more probing discussion of mixedness and blackness as converging, coconstituting signs.¶ The last antimiscegenation laws were taken off the books as recently as 1967, though many Americans continue to find interracial relationships deeply troubling. There is a parallel, then, that many have noted, between interracial and same-sex relationship taboos. Interracial marriages are now universally legal, which is, of course, not yet the case for gay and lesbian couples. Yet on the de facto level, members of interracial couples still sometimes experience societal or familial pressure to closet the relationship. They also risk, in some cases, social sanction and familial estrangement or disowning. In her cutting-edge work on issues of race and sexuality in prisons, Angela Davis has noted that the state has traditionally been less alarmed about same-gender sexual activity among inmates than interracial couplings among inmates. Marlon Riggs's 1994 film Black Is ... Black Ain't treats the diversity within blackness across lines of sexuality, gender, class, language/dialect, sociopolitical persuasion, and skin color. Riggs's treatment of creolité, light-skinnedness, and the legacy of mixed heritage among African-Americans never extends into the loaded terrain of first-generation mixed-race identity as it overlaps [End Page 190] with blackness, nor does he mention that his own longtime significant other was white, despite foregrounding the issue of homosexuality throughout the film. Race mixing is acknowledged more readily if it happened in the past and if it is likely that the interaction was forced rather than freely chosen. One woman I know reflects a broader trend when she expresses the insult she feels when her golden-brown skin, blue eyes, and sandy blonde hair cause her to be "mistaken" for interracial. A self-proclaimed light-skinned pedigree black, she is offended by the suggestion that she might be mixed. To those who ask, she pridefully relates that there has been no mixing in her family tree for many, many generations.

#### Safe spaces for black people are impossible – the pursuit of safety side steps hard conversations about race and relies on white notions of equality. Leondaro and Porter 10

Zeus Leonardo & Ronald K. Porter [Graduate School of Education, University of California, Berkeley ](2010) Pedagogy of fear: toward a Fanonian theory of ‘safety’ in race dialogue, Race Ethnicity and Education, 13:2, 139-157

A Fanonian approach leads us back into considerations of violence in race-based dialogue. The question we must ask is how do we go about understanding liberatory discussions on race as necessitating violence? We are not speaking of violence in the sense of a willful act to injure or abuse, but a violence that humanizes, or shifts the standards of humanity by providing space for the free expression of people’s thoughts and emotions that are not regulated by the discourse of safety. Our main criticism of safe space is that it is laced with a narcissism that designates safety for individuals in already dominant positions of power, which is not safe at all but perpetuates a system- atic relation of violence. Fanon advised against a politics of narcissism, and instead advocated a materialist politics of recognition whereby an individual allows himself to be mediated by the other, or Fanon’s appropriation of Hegel’s (1977) idealism of the other. Unfortunately, this does not happen because white narcissism is at the very center of safe space. Through the avoidance of conflict and the emphasis on personal and image management, it maintains the self-image and understanding of whiteness and reveals a refusal to change through the other. To be fair, Fanon also took to task people of color’s own narcissism, particularly as it concerns the limitations of identity politics and nationalism, what Appiah (1990) calls ‘intrinsic racism’, or the assump- tion of a family resemblance within a group necessary in the short term and usually for protection against the assaults of an outer group.5 African nationalism during decolonization is an example of the second class, whereas Nazism represents the first class; both are problematic, but they differ in purpose and outcome. White indulgence is a gross attempt to understand the self through the self rather than through the other: narcissism par excellence. In fact, Fanon warns us that the ‘other’ in the self/other dichotomy in racial dialogue may not even exist. According to Gordon (2008):¶ In the contemporary academy, much discussion of race and racism is replete with criticism of otherness. Fanon, however, argues that racism proper eliminates such a relationship. Instead of self and other, there are self, others, and non-self, non-others. In other words, there is the category of people who are neither self nor others. They are no- one. The dialectics of recognition is disrupted, and the struggle of such people becomes one of achieving such a dialectics. Put differently, they are not fighting against being others. They are fighting to become others and, in so doing, entering ethical relation- ships. This argument results in a peculiar critique of liberal political theory. Such theory presupposes ethical foundations of political life. What Fanon has shown is that political work needs to be done to make ethical life possible. That is because racism and colonial- ism derail ethical life. (italics added) A pedagogical approach that avoids safety in the interest of image and personal management makes such an ethical relationship possible.¶ If we are truly interested in racial pedagogy, then we must become comfortable with the idea that for marginalized and oppressed minorities, there is no safe space. As implied above, mainstream race dialogue in education is arguably already hostile and unsafe for many students of color whose perspectives and experiences are consistently minimized. Violence is already there. In other words, like Fanon’s under- standing of colonialism, safe space enacts violence. Those who are interested in engaging in racial pedagogy must be prepared to (1) undo the violence that is inherent to safe-space dialogue, and (2) enact a form of liberatory violence within race discus- sions to allow for a creativity that shifts the standards of humanity. In other words, anger, hostility, frustration, and pain are characteristics that are not to be avoided under the banner of safety, which only produces Freire’s (1993) ‘culture of silence’. They are attributes that are to be recognized on the part of both whites and people of color in order to engage in a process that is creative enough to establish new forms of social existence, where both parties are transformed. This is not a form of violence that is life threatening and narcissistic, but one that is life affirming through its ability to promote mutual recognition.

## A2 Black Safe Space CP (Greenhill)

### 1AR – Greenhill Black Safe Space

#### 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage imossible

#### Perm do the counterplan: student groups can have control over classrooms as a reasonable TPM – Peters JD and law prof at Kansas 15

Jonathan Peters [An attorney, he is an assistant professor of journalism at the University of Kansas, where he teaches and researches media law and policy, with an affiliate research position exploring big data and Internet governance in the KU Information & Telecommunication Technology Center. Peters has blogged on free expression for the Harvard Law & Policy Review, and he has written for Esquire, The Atlantic, Sports Illustrated, Slate, The Nation, Wired, and PBS.] DECEMBER 1, 2015¶ “Examining a journalist’s right of access to college and university campuses” <http://www.cjr.org/united_states_project/examining_a_journalists_right_of_access_to_college_and_university_campuses.php>

Meanwhile, the two Kansas incidents—at KU and Emporia State—raise the right of access to a public university’s campus. Such places are open to the general public, but school officials can set the expectations for an individual’s presence there. That means they can impose reasonable time, place, and manner restrictions on First Amendment activities that occur on campus, and they can restrict an individual’s access if he violates university policies or poses a risk to campus safety.¶ Keep in mind also that the public can access only certain areas of a public campus, for certain purposes: Places like the quad at Mizzou may be public forums, but academics buildings are not wholly open. Further, if the university uses some of its rooms for non-school meetings that are open to the general public, those rooms, at those times, may be treated as public forums.¶ And, sometimes, a group using a space on a public campus does have the authority to set these rules. For example, a group that rents a room for a news conference typically enjoys tenancy rights and the corresponding ability to control access to it. That may apply in the case involving Rock Chalk Invisible Hawk, according to my understanding of events. ¶ But that wasn’t the case at Emporia State, where the town-hall meeting probably did constitute a public forum—and, as officials have acknowledged, it was improper under the First Amendment to keep journalists away. It’s also worth noting, though, that with some exceptions, bars on town-hall meetings do not usually amount to violations of state open-meetings laws.¶ “The meeting must typically be one involving members of a decision-making body coming together to deliberate,” LoMonte said, adding that that’s not the case at most town-hall meetings.¶ For a wider lens on the press’s rights to cover assembly activities, including tips on how to avoid or manage confrontations with the police, see this primer that the SPLC released last week or this one that I published during the first round of Ferguson protests.¶

#### Perm do the counterplan: It’s functionally plan plus b/c it lets the students decide who to keep in and out. This means you pass the AFF and then the university cedes control to student groups.

#### PIC kills engagement between black students and the rest of campus – justifies white students not listening and enforces respectability politics – safe spaces get coopted by the right. Fruedi 1/5/17

Frank Furedi [rofessor of sociology at the University of Kent, Canterbury, England. He is the author of “What’s Happened to the University? A Sociological Exploration of Its Infantilisation.”]¶ http://www.latimes.com/opinion/op-ed/la-oe-furedi-safe-space-20170105-story.html

The meaning of a “safe space” has shifted dramatically on college campuses. Until about two years ago, a safe space referred to a room where people — often gay and transgender students — could discuss problems they shared in a forum where they were sheltered from epithets and other attacks.¶ Then temporary meeting spaces morphed into permanent ones. More recently, some advocates have turned their attention to student housing, which they want to turn into safe spaces by segregating student living quarters. Who would have imagined that the original safe space motive — to explore issues in an inclusive environment — would so quickly give way to the impulse to quarantine oneself and create de facto cultural segregation?¶ Safe space activism stems primarily from the separatist impulses associated with the politics of identity, already rampant on campus. For some individuals, the attraction of a safe space is that it insulates them from not just hostility, but the views of people who are not like them. Students’ frequent demand for protection from uncomfortable ideas on campus — such as so-called trigger warnings — is now paralleled by calls to be physically separated too. Groups contend that their well-being depends on living with their own kind.¶ In 2015 and 2016, students of color at many colleges called for segregated safe spaces. For example, among the 14-page list of demands made by a group of Oberlin students was that “spaces throughout the Oberlin College campus be designated as a safe space for Africana identifying students.” Oberlin’s president refused, noting the whole list “explicitly rejects the notion of collaborative engagement.” But other administrators appear to be falling over themselves to satisfy such demands. After the UC Irvine Black Student Union demanded the creation of a Black Scholars’ Hall (“a safe space where Black history, culture, and intellectual thought is celebrated,” according to the petition) in 2015, the initiative was approved within the year. Under the guise of establishing so-called living-learning communities, similar accommodation is provided at UC Santa Barbara and UC Berkeley. The Social Justice Living Learning Community offered by the University of North Dakota indicates that the balkanization of accommodation extends beyond ethnicity to students’ political convictions, too.¶ It seems the cultivation of identity has encouraged such a psychic and emotional distance between people that some prefer to stay in their bubble everywhere they go. In this vein, Northwestern President Morton Schapiro wrote in the Washington Post last year that it is understandable that black students eating in the cafeteria would not want white undergraduates to join them. “We all deserve safe spaces,” he wrote, and “black students had every right to enjoy their lunches in peace.”¶ Schapiro’s premise is that everyone should have a place — apparently even a place in the dining hall — where they are sheltered from dissimilar people. He enthusiastically cited a Jewish Northwestern graduate’s endorsement of her own safe space, Hillel House. “She knew that when she was there,” he commented, “she could relax and not worry about being interrogated by non-Jews about Israeli politics or other concerns.”¶ Encouraging students to engage with the unfamiliar and account for their ideas used to be one of attributes of a vibrant academic institution. Today’s university managers, however, are more likely to be complicit in relieving students of the uncomfortable burden of “being interrogated.” There are worrying signs that future undergraduates will be even more disposed to embrace such self-segregation than their predecessors. The campaign for establishing a Queer Housing Program at Haverford College expresses the spirit of the times. The president of Brown University Students for Israel, Ben Gladstone, has argued that Hillel House “should serve as a safe space for Zionists on campus.” A leader of UCLA’s Bruin Republicans describes her group as “a space for conservative students to share their opinion without facing criticism or attacks from faculty and students who disagree with them.”¶ These divisive trends came to a head in November during a UC Students of Color Conference that had as its objective the creation of a space to discuss, dissect and create relevant solutions to issues for this diverse group. According to one account the conference turned into “a kind of ‘oppression Olympics,’ where students argued over which minority group was oppressed the most rather than finding solidarity and understanding amongst each other.”

#### This outweighs – only by offending the sensibilities of white society can counterpublics succeed. Free speech is key. Squires 02

Squires, Catherine R [Catherine Squires is an assistant professor in the Communication Studies Department and the Center for Afroamerican and African Studies (CAAS) at the University of Michigan.]. "Rethinking the black public sphere: An alternative vocabulary for multiple public spheres." Communication theory 12.4 (2002): 446-468.

As discussed above, the term “counterpublic” is used by many publicsphere theorists to describe varied phenomena. Because the term has been used to describe a multitude of publics and actions, I believe the term begins to lose its usefulness. The wide and varied usage hinders our ability to distinguish amongst marginal publics and their activities. The model presented here limits the definition of counterpublic to a particu-lar response for a public sphere. If the enclave response is normally de-ployed in response to conditions of intense oppression, then counterpublics usually emerge in response to a decrease in oppression or an increase in resources. The counterpublic is signified by increased public communication between the marginal and dominant public spheres, both in face-to-face and mediated forms. Counterpublic discourses travel outside of safe, enclave spaces to argue against dominant conceptions of the group and to describe group interests. Counterpublics reject the per-formance of public transcripts and instead project the hidden transcripts, previously spoken only in enclaves, to dominant publics. Counterpub-lics test the reactions of wider publics by stating previously hidden opin-ions, launching persuasive campaigns to change the minds of dominant publics, or seeking solidarity with other marginal groups. The counter-public is exemplified by the black public spheres that generated the civil rights movement of the mid-twentieth century. In the 1950s and 1960s,mass public protests—sit-ins, marches, boycotts, voter registration drives, as well as the revaluation of African and Afrocentric arts, physical char-acteristics, and speech—were all central elements of daily life for a large number of African Americans. This intense, widespread involvement setthe tone and agenda for Black politics and discourses. The counterpublic response, one might say, seems to be the optimal choice for a public sphere. However, it may not be prudent at all times for all publics. In the case of enslaved Blacks, enclave spaces and hidden transcripts were safer forms of organization and communication.7 Fur-thermore, even when relatively privileged free Blacks were able to speak, those opportunities were often highly policed and constrained by the dominant White public and the state. The end of slavery did not remove the necessity for clandestine discourse either. For example, in the Deep South, it was not safe for Black Americans to voice negative opinions about their condition in public. Loss of livelihood, rape, psychological trauma, and death were all very real threats constricting their voices. Counterpublics emerged more easily in the cities that were home to tens of thousands of Blacks after the “great migration.” The cities’ combina-tion of better jobs, larger communities, and somewhat less acute legal obstacles provided more opportunities for Blacks to amass resources and create new institutions. Blacks could circulate and discuss more freely the significant social, economic, or legal obstacles that remained, anduse their newfound resources to attack the problems. Part of this pro-cess was to challenge dominant stereotypes of Blacks and recreate the group’s wider public image to challenge the historical degradation of African American identities by the dominant White public. The new Black newspapers, mass-produced and distributed to the growing Blackpopulations in large cities, spearheaded this charge alongside the explo-sion of musical, literary, and visual reinventions of Blackness created by African American artists. Counterpublicity is facilitated by greater independent media resources and distribution channels. Mass production and dissemination of indig-enous media not only means more exposure to wider publics, but also allows and encourages participation in wider discussions. Hence, an “imagined community” and participation in debates via shared infor-mation and opinions can be realized across space and time with the mobility of mass media (Anderson, 1992). The counterpublic was a domi-nant response for African Americans during and after World War I, when hundreds of new publications and political organizations spoke boldly to wide audiences about Black interests and demands for equality. But counter publicity does not guarantee success: many of these discourses of self-determination were answered by White mob violence. In 1919,lynchings soared as Whites targeted returning Black soldiers who de-manded respect. In the same period, the federal government used sedi-tion laws to harass and shut down many Black newspapers that spoke out against Jim Crow policies in the armed forces (Washburn, 1986).

#### And, forming counterpublics on the basis of identity essentializes that identity and excludes other student groups who face similar forms of oppression. Asen 00

Robert Asen[assistant professor in the Communication Arts Department at the University of Wisconsin, Madison]. “Seeking the Counter in Counterpublics” Communication Theory 10.4 Nov 2000 pgs 434-446

Another reading may be gleaned from Fraser’s (1992)work, however, a reading that locates the counter of counterpublics in the subordinated status of participants. In this reading, dominant groups battle subordi- nate groups in opposing publics and counterpublics. This reading emerges as Fraser asks, “What institutional arrangements will best help narrow the gap in participatory parity between dominant and subordinate groups?” (p. 122).Here, the impression arises that counterpublics may be institutionally secured measures for the greater participation of sub- ordinated groups. This impression sharpens as Fraser holds that the de- liberative processes of unequal societies tend to “operate to the advan- tage of dominant groups and to the disadvantage of subordinates” (pp. 122-123). Counterpublics appear in these societies as a needed remedy. Were deliberation in unequal societies to proceed in a singular public sphere, “members of subordinated groups would have no arenas for deliberation among themselves about their needs, objectives, and strate- gies. They would have no venues in which to undertake communicative processes that were not, as it were, under the supervision of dominant groups” (p. 123).Under these circumstances, subordinate groups would be “less able than otherwise to articulate and defend their interests in the comprehensive public sphere” (p. 123).In this second reading, the alternative quality of counterpublics emerges crucially from their popu- lation by members of subordinated groups.¶ Critiques of identity politics undermine efforts to identify any par- ticular group as a counterpublic, insofar as the identification necessarily arises from the common identity of the participants. Though she wishes to employ difference as a resource for public discourse, Iris Young (1997) argues that identity-based conceptions founder against the dilemmas of difference. She maintains that these conceptions of group difference in- voke an essentialism that coagulates fluid social relations by construct- ing rigid inside-outside distinctions among groups. Such conceptions imply that all members of a group have the same interests and agree on strategies to promote their interests. Further, Young asserts that iden- tity-based conceptions of group difference deny differentiation within and across groups. She explains that “everyone relates to a plurality of social groups; every social group has other social groups cutting across it” (1997, p. 388). This does not mean that identity is irrelevant to counterpublics. To be sure, social inequality is pervasive and adversely¶ affects the lives of citizens simply because others perceive them as be- longing to a particular group. Such belonging, however, which often times cannot be disavowed, is by itself an insufficient and sometimes unneces- sary marker of counterpublic status. A reductive reading fixed on group identity compounds this problem by foreclosing emancipatory possibili- ties: It reifies an often-imposed group identity and denies diverse coali- tion building as a source of counterpublic participation. These potential consequences recommend a reading of counterpublics that emphasizes discursive engagement within and across publics.

#### Their notion of private conversations supports a distinction between public and private discourses that allows people to disregard what they have to say and marginalizes black speech. Asen 00

Robert Asen[assistant professor in the Communication Arts Department at the University of Wisconsin, Madison]. “Seeking the Counter in Counterpublics” Communication Theory 10.4 Nov 2000 pgs 434-446

A third possible path of reduction lies in topics, but here too it is important to affirm the value of studying how topics enter and circulate within the public sphere. Focusing on the topics that counterpublics have injected into wider public agendas reveals transformations in collective understandings of public and private as well as of the common good. Topics mark movement and engagement and signal the processes through which transformations occur. Moreover, attention to topics discloses a historical record of concerns and interests of persons on the margins. Such attention may discbse various regimes of marginalization. Yet seek- ing the counter of counterpublics in particular topics commits errors paralleling a priori distinctions of public and private (this time through an opposition of counter and public) that have functioned historically to exclude from public life the needs and interests of some groups. That is, fixing a topic as necessarily counter functions to marginalize interests in a way similar to that by which a “rhetoric of privacy” (Fraser, 1992, p. 131)has functioned historically to exclude the interests of women and laborers. Further, this sort of reduction ascribes a unidirectionality- from margin to center-to public discourse that discounts how topics may emerge as concerns of counterpublics only after discursive engage- ment with wider publics. Engagement may engender the articulation of previously unknown or unrealized interests and issues. To illustrate a potential topical reduction, I evoke as an example the political philoso- phy of liberalism and attempts to accommodate diversity in a liberal public sphere.¶ A principal concern of liberal political philosophy is the question of legitimacy, that is, how citizens may justify to one another the install- ment of a political regime and the exercise of power, which entails some coercion. The question of political legitimacy is especially acute in con- temporary diverse societies, for citizens hold varied and often compet- ing visions of the good life. A liberal model of the public sphere re- sponds to this situation by positing a principle of neutrality: In legitima- tion discourses, citizens ought not to advance reasons that assert the superiority of one particular conception of the good over another. Neu- trality imposes a moral duty of civility upon citizens that obligates them to conduct their discussions through areas of agreement (Rawls, 1993/ 1996). Theorists have offered different renderings of neutrality. Bruce Ackerman posits a “supreme pragmatic imperative” by which citizens must be willing to engage in dialogue about their views of the good with other citizens whose views may differ. When citizens in dialogue dis- cover disagreements regarding dimensions of moral truth, they ought to pursue a path of “conversational restraint.” Keeping to this path pre- scribes that we should simply say nothing at all about this disagreement and put the moral ideals that divide us off the conversational agenda of the liberal state. In restraining ourselves in this way, we need not lose the chance to talk to one another about our deepest moral disagreements in countless other, more private, contexts. (1989, p. 17)¶ Rawls approaches the principle of neutrality through the idea of public reason. The content of public reason consists of a political conception of justice that identifies and assigns special priority to basic rights, liber- ties, and opportunities. The method of public reason entails rules of inquiry that identify principles of reason and standards of evidence in accordance with which citizens determine if substantive principles apply and which laws and policies may best satisfy these principles. Public reason applies to matters of constitutional essentials and basic justice. Legitimacy requires that on these fundamental questions citizens explain to one another how the laws and policies they favor may be supported by the values of public reason. Rawls (1993/1996) instructs that “in making these justifications we are to appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial”¶ (p. 224). Citizens may not appeal to nonpublic reason, which precludes appeals to comprehensive religious or philosophical doctrines, or “to what we as individuals or members of associations see as the whole truth” (p.225).Though citizens hold diverse comprehensive views, they are able to reason together through an overlapping consensus of beliefs and values.¶ A major limitation of the liberal model is that it assumes a priori distinctions of public and private, understood respectively as questions of justice and visions of the good. Public and private are not fixed, con- tent-specific categories that structure the public sphere prior to discourse. Boundaries between “public” and “private” are drawn through discourse even as previously held views of each shape the conditions of their emer- gence. Public deliberation, in important respects, consists of challenging and redefining accepted notions of the common good. For counterpublics, redefinition is especially important. Benhabib (1992)maintains that “all struggles against oppression in the modern world begin by redefining what had previously been considered ‘private,’ non-public and non-po-¶ litical issues as matters of public concern, as issues of justice, as sites of power which need discursive legitimation” (p. 100; see also Cohen, 1988). Fixing an already established ordering of public and private often ad- vantages those in power by silencing the concerns of excluded persons and groups.

#### The Counterplan relies on authenticity tests of who students decide is black enough. Johnson 03

Johnson, E. Patrick. Appropriating blackness: Performance and the politics of authenticity. Duke University Press, 2003.

The title of this book suggests that ‘‘blackness’’ does not belong to any one individual or group. Rather, individuals or groups appropriate this complex and nuanced racial signifier in order to circumscribe its boundaries or to exclude other individuals or groups. When blackness is appropriated to the exclusion of others, identity becomes politi- cal. Inevitably, when one attempts to lay claim to an intangible trope that manifests in various discursive terrains, identity claims become embattled, or as noted in the quotation above by Baldwin, ‘‘color’’ or ‘‘blackness’’ becomes a ‘‘dangerous phenomenon.’’ Because the con- cept of blackness has no essence, ‘‘black authenticity’’ is overdeter- mined—contingent on the historical, social, and political terms of its production. Moreover, in the words of Regina Bendix: ‘‘the notion of [black] authenticity implies the existence of its opposite, the fake, and this dichotomous construct is at the heart of what makes authenticity problematic.’’4 Authenticity, then, is yet another trope manipulated for cultural capital.¶ That said, I do not wish to place a value judgment on the notion of authenticity, for there are ways in which authenticating discourse enables marginalized people to counter oppressive representations of themselves. The key here is to be cognizant of the arbitrariness of authenticity, the ways in which it carries with it the dangers of fore- closing the possibilities of cultural exchange and understanding. As Henry Louis Gates Jr. reminds us: ‘‘No human culture is inaccessible to someone who makes the effort to understand, to learn, to inhabit another world.’’5¶ When black Americans have employed the rhetoric of black au- thenticity, the outcome has often been a political agenda that has ex- cluded more voices than it has included.6 The multiple ways in which we construct blackness within and outside black American culture is contingent on the historical moment in which we live and our ever- shifting subject positions. For example, black Americans, whose vo- cality, leadership, and rhetoric flourished at the historical moment in which they lived, contested popular constructions of blackness in order to further their own political agendas and occasionally to stake out a space from which to argue for the inclusion of other signs of ‘‘blackness.’’¶ Indeed, if one were to look at blackness in the context of black American history, one would find that, even in relation to national- ism, the notion of an ‘‘authentic’’ blackness has always been contested: the discourse of ‘‘house niggers’’ vs. ‘‘field niggers’’; Sojourner Truth’s insistence on a black female subjectivity in relation to the black polity; Booker T. Washington’s call for vocational skill over W. E. B. Du Bois’s ‘‘talented tenth’’; Richard Wright’s critique of Zora Neale Hurston’s focus on the ‘‘folk’’ over the plight of the black man; Eldridge Cleaver’s caustic attack on James Baldwin’s homosexuality as ‘‘anti-black’’ and ‘‘anti-male’’; urban northerners’ condescending attitudes toward rural southerners and vice versa; Malcolm X’s militant call for black Ameri- cans to fight against the white establishment ‘‘by any means nec- essary’’ over Martin Luther King Jr.’s reconciliatory ‘‘turn the other cheek’’; and Jesse Jackson’s ‘‘Rainbow Coalition’’ over Louis Farra- khan’s ‘‘Nation of Islam.’’ All of these examples belong to the long- standing tradition in black American history of certain black Ameri- cans critically viewing a definition of blackness that does not validate their social, political, and cultural worldview. As Wahneema Lubiano suggests, ‘‘the resonances of [black] authenticity depend on who is doing the evaluating.’’7¶ White Americans also construct blackness.8 Of course, the power relations maintained by white hegemony have different material ef- fects for blacks than for whites. When white Americans essentialize blackness, for example, they often do so in ways that maintain ‘‘white- ness’’ as the master trope of purity, supremacy, and entitlement, as a ubiquitous, fixed, unifying signifier that seems invisible.9 Alter- nately, the tropes of blackness that whites circulated in the past— Mammy, Sapphire, Jezebel, Jim Crow, Sambo, Zip Coon, pickaninny, and Stepin Fetchit, and now enlarged to include welfare queen, pros- titute, rapist, drug addict, prison inmate, etc.—have historically in- sured physical violence, poverty, institutional racism, and second- class citizenry for blacks.¶ An even more complicated dynamic occurs when whites appro- priate blackness. History demonstrates that cultural usurpation has been a common practice of white Americans and their relation to art forms not their own. In many instances, whites exoticize and/or fetishize blackness, what bell hooks calls ‘‘eating the other.’’10 Thus, when white-identified subjects perform ‘‘black’’ signifiers—norma- tive or otherwise—the effect is always already entangled in the dis- course of otherness; the historical weight of white skin privilege nec- essarily engenders a tense relationship with its Others.

### Old

#### Safe spaces shut down discussion about creating reforms to solve injustices. Knarr ‘16

Trey Allan Knarr (Clarion University '16). “Safe Spaces: Safe for Some, Bad for All.” 07.18.2016. <http://www.flocku.com/articles/safe-spaces--safe-for-some--bad-for-all> JJN \*\*\*the article concludes that the idea of safe spaces and a place for discussion is good but the current safe spaces on university campuses is bad (the aff eliminates the bad part of safe spaces – the part in which no one can talk about anything – the place for discussion isn’t exclusive with the aff)

The concept of safe spaces is not a new one by any means, with its beginnings in the feminist and early LGBT movements. At one point it was an excellent idea. Marginalized groups needed a place where they could discuss relevant issues without fear of violence or of being shut down. But safe spaces, when pushed too far, begin to cut into the idea of free speech and free action. Safe spaces are defined as "an area or forum where either a marginalized group are not supposed to face standard mainstream stereotypes and marginalization, or in which a shared political or social viewpoint is required to participate in the space." I'm not saying safe spaces are inherently an awful or damaging concept. In fact, I think it would be wrong to not offer rape or child abuse survivors an alternate environment to hang out in, should a lecture or presentation have the potential for dire mental consequences. They should be given the choice to meet with counselors and survivors as opposed to being forced to view something that could do them more harm than good. When I consider safe spaces to be detrimental is when they prevent people from talking about serious issues: sexual assault and how to stop it, sexual violence, mental illness, addiction, LGBT issues, or alternative sexual lifestyles or behaviors. Today, it seems that if enough people consider an issue "triggering," no one can talk about it, especially in the college sphere. In an environment that used to thrive on its ability to bring people from diverse backgrounds together through a collective desire to learn more, we are now seeing an increased desire to shut out any opinion that may set somebody off. "I think that people need to acclimate to their pasts or weaknesses, and censoring the world around them is going to keep them sheltered and weak-minded," my friend Todd Crawford, a fellow Clarion University student, explained. "We have to grow from these things, not stunt ourselves emotionally. It's rough, and I think we could all work on sensitivity, but this isn't the way to go about it." This is why I think the proliferation of safe spaces is a bad idea. As with the idea of "trigger words" (notifications at the top of assignments, syllabi, and other materials that were added to warn students of possibly unnerving content), a previously good thing becomes bad. It forces professors and students to stop discussing particular subjects for fear that someone might get offended, or worse, sent plunging into the depths of a nervous breakdown or psychotic episode. As a result, nobody can discuss why these things occur, and, most importantly, how we can prevent them in the future. One lesson I learned quickly was that life can be painful, but it seems to be that universities, which used to be a stepping stone between post-high school adolescence and full-on adulthood, aren't merely trying to eliminate this transitionary period, they are attempting to obliterate it, to take out the bad things and say, "No, no worries. Nothing will hurt you." It's almost like higher learning is fashioning itself as a third parent. Everybody I knew at least claimed to want to go to college partly to get away from home and their parents, (even though we all still bummed money and received the occasional package of shampoo, deodorant, and mac-and-cheese). You have students at Yale trying to get administration fired over Halloween costumes, shouting, "It is not about creating an intellectual space!" Meanwhile, gay student activists in Colorado cancelled a screening of a pro-gay film last year because they claimed the film endangered their safety. They also said the safety of LGBT students "surpasses the importance of a critical discussion." The reason this burns me up so bad is because it backfires in both the short and long run. Proponents believe that by supporting the concept of safe spaces for marginalized people, (those who are still at an increased risk of violence compared to the general population), they are working toward greater tolerance. Maybe that's true. But I will say that in not having open discussion, you shut down any real chance at figuring out why this violence happened in the first place, and how we can work to end it forever. I should think that if you consider yourself a true progressive, you might like to stop it completely, as opposed to just cutting back on it, which is pretty much all that's been happening. "I like safe spaces because they are places where members of communities that suffer from anything from discrimination to downright hatred and violence from others can truly feel safe, since they are places where bigotry and oppressive discourse or behavior are not tolerated," Dr. Elisabeth Sauvage-Callahan, a French professor at Clarion University of Pennsylvania, explained in a defense of safe spaces. "Is political correctness and the use of trigger warnings a bad thing? No, I do not think so. Language is very powerful and reflects an entire system of oppression of minorities and of those who are seen as 'the other,'" she said. "Trying to eradicate such discourse is, in my opinion, a good thing." But, what happens in the long run? If we arrest all critical discussion because some are unable to handle certain difficult, offensive or traumatic topics, we will be preventing colleges from achieving what they were put here to do, which is to allow for healthy, hearty intellectual debate. What's especially crazy to me is the fact that faculty are blamed sometimes, to the point that at least one person claims they fear losing their ability to practice their profession. How can a professor perform their duty of educating young minds if they are forced to walk on eggshells, not necessarily knowing what will trigger one individual and what might trigger the next? This isn't the point of college. Universities should be more concerned with improving young minds, rather than treating them like the children they were. The world is a scary place, and higher education must be allowed to act as the bridge between parental supervision and full-on adulthood.

#### Safe spaces destroy potential to change the world for the better. Slater ‘16

Tom Slater is deputy editor at spiked. “The Tyranny of Safe Spaces.” January 15, 2016. <http://www.spiked-online.com/newsite/article/the-tyranny-of-safe-spaces/17933#.WIgmpLYrJAY> JJN

The idea that students should be safe from the ‘violence’ meted out by an uncomfortable idea or a colonial-era statue, that students are, in effect, too vulnerable to reckon with dodgy ideas past and present, undermines the entire purpose of academic inquiry. The modern university, springing from the truth-seeking Enlightenment tradition, simply cannot survive if certain ideas are off the table. And the sense of entitlement the Safe Space cultivates directly stunts students’ intellectual growth. That law students in the US have started to ask for the ability to exempt themselves from courses on rape, lest they become too traumatised by the subject matter, shows that wrapping students in cotton wool doesn’t just hold back the march of intellectual progress; it also disarms students from functioning in the adult, professional world, and stops them addressing the problems of the present. Indeed, though the students at the vanguard of softly-softly censorship might pose as mini radicals, standing up for the marginalised and rattling the status quo, actually Safe Spaces suffocate politics, too. You can’t protest in a bubble. And you certainly can’t change the world from the foam-lined confines of an SU Safe Space. Safe Spaces originated in the women’s and gay-liberation movements of the 1970s. Though they were often places of physical safety – whether it be from abusive partners or violent bigots – those spaces were also zones in which non-judgemental ‘consciousness-raising’ was preferred over forthright debate. But, nevertheless, they were seen as a means to an end – a place in which ideas, resources and tactics for changing the world outside could be developed. Today, Safe Spaces are the end. Sealing yourself off from the world – creating ‘a home’ in which ‘victimised’ undergraduates can take shelter, just for a few years – is what these alleged progressives pour all of their energies into.

### Safe Spaces Bad – Delegitimize Victims

#### Safe spaces delegitimize victims and are counterproductive to addressing violence at hand. Samaniego ‘16

Barbara Samaniego – student at Carnegie Melon University. “Trigger Warnings And Safe Spaces Are Counterproductive Social Justice.” September 1, 2016. The Odyssey. https://www.theodysseyonline.com/counterproductive-social-justice

What’s more, “trigger warnings,” “safe spaces,” and the extreme mentality that accompanies them are so overused that they take away the legitimacy and power from victims. Simply put, the overuse and overemphasis of safe space rhetoric feels insanely belittling and dehumanizing to some of those affected. Unnecessary trigger warnings, although well intended, can push the victim narrative so far that victims begin to feel alienated and uneasy. Blanking out a problem because it may be triggering and continuously portraying victims as mere victims is damaging, for it detracts and discourages people from addressing the core issue. We cannot label victims only as victims, without seeking to understand their experiences. Additionally, those affected grow more afraid of stepping up and speaking out because they themselves fear that their own experience is almost taboo to mention. That is paving the way to further censorship, and taking the realness out of experience by silencing conversations in its own right. It is difficult to learn about the horrors of sexual assault, of war, of racial prejudice. It is critical that we protect and respect those affected. But we must learn the true extent of the issues that warrant these trigger warnings, and if we truly want to protect those affected, we need to act against the issues with adequate knowledge and understanding. If we do not debate or discuss, we do not learn the severity of the “triggers” and we do not act accordingly. A “trigger warning” may protect a sexual assault survivor from a trauma induced flashback, but the knowledge about the reality of sexual assault will produce an understanding that combats the rape culture that worked to cause the trauma in the first place. Protecting a victim goes far beyond a two-word warning. When we begin to delegitimize victims and cut out conversations that need to be happening, we've failed in our pursuit of social justice. Right now, we’re failing. There are countless “trigger warnings” plastered on articles criticizing social issues, but the issues continue to permeate our culture. We cannot continue avoiding discussion and knowledge because of “triggers.” Rather, we must educate ourselves and act against the reasons these warnings exist.

### Authenticity Tests Bad

#### Authenticity tests destroy culture – it defines people within narrow parameters to convince those who don’t meet the conditions they can’t be of a certain culture. Smith ‘09

Paul Chaat Smith is associate curator at the Smithsonian’s National Museum of the American Indian. “Everything You Know about Indians Is Wrong.” U of Minnesota Press, 2009. JJN

The particular kind of racism that faces North American Indians offers rewards for functioning within the romantic constructions, and severe penalties for operating outside them. Indians are okay, as long as they are “traditional” in a nonthreatening (peaceful) way, as long as they meet non-Indian expectations about Indian religious and politi-cal beliefs. And what it really comes down to is that Indians are okay as long as we don’t change too much. Yes, we can fly planes and listen to hip-hop, but we must do these things in moderation and always in a true Indian way. It presents the unavoidable question: Are Indian people allowed to change? Are we allowed to invent completely new ways of being Indian that have no connection to previous ways we have lived? Authenticity for Indians is a brutal measuring device that says we are only Indian as long as we are authentic. Part of the measurement is about percentage of Indian blood. The more, the better. Fluency in one’s Indian language is always a high card. Spiritual practices, living in one’s ancestral homeland, attending powwows, all are necessary to ace the authenticity test. Yet many of us believe taking the authentic-ity tests is like drinking the colonizer’s Kool-Aid – a practice designed to strengthen our commitment to our own internally warped minds. In this way, we become our own prison guards.

#### The CP has administrators determine who is and isn’t black – that only reifies anti-blackness – Obama proves that whites use racial stereotypes to sustain dominance. Smith ‘15

JAMIL SMITH - Senior National Correspondent, MTVNews.. “A Black President Is Not a Magical Negro.” New Republic. October 9, 2015. <https://newrepublic.com/article/123072/black-president-not-magical-negro> JJN

Murdoch’s binary assessment of black experience through these two avatars for black excellence was a conservative authenticity test for blackness, in distilled form. My colleague Jeet Heer wrote earlier this year that part of white supremacy is white people exerting power by defining who is black. Rather than shed the Great Conciliator idea, Murdoch and fellow conservatives would rather have in Obama’s place an African American president who fits their notions of what blackness is. Carson fits the bill because his is a blackness of poor circumstances and personal responsibility, minus the racial grievances. He doesn’t complain about the structural inequality that his drive and skills enabled him to escape, at least financially. As Carson patronizes Black Lives Matter and spews varied macho insanities about guns in the wake of the latest mass shooting, he remains all but silent on white supremacy. Given his political performance and his career legacy, he’s an ideal conservative magical Negro for the Fox News era: A man (given the GOP’s rampant misogyny, that part is important) who performs the conservative ideal of racial progress, denigrating himself while remaining content to enable continued injustices.

#### The CP relies on essentialist notions of race – it defines blackness so that only some blacks meet the definition. Hazzard ‘09

Melody Marie Antillon Hazzard B.A., University of California, Davis, 2006. “WHITE/MINORITY MULTIRACIALITY: AN EXPLORATION OF SOCIOPOLITICAL CONSCIOUSNESS DEVELOPMENT.” THESIS Submitted in partial satisfaction of the requirements for the degree of MASTER OF SOCIAL WORK at . CALIFORNIA STATE UNIVERSITY, SACRAMENTO. Spring 2009. <http://csus-dspace.calstate.edu/bitstream/handle/10211.9/673/ANTILLON%20HAZZARD,%20MELODY%20MARIE_SPRING_2009.pdf?sequence=3> JJN

The civil rights movement of the 1960's raised awareness about all minority groups, and created a space for minority groups to claim pride in their ethnic and racial identities (Root, 1996; 2003). Yet it also allowed for the confounding of race with culture and ethnicity, ultimately establishing essentialist racial thinking among the majority and minority groups (Thornton, 1996). The government's, and correspondingly, society's rigid views about race and "interracial mixing" reinforced minority groups' essentialist ideas about race, making gatekeepers out of minority groups and their members (Jimenez, 2003). During this era, mixed-race people were limited to choosing one racial identity (Root, 2003), and which race was usually dictated by physical appearance (Duster, 2001; Gross, 1998; Morning, 2003). For the growing numbers of the racially ambiguous, (Northern, 2004) cultural markers such as behavior, lifestyle, and language, in addition to .,phenotype, produced what is known as the authenticity test (Jimenez; Pelligrini, 2004; Root). Authenticity testing is a process in which mixed-race-and sometimes monoracial (Jimenez, 2003)-people must "prove" they are a legitimate and desirable candidate for racial group membership (Pelligrini, 2004; Root, 1996). The mixed-race person submits his/her ethnic "credentials" (Johnson, 1999, p. 94) for the monoracial person, community, or group's review for the privilege of claiming-full or partial-the racial identity of that person, group, or community (Northern, 2004). Because authenticity tests rely on essentialist notions of race, mixed-race people who are engaged in such tests are often forced to exaggerate caricatures of ethnic and racial stereotypes resulting in a loss of dignity for everyone involved (Root, 2003). While the authenticity test may have emerged during the civil rights era, it is still an overwhelmingly common experience among mixed-race individuals today (Dhooper, 2003; Root, 1996; 2003). The reason for authenticity testing of biracial white/minority by monoracial minorities is simple. Historically, lighter, i.e., whiter, mixed-race individuals have received preferential treatment over darker mixed-race or monoracial individuals (Baynes, 1997; Morning, 2003; Texeira, 2003). Lighter slaves were often assigned to house work or appointed to oversee field work (Texeira). Unsurprisingly, this resulted in divineness that continues to plague the black community today (Gladwell, 1998; Senna, 1998c). The advent of affirmative action legislation during this time furthered the need for authenticity testing among all minority communities (Dunning, 2004; Jimenez, 2004; Johnson, 1999), leading to a type of skepticism toward mixed-race people from those who are monoracial (Buchanan & Acevedo, 2004; Rockquemore & Brunsma, 2004; Root, 1996). Affirmative action in the context of identity politics is further explored in the Identity Politics section of this chapter. Many biracial white/minority authors who grew up during or immediately after the civil rights movement write of the seemingly oppositional nature of their racial identity. For example, as a child Johnson (1999) recognized his culture and ethnicity as Mexican American, however he notes that because others had trouble racially categorizing him due to his light complexion and "anglo" last name, he worried about being viewed as a (racial) impostor. Johnson characterizes the differences between living with his white, middle class father and his poor, Mexican single-mother, and the opposing worldviews these experiences provided, as resulting in a border identity, living in two worlds. Alvarez (1998) describes trying to reconcile the oppositional social and class realities represented in the differences between her Nicaraguan father's brownness and her mother's whiteness. Obama (1995) recalls questioning whether he was black enough to participate in the militant, Afrocentric black student organizations in college. All of these authors write of feeling pressured to monoracially identify, and of not belonging to either racial group they represented, an unsurprising phenomenon in an era in which neither the Census nor society allowed for the checking of more than one box.

### Not Implementable

#### CP fails – it doesn’t account for complexities of race including multi-race children, etc. – even the census bureau has no definite idea of what constitutes which race. Krogstad and Cohn ‘14

Jens Manuel Krogstad is a writer/editor focusing on Hispanics, immigration and demographics at Pew Research Center. D’Vera Cohn is a senior writer/editor focusing on immigration and demographics at Pew Research Center. “U.S. Census looking at big changes in how it asks about race and ethnicity.” Pew Research Center. March 14, 2014. <http://www.pewresearch.org/fact-tank/2014/03/14/u-s-census-looking-at-big-changes-in-how-it-asks-about-race-and-ethnicity/> JJN

The Census Bureau has embarked on a years-long research project intended to improve the accuracy and reliability of its race and ethnicity data. A problem is that a growing percentage of Americans don’t select a race category provided on the form: As many as 6.2% of census respondents selected only “some other race” in the 2010 census, the vast majority of whom were Hispanic. Six percent may seem small, but for an agency trying to capture the entire U.S. population (nearly 309 million in 2010) every 10 years, that number results in millions of people unaccounted for. This pattern of response led to the bureau’s “most comprehensive effort in history to study race and ethnic categories,” according to Census officials Nicholas Jones and Roberto Ramirez. “Increasingly, Americans are saying they cannot find themselves” on census forms, Jones said. Many communities, including Hispanics, Arabs and people of mixed race, have said they’re unsure of how to identify themselves on census forms.

## A2 Black Safe Space (Harrison)

### 1AR – Harrison Safe Space

#### [Depending on cross ex read this or 2] 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by mooting the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage imossible

OR 2. The alt doesn’t solve the case – it only establishes new restrictions but doesn’t get rid of other restrictions. Which means we get full access to our censorship and engagement advantages – *insert extension*

This outweighs – the impact of the K is tiny compared to *weigh whichever advantage you chose*

#### Perm do both – the AFF is about free speech. Their alt is about free press which is distinct – where journalists gain info is their right as a press and isn’t about free speech. The alt is about privacy. Lincoln University no date

(http://www.lincoln.edu/criminaljustice/hr/Speech.htm)

The First Amendment to the U.S. Constitution, says that "Congress shall make no law....abridging (limiting) the freedom of speech, or of the press..." Freedom of speech is the liberty to speak openly without fear of government restraint. It is closely linked to freedom of the press because this freedom includes both the right to speak and the right to be heard. In the United States, both the freedom of speech and freedom of press are commonly called freedom of expression. Freedom of Speech Why is freedom of speech so solidly entrenched in our constitutional law, and why is it so widely embraced by the general public? Over the years many philosophers, historians, legal scholars and judges have offered theoretical justifications for strong protection of freedom of speech, and in these justifications we may also find explanatory clues. The First Amendment's protection of speech and expression is central to the concept of American political system. There is a direct link between freedom of speech and vibrant democracy. Free speech is an indispensable tool of self-governance in a democratic society. It enables people to obtain information from a diversity of sources, make decisions, and communicate those decisions to the government. Beyond the political purpose of free speech, the First Amendment provides American people with a "marketplace of ideas." Rather than having the government establish and dictate the truth, freedom of speech enables the truth to emerge from diverse opinions. Concurring in Whitney v. California (1927), Justice Louis Brandeis wrote that "freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth." On a communal level, free speech facilitates majority rule. It is through talking that we encourage consensus, that we form a collective will. Whether the answers we reach are wise or foolish, free speech helps us ensure that the answers usually conform to what most people think. Americans who are optimists (and optimism is a quintessentially American characteristic) additionally believe that, over the long run, free speech actually improves our political decision-making. Just as Americans generally believe in free markets in economic matters, they generally believe in free markets when it comes to ideas, and this includes politics. In the long run the best test of intelligent political policy is its power to gain acceptance at the ballot box. On an individual level, speech is a means of participation, the vehicle through which individuals debate the issues of the day, cast their votes, and actively join in the processes of decision-making that shape the polity. Free speech serves the individual’s right to join the political fray, to stand up and be counted, to be an active player in the democracy, not a passive spectator. Freedom of speech is also an essential contributor to the American belief in government confined by a system of checks and balances, operating as a restraint on tyranny, corruption and ineptitude. For much of the world’s history, governments, following the impulse described by Justice Holmes, have presumed to play the role of benevolent but firm censor, on the theory that the wise governance of men proceeds from the wise governance of their opinions. But the United States was founded on the more cantankerous revolutionary principles of John Locke, who taught that under the social compact sovereignty always rests with the people, who never surrender their natural right to protest, or even revolt, when the state exceeds the limits of legitimate authority. Speech is thus a means of "people-power," through which the people may ferret out corruption and discourage tyrannical excesses. Counter-intuitively, influential American voices have also often argued that robust protection of freedom of speech, including speech advocating crime and revolution, actually works to make the country more stable, increasing rather than decreasing our ability to maintain law and order. Again the words of Justice Brandeis in Whitney v. California are especially resonant, with his admonition that the framers of the Constitution "knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones." If a society as wide-open and pluralistic as America is not to explode from festering tensions and conflicts, there must be valves through which citizens with discontent may blow off steam. In America we have come to accept the wisdom that openness fosters resiliency, that peaceful protest displaces more violence than it triggers, and that free debate dissipates more hate than it stirs. The link between speech and democracy certainly provides some explanation for the American veneration of free speech, but not an entirely satisfying or complete one. For there are many flourishing democracies in the world, but few of them have adopted either the constitutional law or the cultural traditions that support free speech as expansively as America does. Moreover, much of the vast protection we provide to expression in America seems to bear no obvious connection to politics or the democratic process at all. Additional explanation is required. Probably the most celebrated attempt at explanation is the "marketplace of ideas" metaphor, a notion that is most famously associated with Holmes' great dissent in Abrams, in which he argued that "the best test of truth is the power of the thought to get itself accepted in the competition of the market." The marketplace of ideas metaphor does not posit that truth will emerge from the free trade in ideas, at least not instantly. That would be asking too much. It merely posits that free trade in ideas is the best test of truth, in much the same way that those who believe in laissez-faire economic theory argue that over the long haul free economic markets are superior to command-and-control economies. The American love of the marketplace of ideas metaphor stems in no small part from our irrepressible national optimism, the American "constitutional faith" that, given long enough, good will conquer evil. As long as this optimism is not blind naiveté, but is rather a motive force that encourages us to keep the faith in the long view of history, it can be a self-fulfilling prophecy. Just as we often have nothing to fear but fear, hope is often our best hope. Humanity may be fallible, and truth illusive, but the hope of humanity lies in its faith in progress. The marketplace metaphor reminds us to take the long view. Americans like to believe, and largely do believe, that truth has a stubborn and incorrigible persistence. Cut down again and again, truth will still not be extinguished. Truth will out, it will be rediscovered and rejuvenated. It will prevail. The connection of freedom of speech to self-governance and the appeal of the marketplace of ideas metaphor still, however, do not tell it all. Freedom of speech is linked not merely to such grandiose ends as the service of the democracy or the search for truth. Freedom of speech has value on a more personal and individual level. Freedom of speech is part of the human personality itself, a value intimately intertwined with human autonomy and dignity. In the words of Justice Thurgood Marshall in the 1974 case Procunier v. Martinez, "The First Amendment serves not only the needs of the polity but also those of the human spirit — a spirit that demands self-expression." Many Americans embrace freedom of speech for the same reasons they embrace other aspects of individualism. Freedom of speech is the right to defiantly, robustly and irreverently speak one’s mind just because it is one’s mind. Freedom of speech is thus bonded in special and unique ways to the human capacity to think, imagine and create. Conscience and consciousness are the sacred precincts of mind and soul. Freedom of speech is intimately linked to freedom of thought, to that central capacity to reason and wonder, hope and believe, that largely defines our humanity. If these various elements of our culture do in combination provide some insight into why freedom of speech exerts such a dominating presence on the American legal and cultural landscape, they do not by any means come close to explaining the intense and seemingly never-ending legal and cultural debates over the limits on freedom of speech. While the language of the First Amendment appears absolute, freedom of speech is not an absolute right. Certain limitations and restrictions apply. Conflicts involving freedom of expression are among the most difficult ones that courts are asked to resolve. This ongoing process is often contentious and no one simple legal formula or philosophical principle has yet been discovered that is up to the trick of making the job easy. Americans thus continue to debate in political forums and litigate in courts such issues as the power of society to censor offensive speech to protect children, the permissibility of banning speech that defeats protection of intellectual property, the propriety of curbing speech to shelter personal reputation and privacy, the right to restrict political contributions and expenditures to reduce the influence of money on the political process, and countless other free-speech conflicts. Free speech cases frequently involve a clash of fundamental values. For example, how should the law respond to a speaker who makes unpopular statement to which the listeners react violently? Should police arrest the speaker or try to control the crowd? Courts must balance the need for peace and order against the fundamental right to express ones point of view. According to the current state of law, freedom of speech does not protect the following: Speech that contains "fighting words" (insulting or abusive language that is likely to cause "an immediate violent response"); Obscenities; Language or communication directed to inciting, producing or urging the commission of a crime; Defamation - words or communication that are false and untrue and are intended to injure the character and reputation of another person; Abusive, obscene or harassing telephone calls; Loud speech and loud noise meant by volume to disturb others or to create a clear and present danger of violence. Yet while the country continues to struggle mightily to define the limits and continues to debate vigorously the details, there is surprisingly little struggle and debate over the core of the faith. Americans truly do embrace the central belief that freedom of speech is of utmost value, linked to our defining characteristics as human beings. While limits must exist, American culture and law approach such limits with abiding caution and skepticism, embracing freedom of speech as a value of transcendent constitutional importance. Freedom of Press Freedom of the press protects the right to obtain and publish information or opinions without government censorship or fear of punishment. Censorship occurs when the government examines publications and productions and prohibits the use of material it finds offensive. Freedom of press applies to all types of printed and broadcast material, including books, newspapers, magazines, pamphlets, films and radio and television programs. The Constitution's framers provided the press with broad freedom. This freedom was considered necessary to the establishment of a strong, independent press sometimes called "the fourth branch" of the government. An independent press can provide citizens with a variety of information and opinions on matters of public importance. However, freedom of press sometimes collides with other rights, such as a defendant's right to a fair trial or a citizen's right to privacy. In recent years, there has been increasing concern about extremely aggressive journalism, including stories about people's sexual lives and photographs of people when they were in a private setting. In the United States, the government may not prevent the publication of a newspaper, even when there is reason to believe that it is about to reveal information that will endanger our national security. By the same token, the government cannot: Pass a law that requires newspapers to publish information against their will. Impose criminal penalties, or civil damages, on the publication of truthful information about a matter of public concern or even on the dissemination of false and damaging information about a public person except in rare instances. Impose taxes on the press that it does not levy on other businesses. Compel journalists to reveal, in most circumstances, the identities of their sources. Prohibit the press from attending judicial proceedings and thereafter informing the public about them. Collectively, this bundle of rights, largely developed by U.S. Supreme Court decisions, defines the “freedom of the press” guaranteed by the First Amendment. What we mean by the freedom of the press is, in fact, an evolving concept. It is a concept that is informed by the perceptions of those who crafted the press clause in an era of pamphlets, political tracts and periodical newspapers, and by the views of Supreme Court justices who have interpreted that clause over the past two centuries in a world of daily newspapers, books, magazines, motion pictures, radio and television broadcasts, and now Web sites and Internet postings.

#### Perm do the alt: student groups can have control over classrooms as a reasonable TPM – Peters JD and law prof at Kansas 15

Jonathan Peters [An attorney, he is an assistant professor of journalism at the University of Kansas, where he teaches and researches media law and policy, with an affiliate research position exploring big data and Internet governance in the KU Information & Telecommunication Technology Center. Peters has blogged on free expression for the Harvard Law & Policy Review, and he has written for Esquire, The Atlantic, Sports Illustrated, Slate, The Nation, Wired, and PBS.] DECEMBER 1, 2015¶ “Examining a journalist’s right of access to college and university campuses” <http://www.cjr.org/united_states_project/examining_a_journalists_right_of_access_to_college_and_university_campuses.php>

Meanwhile, the two Kansas incidents—at KU and Emporia State—raise the right of access to a public university’s campus. Such places are open to the general public, but school officials can set the expectations for an individual’s presence there. That means they can impose reasonable time, place, and manner restrictions on First Amendment activities that occur on campus, and they can restrict an individual’s access if he violates university policies or poses a risk to campus safety.¶ Keep in mind also that the public can access only certain areas of a public campus, for certain purposes: Places like the quad at Mizzou may be public forums, but academics buildings are not wholly open. Further, if the university uses some of its rooms for non-school meetings that are open to the general public, those rooms, at those times, may be treated as public forums.¶ And, sometimes, a group using a space on a public campus does have the authority to set these rules. For example, a group that rents a room for a news conference typically enjoys tenancy rights and the corresponding ability to control access to it. That may apply in the case involving Rock Chalk Invisible Hawk, according to my understanding of events. ¶ But that wasn’t the case at Emporia State, where the town-hall meeting probably did constitute a public forum—and, as officials have acknowledged, it was improper under the First Amendment to keep journalists away. It’s also worth noting, though, that with some exceptions, bars on town-hall meetings do not usually amount to violations of state open-meetings laws.¶ “The meeting must typically be one involving members of a decision-making body coming together to deliberate,” LoMonte said, adding that that’s not the case at most town-hall meetings.¶ For a wider lens on the press’s rights to cover assembly activities, including tips on how to avoid or manage confrontations with the police, see this primer that the SPLC released last week or this one that I published during the first round of Ferguson protests.¶

#### Causes censorship and vilifies journalists – even protestors at Missouri agree. This outweighs – it prevents reporter from exposing university racism. McGough 15

Michael McGough 11/10/15 <http://www.latimes.com/opinion/opinion-la/la-ol-missouri-protesters-reporters-20151110-story.html>

Some of the tweets Monday night linked to the resume and portfolio of Tim Tai, 20, a senior photojournalism student who was working on assignment for ESPN. Tai wanted to chronicle the story of how the protest fitted into other demonstrations by black activists, but he wasn’t welcome. "You don't have a right to take our photos," a demonstrator told him.¶ Journalists have continued to close ranks against the protesters' media-unfriendliness. In the Columbia Journalism Review, Jonathan Peters, a lawyer and assistant professor of journalism at the University of Kansas, invited Click and a university official who told Tai to “back off” that they were welcome to audit the course he teaches on the 1st Amendment. Erik Wemple, who blogs about the media for the Washington Post, wrote that university employees who failed to stick up for free speech “should lose their jobs as a result.”¶ So was this another example of the tendency of journalists to think that it’s all about us? To some extent, perhaps; we journalists can be prickly and pompous. But you don’t have to be a journalist to feel uneasy about protesters commandeering a public square and hassling journalists who are trying to record a public protest.¶ Fortunately, the criticism the protesters received seems to have done some good. The St. Louis Post-Dispatch is reporting that the main student protest group, Concerned Student 1950, handed out leaflets asking protesters to welcome reporters. The handout says "1. Media has a 1st Amendment right to occupy campsite. 2. The media is important to tell our story and experiences at Mizzou to the world.”¶ And on Tuesday, Click released a statement in which she said that "I regret the language and strategies I used, and sincerely apologize to the MU campus community, and journalists at large, for my behavior, and also for the way my actions have shifted attention away from the students’ campaign for justice.”¶ Some will see these second thoughts as capitulation to criticism and media bullying; I'd prefer to think that the protesters and Click realized that they were wrong. I hate the cliché "teachable moment," but maybe that's what this was.

#### Reject their pursuit of safety - Safe spaces for black people are impossible – the pursuit of safety side steps hard conversations about race and relies on white notions of equality. Leondaro and Porter 10

Zeus Leonardo & Ronald K. Porter [Graduate School of Education, University of California, Berkeley ](2010) Pedagogy of fear: toward a Fanonian theory of ‘safety’ in race dialogue, Race Ethnicity and Education, 13:2, 139-157

A Fanonian approach leads us back into considerations of violence in race-based dialogue. The question we must ask is how do we go about understanding liberatory discussions on race as necessitating violence? We are not speaking of violence in the sense of a willful act to injure or abuse, but a violence that humanizes, or shifts the standards of humanity by providing space for the free expression of people’s thoughts and emotions that are not regulated by the discourse of safety. Our main criticism of safe space is that it is laced with a narcissism that designates safety for individuals in already dominant positions of power, which is not safe at all but perpetuates a system- atic relation of violence. Fanon advised against a politics of narcissism, and instead advocated a materialist politics of recognition whereby an individual allows himself to be mediated by the other, or Fanon’s appropriation of Hegel’s (1977) idealism of the other. Unfortunately, this does not happen because white narcissism is at the very center of safe space. Through the avoidance of conflict and the emphasis on personal and image management, it maintains the self-image and understanding of whiteness and reveals a refusal to change through the other. To be fair, Fanon also took to task people of color’s own narcissism, particularly as it concerns the limitations of identity politics and nationalism, what Appiah (1990) calls ‘intrinsic racism’, or the assump- tion of a family resemblance within a group necessary in the short term and usually for protection against the assaults of an outer group.5 African nationalism during decolonization is an example of the second class, whereas Nazism represents the first class; both are problematic, but they differ in purpose and outcome. White indulgence is a gross attempt to understand the self through the self rather than through the other: narcissism par excellence. In fact, Fanon warns us that the ‘other’ in the self/other dichotomy in racial dialogue may not even exist. According to Gordon (2008):¶ In the contemporary academy, much discussion of race and racism is replete with criticism of otherness. Fanon, however, argues that racism proper eliminates such a relationship. Instead of self and other, there are self, others, and non-self, non-others. In other words, there is the category of people who are neither self nor others. They are no- one. The dialectics of recognition is disrupted, and the struggle of such people becomes one of achieving such a dialectics. Put differently, they are not fighting against being others. They are fighting to become others and, in so doing, entering ethical relation- ships. This argument results in a peculiar critique of liberal political theory. Such theory presupposes ethical foundations of political life. What Fanon has shown is that political work needs to be done to make ethical life possible. That is because racism and colonial- ism derail ethical life. (italics added) A pedagogical approach that avoids safety in the interest of image and personal management makes such an ethical relationship possible.¶ If we are truly interested in racial pedagogy, then we must become comfortable with the idea that for marginalized and oppressed minorities, there is no safe space. As implied above, mainstream race dialogue in education is arguably already hostile and unsafe for many students of color whose perspectives and experiences are consistently minimized. Violence is already there. In other words, like Fanon’s under- standing of colonialism, safe space enacts violence. Those who are interested in engaging in racial pedagogy must be prepared to (1) undo the violence that is inherent to safe-space dialogue, and (2) enact a form of liberatory violence within race discus- sions to allow for a creativity that shifts the standards of humanity. In other words, anger, hostility, frustration, and pain are characteristics that are not to be avoided under the banner of safety, which only produces Freire’s (1993) ‘culture of silence’. They are attributes that are to be recognized on the part of both whites and people of color in order to engage in a process that is creative enough to establish new forms of social existence, where both parties are transformed. This is not a form of violence that is life threatening and narcissistic, but one that is life affirming through its ability to promote mutual recognition.

## A2 Climate Denial PIC

### 1AR - Climate Denial PIC

#### Their evidence is out of context

#### 1. It argues editors should act, not censors

#### 2.it says denial can be constitutionally restricted because its fraud, which isn’t protected. von Spakovsky 16

(Hans A., https://www.conservativereview.com/commentary/2016/07/intolerant-left-this-dem-senator-wants-to-censor-climate-change-skeptics

Whitehouse suggests that editorial boards should refrain from publishing articles and letters containing what he calls “phony ‘opinion’ writing” about the climate change debate. Whitehouse is unapologetic, of course, about urging censorship and supporting government-run investigations of anyone on the wrong side of what he considers to be an undisputable fact – the existence of man-induced, catastrophic global warming. Never mind that this is an unproven, scientific theory over which there is vigorous, persistent and educated debate by reputable researchers, scientists and meteorologists. Whitehouse refuses to distinguish between what are facts and what is opinion. He refers to the “fossil fuel industry’s climate denial operation,” even though there is no proof any such widespread, systematic “conspiracy” exists. This unsubstantiated allegation apparently justifies, in his mind, either a civil or criminal investigation under RICO, the Racketeer Influenced and Corrupt Organizations Act. He faults me and others for not distinguishing between civil and criminal RICO investigations, as if a civil RICO investigation by the government of a company (or anyone else) is somehow less onerous or less serious than a criminal investigation. The state attorneys general who have launched these investigations have been hazy on whether they are conducting civil or potential criminal investigations. But it doesn’t really matter. Any type of investigation that attempts to criminalize scientific dissent or impose civil penalties for such dissent is an abuse of government power and a violation of fundamental First Amendment rights. Whitehouse says that fraud trumps the First Amendment. But as I pointed out recently in a letter to The Washington Post, the U.S. Supreme Court said in 2003 in Illinois ex rel Madigan v. Telemarketing Assocs., Inc. that “simply labeling an action one for ‘fraud’ does not carry the day.” What “fraud” has been committed? According to Whitehouse, it is the sponsorship by companies such as ExxonMobil of “phony science” supporting climate denial. What “phony science” is he talking about? In a 2006 Corporate Citizenship Report, ExxonMobil (seemingly the main target of this series of investigations) acknowledged that “the risk to society and ecosystems from rising greenhouse gas emissions could be significant” and that “strategies that address the risk need to be developed and implemented.” That doesn’t sound like a denial to me. Moreover, in the countersuit filed by the Competitive Enterprise Institute after it was served with a subpoena issued by the U.S. Virgin Islands attorney general for all of its research on climate change, CEI noted that the AG could only come up with two statements made by ExxonMobil that he claimed were supposedly fraudulent: “International accords and underlying regional and national regulations for greenhouse gas reduction are evolving with uncertain timing and outcome, making it difficult to predict their business impact.” “Current scientific understanding provides limited guidance on the likelihood, magnitude, and timeframe of physical risks such as sea level rise, extreme weather events, temperature extremes, and precipitation.” These statements simply express the uncertainty that exists over the scope, causes and pace of climate change and about appropriate climate policy. The view that these are, or even could be construed as, fraudulent statements that can form the basis of a governmental investigation lacks both common sense and a basic understanding of the legal standards that apply not just to government investigations, but to protected First Amendment activity. Also alarming is the fact that these nascent investigations appear to target not only ExxonMobil, but scientists and academic scholars who question the accepted wisdom of those who want to declare the debate about climate change is over. How else can one explain why a think tank, the Competitive Enterprise Institute, was targeted with a subpoena in a climate change investigation? Or why another subpoena served on ExxonMobil targeted its communications with almost a hundred different think tanks, universities, and individual scientists, professors and researchers? Americans — and that includes corporate America, both profit and non-profit — have the right to speak their minds about public policy and issues involving science and technology — and that includes climate change. Whitehouse and others have tried to compare these investigations to the lawsuits filed against the tobacco industry for misleading the public about the health effects of tobacco. But that comparison fails to distinguish between proven facts and unproven theory. When those lawsuits were filed, we had decades’ worth of tests, observation, research and experimentation showing that tobacco contains carcinogens that cause cancer, and that nicotine is a highly addictive drug. On the other hand, there are many problems with the theory of man-induced, catastrophic climate change, from computer models that have over-predicted warming to data sets that disagree on whether the earth is warming or whether temperatures have plateaued. And it is a matter of great dispute — and vigorous debate — over how much of our climate is influenced by man-made events, as opposed to natural occurrences such as sun flares. The bottom line is that no fraud of any kind is being committed by anyone or any entity that questions the “science” behind climate change. Anyone who insists that those who question this should be investigated is violating basic free speech rights guaranteed by the Bill of Rights. Americans — and that includes corporate America, both profit and non-profit — have the right to speak their minds about public policy and issues involving science and technology — and that includes climate change. They should not be harassed, threated, investigated, silenced or bullied for doing so.

#### Censoring denial doesn’t solve either advantage- star this card. NCAC 16

(National coalition against censorship, 6-3, <http://ncac.org/blog/portland-resolution-on-teaching-climate-change-raises-concerns)>

Most critically, the resolution is dangerously over-broad, potentially affecting a wide range of valuable educational materials. Social studies texts accurately describing the political debate around fossil fuels and climate change, for instance, would presumably contain comments from individuals who “express doubt about the severity of the climate crisis.” If such material is excised from the curriculum, will students be prepared to face – and argue with – climate change denial when they encounter it in the world outside school? Purging the curriculum of this kind of material will undermine public education, which should equip students for critical and informed consideration of important matters of public policy and controversy. This goal is clearly identified in the 2011 Oregon Social Sciences Academic Content Standards, which state that “Students learn to assess the merits of competing arguments, and make reasoned decisions that include consideration of the values within alternative policy recommendations.” Even if some scientists questioning the human causes of climate change do so apparently at the behest of the fossil fuel industry, it is still a fact that environmental policy is a subject of ongoing debate. Students should be conversant with, and equipped to address, the various questions and issues that are the subject of public discussion. The resolution is also unnecessary. Oregon has standards in place to insure that education in science and social studies is consistent with current scientific and scholarly consensus. In March 2014, the Oregon State Board of Education adopted as the Next Generation Science Standards based on a framework developed by the National Research Council. These include as a “disciplinary core idea” the role of human activity in global warming: “Human activities, such as the release of greenhouse gases from burning fossil fuels, are major factors in the current rise in Earth’s mean surface temperature (global warming).” Finally, the resolution is undermined by the appearance that its adoption was driven primarily by political pressure, rather than pedagogical considerations, because it represents the views of environmental groups that have lobbied the school board for many years. Curricular decisions that appear to be a result of political pressure are suspect no matter from which political side the pressure comes. This is especially true when such decisions are made by school board officials who generally lack the subject-area expertise essential to the development of accurate and effective curricula. Under these circumstances, it is incumbent on the board to defer to professional educators and subject matter experts in determining the content of curricula.

#### Censorship undermines science and prevents persuasion. **Jacobson 16**

(Daniel, Philosophy @Michigan, Freedom of Speech under Assault on Campus 8-30 https://object.cato.org/sites/cato.org/files/pubs/pdf/pa796.pdf)

Consider contemporary efforts to suppress climate change “denial.” Those efforts ostensibly address a matter of empirical fact rather than an evaluative judgment. Yet, modern censors consider skepticism about catastrophic anthropogenic global warming so dangerous that it cannot be tolerated. Rather than engage in argument against the skeptical position, they seek to suppress it. The rhetoric of denial is, of course, borrowed from Holocaust denial, which has been banned for decades in Europe without succeeding in eradicating the proscribed view, let alone eliminating the hatred and persecution of Jews. Similarly, the movement to ban climate change skepticism is not based on any calculation of the actual effects of toleration versus suppression. Instead, the argument is simply that because it would be bad for people to doubt the doctrine, skepticism should be suppressed. Again, dissent gets punished rather than refuted—here, in the name of science but contrary to the norms of scientific inquiry. And on matters in which scientific evidence seems to support heretical opinion—as with the existence of innate differences between the sexes— this fealty to science gets sacrificed to ideology. (5-6)

#### CP can’t solve free speech- ambiguities over what constitute denial shuts down legitimate debate and wrecks first amendment. Ridley, PhD, 5-2-16

(Matt, <http://www.rationaloptimist.com/blog/climate-censorship/> fellow of the Royal Society of Literature and of the Academy of Medical Sciences, and a foreign honorary member of the American Academy of Arts and Sciences. He is honorary president of the International Centre for Life in Newcastle.)

The Climategate emails leaked in 2009 revealed intimidation against academics and journal editors who voiced doubts about the forthcoming Armageddon. When Lennart Bengtsson, a distinguished climatologist, joined the GWPF’s scientific advisory board in 2014, the pressure was so “unbearable” that he withdrew, worried about his health and safety, “a situation that reminds me about the time of McCarthy”. Some distinguished scientists continue to brave the bullies, such as Judith Curry, Dick Lindzen, John Christy, Nic Lewis, Michael Kelly and David Legates, but others tell me they dare not put their heads above the parapet. In 2013 The Los Angeles Times said it would “no longer publish letters from climate change deniers”, in which category it included sceptics. The following year Professor Roger Pielke Jr quit Nate Silver’s 538 website following a campaign against him. Professor Pielke had argued with impeccably detailed evidence that, although he was no sceptic, “the increased cost of natural disasters is not the result of climate change”. This month, the attorneys-general of 16 US states issued subpoenas against a think tank, the Competitive Enterprise Institute, in an attempt to silence its climate dissent. The Bloomberg View columnist Megan McArdle lambasted this decision, saying: “I support action on climate change . . . But that doesn’t mean I’m entitled to drive people who disagree with me from the public square.” If peers demanded a newspaper stop covering studies that argue economic growth is going to fall short of the consensus, they would get short shrift. We can’t criticise Russia or Turkey for shutting down newspapers if we censor scientific doubters. Free speech matters.

#### Censorship polarizes climate debate- link turns the net benefit. Concha 15

(Joe, <http://www.mediaite.com/online/orwellian-award-winning-journalist-censored-after-skepticism-of-man-made-climate-change/> 12-12)

No matter… the BBC isn’t having it, claiming it has a policy and instructed Letts that he wasn’t allowed to talk about climate change on his program based on said policy. Letts contends that warning never happened, nor having any knowledge of such a rule. But really, does it even matter? Since when should topics with varying points of view be banned in any capacity? We see censorship similar to this happening more in the U.S. as well, particularly on our college campuses: “Safe spaces” from dissenting viewpoints at Yale and muzzling of free speech at University of Missouri being prime examples in the past month alone. But here’s the thing when it comes to climate change debate: it doesn’t have to be a matter of, “It simply isn’t happening,” or “It absolutely is and we’re doomed if we don’t do something about it now.” Debate can exist––amongst pragmatic people, anyway––about the degree of its effect on the planet: Are we in immediate danger/on the brink? Or is it an issue that can be addressed in a series of small steps over time? That’s a fair discussion to have. But instead, we get those controlling the debate presenting only the absolutist arguments from each side, which, of course, doesn’t advance anything.

## A2 Comics PIC

### 1AR – Comics PIC

#### 1. Anything can be found offensive – comics are specifically key to encourage minority participation. Kennedy ‘16

Sean Kennedy - Director of Communications, UNLV University Libraries. “Quick Take: Censorship and Comics.” News center. September 23, 2016. <https://www.unlv.edu/news/article/quick-take-censorship-and-comics> JJN

What impact does censorship have on readers? Censorship is when your government (at the city, county, district, state, or federal level) decides what ideas you can be exposed to. Outside of slander, libel, and harassment, the knowledge generated by a vigorous and free-flowing “marketplace of ideas” is fundamental to our democratic institutions, but censorship is the opposite of that. Censorship is about dogma, orthodoxy, and indoctrination, all of which stifle the discussion and exchange needed for knowledge. Censorship closes minds and leaves us all a little less rich. To put it in less abstract terms, think of books, movies, or albums that meant everything to you as you were growing up. They all contain some idea that somebody, somewhere finds offensive. Imagine how you and your life would be different if you had never encountered that artistic work because it had been pulled by authorities. Imagine for a moment how the world would be different if Star Trek had never aired on the grounds that the mixed-race, mixed-gender bridge was against “natural law,” so the FCC (Federal Communications Commission) forbade it. We would lose all the works of art from creators it inspired and the contributions of women and minorities it inspired to study STEM (science, technology, engineering, and math) fields. We would lose all the technologies it inspired engineers to make real, such as that tricorder-like smartphone in your pocket. That is the impact that censorship has.

#### **2.** Everything can be offensive – things like Charlie Hebdo shouldn’t be banned, they provoke discussion important to countering their own impacts. Ho ‘2/8

Katherine Ho. “The Role of Provocative Speech.” Political Review. February 8, 2017. <http://harvardpolitics.com/online/provocative-speech/> JJN

The value of offensive speech becomes clearer when we ourselves aren’t offended by it. Following the shooting at Charlie Hebdo in January 2015, David Brooks wrote an article entitled “I am Not Charlie Hebdo” in the New York Times in which he pointed out the inherent hypocrisy of people “who are quick to lionize those who offend the views of Islamist terrorists in France but who are a lot less tolerant toward those who offend their own views at home.” The material published by Charlie Hebdo—with its unique radical left-wing and secular editorial stance—was undoubtedly very offensive to many people, like those who objected to the magazine’s depiction of the Prophet Muhammad in satirical cartoons. Likewise, Colin Kaepernick’s recent refusal to stand during the national anthem—a symbolic action that sparked discourse on racism, American values, and the protest itself—was surely very offensive and disrespectful in the eyes of certain individuals. But it’s hard to argue that due to their provocative natures, both the magazine and Kaepernick’s protest had no role beyond being told off simply because some people found them objectionable. These examples also shed light on the fact that assessing the “offensiveness” of a statement is a highly subjective matter. In an environment where avoiding potential emotional discomfort is the name of the game, claiming someone’s speech violates your sensibilities becomes a highly effective way to silence that person. As a result, we start to see instances in which the concept of a safe space is weaponized to serve certain political ends.

#### **3.** Comics are politically valuable to expose inequalities in society – the marketplace of ideas solves back for problematic speech anyways. Brooks ‘15

David Brooks became an Op-Ed columnist for The New York Times in September 2003. His column appears every Tuesday and Friday. He is currently a commentator on “PBS NewsHour,” NPR’s “All Things Considered” and NBC’s “Meet the Press.” Mr. Brooks also teaches at Yale University, and is a member of the American Academy of Arts and Sciences. “I Am Not Charlie Hebdo.” The New York Times. January 8, 2015. <https://www.nytimes.com/2015/01/09/opinion/david-brooks-i-am-not-charlie-hebdo.html> JJN

Americans may laud Charlie Hebdo for being brave enough to publish cartoons ridiculing the Prophet Muhammad, but, if Ayaan Hirsi Ali is invited to campus, there are often calls to deny her a podium. So this might be a teachable moment. As we are mortified by the slaughter of those writers and editors in Paris, it’s a good time to come up with a less hypocritical approach to our own controversial figures, provocateurs and satirists. The first thing to say, I suppose, is that whatever you might have put on your Facebook page yesterday, it is inaccurate for most of us to claim, Je Suis Charlie Hebdo, or I Am Charlie Hebdo. Most of us don’t actually engage in the sort of deliberately offensive humor that that newspaper specializes in. We might have started out that way. When you are 13, it seems daring and provocative to “épater la bourgeoisie,” to stick a finger in the eye of authority, to ridicule other people’s religious beliefs. But after a while that seems puerile. Most of us move toward more complicated views of reality and more forgiving views of others. (Ridicule becomes less fun as you become more aware of your own frequent ridiculousness.) Most of us do try to show a modicum of respect for people of different creeds and faiths. We do try to open conversations with listening rather than insult. Yet, at the same time, most of us know that provocateurs and other outlandish figures serve useful public roles. Satirists and ridiculers expose our weakness and vanity when we are feeling proud. They puncture the self-puffery of the successful. They level social inequality by bringing the mighty low. When they are effective they help us address our foibles communally, since laughter is one of the ultimate bonding experiences. Moreover, provocateurs and ridiculers expose the stupidity of the fundamentalists. Fundamentalists are people who take everything literally. They are incapable of multiple viewpoints. They are incapable of seeing that while their religion may be worthy of the deepest reverence, it is also true that most religions are kind of weird. Satirists expose those who are incapable of laughing at themselves and teach the rest of us that we probably should. In short, in thinking about provocateurs and insulters, we want to maintain standards of civility and respect while at the same time allowing room for those creative and challenging folks who are uninhibited by good manners and taste. If you try to pull off this delicate balance with law, speech codes and banned speakers, you’ll end up with crude censorship and a strangled conversation. It’s almost always wrong to try to suppress speech, erect speech codes and disinvite speakers. Fortunately, social manners are more malleable and supple than laws and codes. Most societies have successfully maintained standards of civility and respect while keeping open avenues for those who are funny, uncivil and offensive. In most societies, there’s the adults’ table and there’s the kids’ table. The people who read Le Monde or the establishment organs are at the adults’ table. The jesters, the holy fools and people like Ann Coulter and Bill Maher are at the kids’ table. They’re not granted complete respectability, but they are heard because in their unguided missile manner, they sometimes say necessary things that no one else is saying. Healthy societies, in other words, don’t suppress speech, but they do grant different standing to different sorts of people. Wise and considerate scholars are heard with high respect. Satirists are heard with bemused semirespect. Racists and anti-Semites are heard through a filter of opprobrium and disrespect. People who want to be heard attentively have to earn it through their conduct. The massacre at Charlie Hebdo should be an occasion to end speech codes. And it should remind us to be legally tolerant toward offensive voices, even as we are socially discriminating.

#### **4. Cartoons shouldn’t be censored. Moftah 15**

Lora Moftah @Loramoftah, 1-8-2015, "Charlie Hebdo Cartoons: Political Cartoonists Debate Free Speech After Attack," International Business Times, <span class="skimlinks-unlinked">http://www.ibtimes.com/g00/charlie-hebdo-cartoons-political-cartoonists-debate-free-speech-after-attack-1778040?i10c.referrer=https%3A%2F%2Fwww.google.com%2F</span> MG

Despite the devastating reminder of the dangers of the profession, cartoonists said they are not deterred and that their role in promoting freedom of expression is more important than ever. “I don't say that I'm pretending to be courageous or anything,” said Ann Telnaes, an editorial cartoonist for the Washington Post. “Freedom of expression, to me, has to be pretty absolute.” Telnaes said the French magazine’s work could be “provocative,” but defending their freedom to do such art was necessary, regardless of a cartoonist’s personal feelings about it. “We shouldn't be afraid,” said Christian Adams, a political cartoonist for the U.K.’s Daily Telegraph. “I think in the end it's probably nothing really to do with cartoons. The cartoons are just an excuse to create havoc, murder and war.” Indeed, because cartoonists are seen by extremists as “soft targets” that end up being easy prey against the backdrop of greater political conflicts, said Oppenheimer. “These are very cowardly attacks. If they were really brave, they would attack the president’s office,” he said. Terrorists may also feel threatened by cartoonists for their role in exposing their hypocrisy, said Satish Acharya, an Indian political cartoonist. “The truth is they are not trying to protect their religion; they are scared because cartoonists, artists writers expose their fake war.” However, the cartoonist’s role to hold the powerful to account does not mean that they should be needlessly provocative, argued Acharya. “You need to be responsible. You can't provoke people. There are certain things that could lead to violence and death. It's up to the cartoonist to draw the boundary.” In India, religion and caste status are two of the most sensitive subjects, and Acharya said that cartoonists and journalists often self-censor in order to avoid needlessly provoking violent responses to these sensitive subjects. This is an important consideration in multicultural societies like India, he said. This form of self-censorship also exists in Britain even amid the “gratuitous” insults against politicians by cartoonists, said Adams. “There's a grey area between offending without a reason and using satire with good reason,” he said. “It's very difficult to balance, but I think journalists have to censor themselves and know what is reasonably offensive.” Determining what is unreasonably offensive comes down to the intent of the cartoonist, said Magnus Shaw, a U.K.-based writer and blogger, whose political cartoon featuring the solidarity slogan “Je suis Charlie” (I am Charlie) over an illustration of Charlie Brown went viral on social media in the wake of the attack. “We should all expect to be offended at some point because that is the price of freedom of speech,” he said. “But if you set out to inflame just for its own sake, that's really quite boring and doesn't result in interesting work, and people are smart enough to know the difference.” The cartoonists at Charlie Hebdo were “sailing close to the wind,” said Shaw, but they were doing so in order to express what they felt and believed and “therefore their efforts were valid.”Regardless of political and aesthetic differences with the magazine, the deadly attack on Charlie Hebdo’s offices has helped clarify what cartoonists’ mission really is, said Signe Wilkinson, an editorial cartoonist for the Philadelphia Daily News. “People always ask me 'What's the line? Where's the line? Aren't you afraid of crossing the line?' I respond, ‘what crosses the line? Someone just blew dozens of people up in Yemen. That's horrifying,’” she said. “Cartoons hold people responsible.” But it is still important for cartoonists not to go for the "low-hanging fruit," said Joel Pett, an editorial cartoonist for the Lexington Herald-Leader and Kentucky.com and the president of the board of the U.S.-based Cartoonists Rights Network International, an advocacy organization for cartoonists around the world. "If you're going to provoke for a living, at least provoke the right people for the right reasons," he said The attacks are also an opportunity to remind people of the important work that cartoonists do, especially amid a changing media climate that has seen dwindling cartoonist jobs at newspapers, many of which in the U.S. no longer use cartoonists, according to Pett. This is one of the few positive results of the tragic attack, said Telnaes. “Hopefully it will show publishers and editors that editorial cartoons are a very important part of the political discourse.”

#### Case outweighs – risk of misapplication means you affirm – they don’t allow for crucial political activism which has effects in the real world on minority participation, making political statements in a clever way that gets widely disseminated and remembered, etc.

## A2 Commercial PIC

### 1AR – Commerical PIC

#### Commercial speech is a part of self-realization. Redish 82

Redish, Law@NU, 82

(Martin H, University of Pennsylvania Law Review, Vol. 130, No. 3 (Jan., 1982), pp. 591-645)

The impact of the self-realization value on the protection to be given commercial speech is not difficult to determine. My comment on the issue some eleven years ago is, I believe, equally applicable today: When the individual is presented with rational grounds for preferring one product or brand over another, he is encouraged to consider the competing information, weigh it mentally in the light of the goals of personal satisfaction he has set for himself, counter-balance his conclusions with possible price differentials, and in so doing exercise his abilities to reason and think; this aids him towards the intangible goal of rational self-fulfillment.134 To this should be added that information and opinion about competing commercial products and services undoubtedly aid the individual in making countless life-affecting decisions, and therefore can be seen as fostering both elements of the self-realization value.'35(630)

#### Receiving speech is as important as sending – author motives irrelevant

Redish, Law@NU, 82

(Martin H, University of Pennsylvania Law Review, Vol. 130, No. 3 (Jan., 1982), pp. 591-645)

Baker's adoption of an extremely narrow view of how the selfrealization value can be fostered apparently results from his acceptance of a truncated version of the value itself. The form of self-realization that he seems to be describing is limited to the "instrumental") value referred to previously: the value of having individuals develop their faculties.'06 Even with this truncated version, Baker has failed to acknowledge that individuals may develop their personal and intellectual faculties by receiving, as well as by expressing.'07 Once this is recognized, we can see that the motivation of the speaker may be irrelevant, as long as the individual's faculties are developed by the receipt of information whether it be opinion or fact. For example, that an author is writing primarily to make money, rather than to express his personality, does not diminish the potential development of the reader. More important, however, is Baker's refusal to recognize the correlative principle to self-fulfillment's instrumental value: the intrinsic value, self-rule. Thus, if an individual is given the opportunity to control his destiny, at least within certain bounds, he or she needs all possible information that might aid in making these life-affecting decisions. Because Baker fails to include this vital aspect of the self-realization concept, he develops a theory of free speech that is correspondingly incomplete. (621)

#### Can’t dry a brightline- commercial speech is also expressive

Redish, Law@NU, 82

(Martin H, University of Pennsylvania Law Review, Vol. 130, No. 3 (Jan., 1982), pp. 591-645)

Even if we were to accept Baker's unduly narrow conception of self-realization, his theory fails to deal adequately with the inseparability of the profit motive from the desire for self-expression. The problem arises because many people make a living by means of self-expressive work. Should the creative advertiser or commercial artist not be recognized for their "self-expression," merely because they are doing it to make money? Baker responds that "even if the speech happens to correspond to the speaker's values, the content is determined by the structure of the market and is not chosen by the speaker." 108 But surely within the dictates of the market structure the advertiser has a range of selection; there is never merely a single possible way to sell a product. Thus, can we not say that within that range the advertiser has exercised his or her self-expression? Moreover, if we accept Baker's analysis, what protection do we give to the political candidate who tailors his public positions to what he thinks will lead to his election, to the magazine or newspaper that chooses to publish what sells, or to the author who writes what he believes his audience will buy? Are their efforts not to receive first amendment protection? And what would Baker say about the level of first amendment protection to be given to welfare or social security recipients who picket to protest insufficient government aid? Is not their expression also dictated by the needs of the market. (621)

#### Distinctions between commercial and noncommercial speech are not logically tenable

Redish, Law@NU, 82

(Martin H, University of Pennsylvania Law Review, Vol. 130, No. 3 (Jan., 1982), pp. 591-645)

To the extent that these assertions are accurate, they may properly influence first amendment analysis under the theoretical constructs established in this Article. For they are distinctions premised not on difference in the relative values of different categories of expression, but rather on regulation's differing effects on these types of expression. There are serious reasons, though, for doubting the accuracy of the Court's suggested distinctions. First, it is questionable whether, in general, the truth of commercial claims is more easily verifiable than the truth of political assertions. The Court's contention that "[u]nder the First Amendment there is no such thing as a false idea" 152 is correct if one is comparing statements of political ideology with commercial assertions. But many statements made in the course of political debate particularly by the press-are simply assertions of fact, which are presumably verifiable. Moreover, it must be recalled that many claims about commercial products are, in reality, assertions of scientific fact, since many commercial products are chemical compounds that may or may not perform the functions or have the effects claimed for them by scientists If a consumer organization is constitutionally protected in asserting that a certain product does not do what is claimed, why should the product's manufacturer not be similarly protected in contending that it does? 153 Second, it is also incorrect to distinguish commercial from political expression on the ground that the former is somehow hardier because of the inherent profit motive. It could just as easily be said that we need not fear that commercial magazines and newspapers will cease publication for fear of governmental regulation, because they are in business for profit. Of course, the proper response to this contention is that our concern is not whether they will publish, but what they will publish: fear of regulation might deter them from dealing with controversial subjects. But could not the same be said of the commercial advertiser? The possibility of regulation would not deter him entirely from advertising, but it might deter him from making certain controversial claims for his product. Finally, the argument concerning deadline pressure is similarly not accurate in all cases. For stories of long-range interest or for some infrequently published journals, the deadline pressure is not great. For some advertisers who are attempting to defeat a competitor or to gain first entry into a new market, timing may be critical. Time pressure is relevant to deciding the reasonableness of an assertion that later proves to have been inaccurate, whether made by by an advertiser or by the press. It appears irrelevant, however, to a general attempt to distinguish the two. (633-4)

## A2 Crime Blotter

### 1AR block

#### O/V: PICs against affs that defend all speech are bad – moots 6 minutes of AC offense and there’s an infinite number of small things to PIC out of for hyper-specific speech scenarios – kills fairness. PICs are a voting issue – prevents my ability from generating substantive offense so evaluate before other flows

#### 1. PIC results in worse harms – it’s justified to release the name of a sex offender, if they apply to teach at a preschool that’s definitely something the school should know.

#### 2. Non unique – things like the internet and outside of school newspapers mean the names get released anyways so the PIC doesn’t do anything.

#### 3. No impact – the crimes are entered in a database accessible to employers.

#### 4. No uniqueness – no reason schools are censoring this information right now, our arguments just prove why schools are shutting down articles that are critiques of the administration.

#### 5. CP Causes libel lawsuits over identity confusion

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

Besides merely being silly, though, such policies could have serious legal implications for the student media and school districts. Every libel law primer begins with essentially the same advice: publish only complete and accurate information. By requiring the publication of misleading or incomplete information, a strong argument can be made that the policies prohibiting the use of full names or other identifiers like photos increase, not decrease, the odds that student media — and possibly the school district that created such a faulty system — will be subjected to libel or invasion of privacy lawsuits because of misidentifications created from the confusion. Such polices — which have been criticized by various journalism groups21 — also hurt an online publication's reputation as a serious and credible news source.

#### 6. CP Destroys credibility of student journalists and causes law suits

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

Requiring student media to limit news coverage to "approved" students destroys the student media's reputation as a credible source of news. It also creates a logistical nightmare, forcing staff to consult an ever-changing master list of "approved" students who had consented to coverage before writing or publishing a story about them or including their photo in the yearbook. Under such a complicated scheme it is inevitable that students or school officials will make mistakes. "Unapproved" names or photos will be published in some cases and "approved" students mistakenly omitted from student publications such as the yearbook in others. Such mistakes could expose a school district to liability — or certainly accusations of incompetence — that had previously not existed.

#### 7. CP is unconstitutional and first amendment checks the impact

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

In a unanimous 1979 decision, the U.S. Supreme Court ruled in Smith v. Daily Mail that the First Amendment protects the right of journalists to use the names of minors in newsworthy stories as long as the information is "lawfully obtained" and "truthfully" reported.1 In that case, the Court struck down a West Virginia law that had been used to prosecute two West Virginia newspapers that printed the name of a 14-year- old junior high school student alleged to have shot and killed a 15-year-old classmate.

### A2 Funding NB

#### No one has ever been fined

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

Student news organizations have published millions of individual publications — full of student names and photos — without incident. In FERPA's 30-plus years in force, no school has ever been fined under the law because of anything published in a student publication. It is unclear why school district lawyers and administrators now believe it necessary to enforce such policy changes. FERPA does not require it, the Constitution almost certainly prohibits it — and common sense suggests the system is both fraught with problems and just plain stupid.

### A2 Internet Add-On

#### Internet no more dangerous than print

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

Contrary to all the dire warnings, there remains no hard evidence to suggest that online student publications pose any more of a danger to students than their print-based counterparts.20 But no matter, a fear of the unknown has always accompanied the introduction of new technology and media and, until the dust settles, such battles are regrettable, but probably inevitable.

### XT: Unconstitutional

#### CP restricts accurate information- that’s unconstitutional

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

While it is entirely appropriate, for example, that school districts create a policy regarding a principal's disclosure of protected student information to a student reporter (or anyone else) during an interview, it is wrong for the school to impose the same limitations on student-edited media, prohibiting them from disclosing to their readers accurate information lawfully obtained by student journalists during the newsgathering process. Despite the claims of some school officials, any policy that imposed such a flat ban on the publication of accurate, newsworthy and lawfully obtained information by student-edited media would almost certainly be unconstitutional.15

### XT: Editors Solve

#### Decision should be case by case and editorial, no blanket ban

SPLC 11

(http://www.splc.org/article/2011/01/naming-names-identifying-minors?id=107)

Even though there should generally be no across-the-board legal barriers to student media publishing minor names — in print or online — there are valid reasons for not doing so in some circumstances. For example, many news organizations do not, as a rule, publish the names of young people accused of less serious crimes. Children, the thinking goes, should not be stigmatized for the rest of their lives for an error in judgment they made while growing up. The Poynter Institute's Al Tompkins, who has written widely on media ethics, has created a useful list of questions and factors that student journalists may want to consider when deciding whether or not to identify juveniles, particularly those involved in criminal activities. Among them: Who is served by identifying the juvenile? How newsworthy is the story? What is the juvenile's history? Would others be harmed if the minor was not named or if rumors were allowed to circulate unchecked?22 The decision about when and how to identify young people involved in news stories can sometimes be tough. In the end, however, the decision should be an editorial and ethical choice — not one dictated by law.

## A2 Cyberbullying PIC

### 1AR – Cyberbullying PIC

#### No link and turn- due process makes cyber bullying regulation illegal, and regs tradeoff with education which solves better

Szoka & Thierer 09

(Berin and Adam, Senior fellows at the progress & freedom foundation https://techliberation.com/2009/06/19/cyberbullying-legislation-why-education-is-preferable-to-regulation/)

Unsurprisingly, in the wake of a handful of high-profile cyberbullying incidents that resulted in teen/tween suicides, some state lawmakers began floating legislation to address the issue. More recently, two very different federal approaches have been proposed. One approach is focused on the creation of a new federal crime to punish cyberbullying, which would include fines and jail time for violators. In April 2008, Rep. Linda Sánchez (D-CA) introduced H.R. 1966 (originally H.R. 6123), the “Megan Meier Cyberbullying Prevention Act,” a bill that would create a new federal felony: “Whoever transmits in interstate or foreign commerce any communication, with the intent to coerce, intimidate, harass, or cause substantial emotional distress to a person, using electronic means to support severe, repeated, and hostile behavior, shall be fined under this title or imprisoned not more than two years, or both.” The other legislative approach is education-based and would create an Internet safety education grant program to address the issue in schools and communities. In mid-May, the “School and Family Education about the Internet (SAFE Internet) Act” (S. 1047) was introduced in the Senate by Sen. Robert Menendez (D-NJ) and in the House by Rep. Debbie Wasserman Schultz (D-FL). The measure proposes an Internet safety education grant program that will be administered by the Department of Justice, in concurrence with the Department of Education, and the Department of Health & Human Services. These agencies will also work in consultation with education, Internet safety, and other relevant experts to administer a five-year grant program, under which each grant will be awarded for a two-year period. In our paper, we argue that criminalizing what is mostly kid-on-kid behavior—and especially creating a new federal felony, as the Sánchez bill proposes—will not likely solve the age-old problem of kids mistreating each other. Moreover, this approach could raise thorny free speech and due process issues related to how the law defines harassing or intimidating speech. To the extent criminal sanctions are pursued as a solution, it may be preferable to allow state experimentation with varying models. By contrast, education and awareness-based approaches have a chance of effectively reducing truly harmful behavior, especially over the long-haul. Such approaches would have the added benefit of avoiding constitutional pitfalls and subsequent court challenges. Thus, if lawmakers feel the need to address cyberbullying concerns at this time, it is clear that regulation is, at best, premature and that education is the better approach.

#### Cyber bullying laws don’t work-no offense

Aftab, JD and cyberlaw Expert, 14

(Parry, <http://www.riseandstand.net/why-cyber-bullying-laws-arent-working-in-us/>, 4-28)

Why Cyber Bullying Laws Don’t Protect Our Children Like They Should. In the United States, all but one state, Montana, has a cyber bullying law in place. Despite this remarkable achievement, a review by the Associated Press states that these laws have little or no effect. The cyber bullying-suicide cases of Rebecca Sedwick and Phoebe Prince from Florida and Massachusetts, respectively, show that laws in place are simply not effective. The overwhelming states’ response in enacting cyber bullying laws and the public’s impression that they work are in stark irony to the more sobering judgment of cyber bullying experts. It’s a bit of an “emperor has no clothes” situation as the public wonders why cyber bullies are able to escape culpability with little more than a slap on the wrist.CBlaws Attorney and cyber law expert Parry Aftab was honored by Congress in 2005 for her work in cyber safety. Since 2005, however, accessibility to the Internet and social media, in particular, has increased and Parry describes cyber bullying now as a worsening pandemic. “I have been doing this for over the past 16 years and I’m losing this battle, “ she says. Ineffective or vague wording of laws, a misunderstanding of the law and available defense, fear of litigious reprisal from parents, or avoidance of negative publicity for the school or town could be a few reasons why cyber bullying laws don’t seem to work. Some believe simply improving communication and problem resolution skills between teens are key to resolving disputes before they lead to cyber bullying. However, another reason for this ever growing pandemic may be the leniency of discipline teens receive also.

## A2 Fake News PIC

### 1AR – Fake News PIC

#### 1. Censorship and demonization of the press is the RC of fake news – student journalists ability to inform the local community OW. Peters 1/23

“Student journalists especially vulnerable to Trump’s press-as-enemy rhetoric,” Jonathan Peters (Jonathan Peters is CJR’s press freedom correspondent. An attorney, he is an assistant professor of journalism at the University of Kansas, where he teaches and researches media law and policy, with an affiliate research position exploring big data and Internet governance in the KU Information & Telecommunication Technology Center. Peters has blogged on free expression for the Harvard Law & Policy Review, and he has written for Esquire, The Atlantic, Sports Illustrated, Slate, The Nation, Wired, and PBS), Columbia Journalism Review, 1/23/17.

1. Trump and the general public’s demonization of the press as providers of fake news, etc erodes faith in the press that allows censorship which makes the harm of inaccurate information cyclical bc then administrators literally just spread fake news so the PIC doesn’t solve.

2. It makes claims about how censorship means that they never access to full info anyway so the PIC solves nothing bc it creates the fake news (it’s similar to the first arg but the first one is a bit more perception based)

3. It gives like stats and examples about how student journalists fill in roles left by the traditional media and they can’t do their job if they’re constantly hammered by info alarmism.

IF TRUMP WERE ELECTED, what could he do to change US media law and/or restrict journalism practice? That was the question I sought to answer in an October CJR piece. I recounted the former reality TV star’s numerous threats to sue the press: The Washington Post, The Daily Beast, The New York Times, The Associated Press, and so on. I noted his promises to “[bring] more libel suits” and “open up our libel laws,” and I nodded to the Committee to Protect Journalists, which had called Trump an “unprecedented threat” to press freedom. ¶ All that was before the election. On his first full day in office, Trump said he’s in a “running war with the media,” calling journalists “the most dishonest human beings on Earth,” and his press secretary said later that day, in a briefing that featured more bad lies than one of my Sunday golf outings, that the administration would “hold the press accountable.” In recent weeks, too, Trump’s aides have said press briefings may be moved out of the White House, and Trump called BuzzFeed a “failing pile of garbage” during a press conference, in which he also called CNN “fake news.” He told 60 Minutes he’d use Twitter to “[fight] back” whenever a news outlet published “a bad story” about him. He accused the press of inciting protests and tweeted (untruthfully) that The New York Times was losing subscribers because of its “very poor and highly inaccurate coverage.” And he rejected requests to allow a press pool to accompany him to meet with Obama and congressional leaders, all before ditching his pool days later for dinner at the 21 Club. In short, Trump has the same regard for the press that my dog has for my backyard flower garden.¶ Journalists, scholars, lawyers, and others have all taken up these issues, and a reader recently emailed CJR about a variation on them: What about student journalists? How will they likely fare during a Trump presidency?¶ In some ways, student journalists will face the same challenges as professionals. First, through executive orders and the Department of Justice, Trump will be able to shape the Freedom of Information Act’s implementation and the substantive arguments the government makes in FOIA litigation. Professionals may be heavier FOIA users than students, but the burdens of any FOIA changes will fall on both groups.¶ Second, Trump could crack down on public affairs reporting, most likely in the national security area—if the DOJ, for example, prosecuted leakers under the Espionage Act and subpoenaed journalists to supply information. This would disparately impact professional journalists, easily the primary source of US national security reporting. But these efforts, along with Trump’s ceaseless condemnation of the press as the enemy, could create or feed an environment in which press and speech restrictions are seen as acceptable or even desirable, eroding the legal and cultural independence the press needs to play its democratic role. ¶ The student press is especially vulnerable to that kind of erosion. In public schools at the K-12 level, it’s settled law that student journalists have lesser First Amendment protection than, say, adults in non-school settings. The 1988 case Hazelwood v. Kuhlmeier is the main reason. The Supreme Court ruled in Hazelwood that a school newspaper produced as part of a class may be regulated by administrators if three conditions are met: the regulation is neutral with regard to viewpoint, there is a reasonable educational justification for it, and there’s no policy/practice establishing the paper as a public forum for student expression, which effectively means that administrators have allowed students to make unrestricted use of the paper for journalistic and expressive purposes.¶ Since Hazelwood was handed down, schools have used it to legitimize all manner of press restrictions, and it’s not hard at all to imagine an administrator finding inspiration in Trump’s anti-press rhetoric—and lo, here’s a case readymade to restrict student press coverage of controversial issues.¶ That’s a big problem because student journalists have filled in gaps created by the traditional media’s decline, playing a vital role in meeting their communities’ news needs. Just last week, Michigan high schoolers pressed Gov. Rick Snyder about his endorsement of Betsy DeVos for education secretary. And looking back, to note a few other examples, New Jersey high schoolers once revealed serious misconduct complaints against a superintendent, and national outlets at first relied on coverage by student journalists during the Mizzou protests.¶ At the college level, the headache here is that as student journalists are making increasingly important contributions through their reporting (in at least four states, there are more students covering state legislatures than professionals), the federal courts are curtailing their speech and press rights. And, once again, Hazelwood is the main reason. Although it involved high school student speech, recently it has been applied to college student speech as well. Four federal appeals courts, covering 16 states, have extended Hazelwood to college campuses.¶ Meanwhile, the Supreme Court hasn’t clarified whether it’s proper to apply Hazelwood to college journalists, and it’s unclear how Trump’s yet-to-be-named nominee, expected to be highly conservative, will affect the vote in student-speech cases generally. On the one hand, the nominee will replace Scalia, who supported school authority in such cases, and the rest of the conservative bloc is unchanged from the court’s last student-speech case, in 2007, in which the bloc voted together. On the other hand, that case involved speech at a school-supervised event that allegedly promoted the use of illegal drugs. In a case involving speech of a higher order, there’s a chance of winning over certain justices, perhaps Roberts, whose free speech record is otherwise strong, or Alito, who wrote a concurring opinion in the 2007 case stressing that it didn’t apply to broader social or political speech. The same thinking would apply to the court’s new member, who might be reachable in the right case.¶ At any rate, fulfilling a community’s news needs means covering a range of public issues that might upset university administrators, and Hazelwood is a complicating factor. The case says that administrators may censor articles that “associate the school with any position other than neutrality on matters of political controversy.” That’s clearly irreconcilable with much of public affairs reporting and commentary.¶ But the problems don’t stop with Hazelwood. There’s another reason the student press is especially vulnerable to erosions of independence: the reporter’s privilege. A recent study I conducted with my University of Kansas colleagues Genelle Belmas and Peter Bobkowski found that most states do allow journalists to shield confidential sources and unpublished information in some circumstances, but those protections usually do not apply to student journalists—either because students don’t qualify for them, or because the qualifying criteria are unclear enough that student journalists couldn’t claim protection with any confidence.¶ All told, we have a student press being asked to do more with less—to produce stories that inform their communities, while hamstrung by Hazelwood and lacking privilege protections—at a time when the president talks about journalists as if they’re incarnations of Kylo Ren. That’s untenable, but what can be done?¶

#### 2. Journalism programs have already reacted to the fake news crisis – they’re strictly sourced and taught classes in fake news. Aff solves the NB to the PIC. Smith 1/23

Casey Smith (Casey Smith is a student at Ball State and a USA TODAY College correspondent), USA Today, 1/23/17.

In the midst of today’s fake news frenzy, dubious sources aren’t always apparent, and young journalists are working to learn how to provide and share stories that are credible and consistent.¶ Now universities are taking a swing at curbing the vulnerabilities caused by the spread of fake news, too.¶ “Regarding journalism, we have a serious crisis in America today trying to differentiate what is actually real from what we want to be real,” said Johnny Sparks, journalism department chair at Ball State University. “[Educators] have a lot of responsibility and a lot to think about when it comes to training and educating students as journalists.”¶ Teaching students to be cautious and decipher information isn’t simple when the demand for journalists to be equipped with more and more technical skills continues to grow, Sparks said. To encourage more critical thinking and stronger news judgment, Sparks said he’s working to bring journalism curricula “back to the basics,” also adding an emphasis in philosophy to required courses. “Journalism — from an academic standpoint — used to be rooted in colleges of fine arts and sciences,” Sparks said. “In order to understand what we’re doing and why, we have to emphasize and analyze the importance of philosophy and logic — we have to engage, constantly, in critical thinking. Those basic skills are losing their presence in a lot of journalistic education, and we need to evaluate how we’re going to teach and understand the fundamentals of truth.”¶ In an effort to evolve, Sparks said he’s working to require journalism students to take courses that revolve around research methods and data while also working with faculty to integrate courses on diversity awareness. Sparks said he also wants to see journalism classes open up to students from any academic discipline and allow minors and other individuals from the public to take classes in hopes of helping them develop media literacy.¶ Other universities across the country, including CUNY and Stony Brook, are also joining in the fight against fake news. Schools are developing new journalism courses that help spot inaccuracies and identifying strategies to diversify online news and eliminate echo chambers.¶ And at Indiana University’s Center for Complex Networks and Systems Research, researchers recently released Hoaxy, a new fake news-fighting tool that visualizes how claims in the news — and fact checks of those claims — spread online through social networks.¶ Indiana University professor Filippo Menczer led the development for Hoaxy and is hoping the tool can be used by researchers, journalists and students can to observe and study the “actors and factors” that affect the success and mitigation of massive digital misinformation.¶

#### 3. Labelling fake news is impossible – liberals use it to silence opposition and censor their competitors, gutting FS. Hasson 12/06

“Journalists Struggle To Define ‘Fake News’ Even As They Declare War On It,” Peter Hasson, 12/06/16, The Daily Caller.

In the weeks following Donald Trump’s unexpected victory in last month’s election, liberal journalists have launched an all-out assault on “fake news,” which some have blamed for the disconnect between political journalists and everyday Americans.¶ But many of those same journalists seem unable to agree on a consistent definition of what “fake news” is, oftentimes pushing leading conservative and alternative media organizations that provide ideological balance in the public forum under the same “fake news” umbrella alongside websites whose entire purpose is generating viral hoaxes.¶ Left-leaning BuzzFeed News’ coverage of “fake news” — which has been subject to accusations of misleading the public in service of a narrative — has focused on hoax websites run by teenagers in Macedonia pushing out lies like “Pope Francis endorses Donald Trump.” ¶ Other left-leaning news organizations, meanwhile, have lumped in legitimate news organizations alongside objectively fake sources.¶ A list of “fake news” sites compiled by a liberal college professor — a list that was uncritically accepted and distributed by some liberal journalists — included top right-of-center sites like Independent Journal Review (IJR) and The Blaze alongside objectively fake sites. Left-leaning media organizations like the Los Angeles Times and New York magazine distributed the list to their readers.¶ One website that the Washington Post labeled “fake news” — without providing a single piece of evidence — is threatening to sue the Post for defamation, after being included on a similar list.¶ In an article last summer, liberal New York Magazine writer Brian Feldman tried to argue that “conservative news” and “fake news” are the same thing. That some liberal journalists are lumping in legitimate news organizations alongside objectively false sites while at the same time calling for censorship of fake news has lead to concerns that the crackdown on fake news sites — the actual influence of which remains unknown — will be used by liberals to censor their conservative competitors. ¶ Forbes contributor Frank Miniter argued that some liberals are using the “fake news” controversy to invite “government control over First Amendment-protected speech or by asking Facebook and Twitter to become even bigger censors of certain views.” ¶ In an interview with conservative site LifeZette, Media Research Center director of media analysis Tim Graham warned, “The danger here is that when liberals try to define ‘fake news,’ it can be defined as ‘fake angles,’ as in ‘things that should not be explored,’ like paying for protesters.” ¶ The sub-headline for that article read, “Liberals take aim at right-leaning media outlets under the guise of taking down ‘fake’ news.” ¶ After conservative website The Daily Wire was listed as “fake news” without justification, contributor John Nolte warned that the “fake news” label is being used by frustrated liberal journalists to censor conservative viewpoints. ¶ “The mainstream media put itself on the 2016 presidential ballot, lost,” Nolte wrote, “and now they want to silence competing ideas by smearing, marginalizing and, yes, blacklisting us as spreaders of Fake News.”

#### 4. Nebulous definition means fake news produces ideological censorship

Griswold 16

(Alex, 11-17, http://www.mediaite.com/online/so-you-want-to-clamp-down-on-fake-news-who-decides-whats-fake/)

Regardless, let’s agree that there is a legitimate public interest in an informed citizenry, and therefore fake news ought to go away. I came across one story yesterday that exemplified why I believe that Facebook and Google taking the lead on that effort would be a mistake. A professor of communications at Massachusetts’s Merrimack College named Melissa Zimdars recently created a list for people to check whether the outlet they were clicking on could be trusted, or whether it was “false, misleading, clickbait-y and satirical.” Zimdars’ list was widely shared on social media and passed along by mainstream media outlets like The LA Times, New York Magazine, The Boston Globe, Business Insider, and The Dallas Morning News. There are some outlets on the list that basically everyone could agree are garbage, sites where every story is fabricated and that have urls like abcnews.com.co that are clearly intended to deceive. There are some that are obviously humorous satire websites (like The Onion ), some that think they’re humorous satire websites (like The Borowitz Report), and some that are conspiracy-mongers (like InfoWars and its various affiliates). But others on the list are much more questionable: IJ Review, RedState, The Blaze, The Inquisitr, The Daily Wire? All but the Inquisitr are outlets that trend conservative, and even Inquisitr tended to be very critical of Hillary Clinton during the 2016 election. All are outlets I respect and that produce original scoops and incisive commentary. IJ Review even hosted a major presidential debate! I’m sure I’ve read stories from those outlets that I’ve considered clickbait, or overblown, or misleading. But I can say the same of every outlet I’ve ever read, and yes, that includes the major mainstream outlets. When those outlets screw up, it’s treated as minor blemishes on otherwise impeccable records. When a small-time outlet screws up, it gets put on The List. Most of the outlets on Zimdars’ list are marked with an indication of why there were added (Breitbart for example was flagged for “misleading and/or potentially unreliable information” and “clickbait-y headlines and social media descriptions”). But most of the outlets I named aren’t tagged at all. The only reason why they shouldn’t be trusted is appears to be that Professor Zimdars just decided that they shouldn’t. I can’t think of a good explanation for why The Daily Wire is a suspect website, but not Salon or Alternet or RawStory or ThinkProgress or any of the outlets that occupy a similar space on the left. The fact that the only major liberal website to be placed on the list was also anti-Clinton suggests to me that either the good professor or those submitting suggestions to her are operating with ideological blinders on. Again, this is a highly-educated media professor writing this list. Facebook’s news curators back in the day were millennials fresh out of elite university and reportedly were mostly liberal. Perhaps you trust them to tell you what is and isn’t real news. Cynic that I am, I do not. I don’t mean to pick on the professor, either. What is and is not “false” is sometimes a matter of hard fact, but at times it can be a judgment call. Is true that the Obama administration passed a regulation that would “require boys and girls to shower together in school”? Well that depends on whether you believe that anatomically male children who identify as female are still male. Politifact recently ruled it is objectively false to call transgender individuals by their genetic sex; would Google follow suit?

#### 5. People use fake news an umbrella term to shut down legit discourse – spillover turns the PIC. Oremus 12/16

Will Oremus (Senior Writer at Slate, M.A. in Political Journalism from Columbia, Undergrad Stanford in Philosophy). (Dec 6, 2016) Stop Calling Everything “Fake News. Retrieved February 18, 2017, from <http://www.slate.com/articles/technology/technology/2016/12/stop_calling_everything_fake_news.html> WHB

Fake news is a real, specific problem. But in all the furor around who’s making it, who’s sharing it, its impact, and how to stop it, it’s easy to lose sight of something more fundamental: what it is. The broader the definition, the less useful the concept becomes—and it’s already verging on counterproductive. In recent weeks, the term fake news has been applied by various media sources to everything from Breitbart News to Donald Trump’s tweets to the media commentary of CNN’s Brian Stelter. Among the challenges the media faces today, combatting fake news should rank as a relatively straightforward one compared with thornier issues such as bias, sensationalism, and the problem of objectivity. But lumping these together under the banner of fake news makes them all harder to solve. The way to combat actual fakery in journalism is to keep the definition narrow enough that reasonable people across the political spectrum can agree on what does and does not meet the criteria. It helps to remember that the term fake news gained currency in recent months due to a specific and readily identifiable phenomenon. During the 2016 U.S. presidential campaign, online entrepreneurs and pranksters found that they could reach huge audiences via social media by fabricating sensational stories that played to readers’ partisan biases. These stories imitated the style and appearance of real news articles, and they were published on sites designed to look like established newspaper websites or political blogs. (Some pulled this off better than others.) The key facts were made up by the authors, but the successful ones sounded just plausible enough to pass the smell test of a significant subset of readers who were already primed to believe outlandish things about a given candidate. The most popular of these fake stories and sites have by now become well-known. There was the one about the [pope endorsing Donald Trump](http://www.snopes.com/pope-francis-donald-trump-endorsement/" \t "_blank); the one about [Hillary Clinton selling weapons to ISIS](http://www.snopes.com/wikileaks-cofirms-hillary-clinton-sold-weapons-to-isis/" \t "_blank); the one about an [FBI agent found dead](http://www.snopes.com/fbi-agent-murder-suicide/" \t "_blank) after being suspected of leaking Clinton’s emails. Again, these stories were not simple acts of bad journalism. They were either largely or wholly fictitious, and intentionally so. And for the most part, they were published on obscure, anonymously owned sites that appear to have been created relatively recently for the purpose of publishing fake news, plagiarized or hastily aggregated news, conspiracy theories, propaganda, or a mix of all four. Recent reporting by BuzzFeed, the [Washington Post](https://www.washingtonpost.com/news/the-intersect/wp/2016/11/17/facebook-fake-news-writer-i-think-donald-trump-is-in-the-white-house-because-of-me/" \t "_blank), [NPR,](http://www.npr.org/sections/alltechconsidered/2016/11/23/503146770/npr-finds-the-head-of-a-covert-fake-news-operation-in-the-suburbs" \t "_blank) and others has exposed the creators of several of the more prominent fake news sites, who have readily admitted that their work was made-up. A surprising number of them originated in Macedonia, where churning out deceptive news stories to a largely pro-Trump audience via Facebook has reportedly become [a lucrative cottage industry](https://www.buzzfeed.com/craigsilverman/how-macedonia-became-a-global-hub-for-pro-trump-misinfo" \t "_blank). Fake news is the proper term for this sort of content. The word fake means not genuine—a forgery or a counterfeit. It implies an intent to deceive. This phenomenon deserves attention, because the top fake news stories are often shared even [more widely than the actual news](https://www.buzzfeed.com/craigsilverman/viral-fake-election-news-outperformed-real-news-on-facebook" \t "_blank). Already, Facebook, Google, and third parties across the web are building tools to combat fake news. Some draw on manually compiled lists of disreputable sites. Others rely on user feedback to flag false or misleading stories. The best will probably combine both approaches, along with more subtle signals, like the patterns by which these stories disseminate. But these efforts are already running into controversy at the most fundamental level: disputes over what counts as fake news. That’s partly because, as the term has entered the national discourse, it has turned out to be a handy cudgel for people who want to criticize the media for a wide range of failings. First, some in the liberal and mainstream media began to carelessly blur the lines between fabricated news, conspiracy theories, and right-wing opinion by lumping them all under the fake news banner. When Trump tweeted that he had prevented a Ford plant from moving to Mexico, critics were [quick to label it “fake news.”](http://mashable.com/2016/11/18/trumps-misleading-tweet-fake-news/" \l "ZszKBTSchOqV" \t "_blank) As it turned out, the tweet was misleading, but it was based in reality. Even if it were fabricated, a false claim by a politician isn’t “fake news.” It’s just a false claim—or a lie, if the falsehood was intentional. A [subsequent tweet by Trump](https://twitter.com/realDonaldTrump/status/802972944532209664?ref_src=twsrc%5Etfw" \t "_blank), based on an unsubstantiated report from the conspiracy site Infowars, prompted Quartz to call him “[editor-in-chief of the fake news movement](http://qz.com/846551/donald-trump-editor-in-chief-of-the-fake-news-movement/" \t "_blank).” Fact-check: He isn’t. Meanwhile, an academic’s list of “false, misleading, clickbait-y, and/or satirical ‘news’ sources” went viral, and many in the media framed it as an authoritative list of “fake news sites.” The list, compiled by Merrimack College communication professor Melissa Zimdars, presented actual fake news sites such as Abc.com.co alongside openly satirical sites such as the Onion and, most damagingly, conservative blogs such as Breitbart and even Red State, an influential source of political commentary. Zimdars herself readily acknowledged that the list was not limited to fake news. Still, conservatives were understandably inflamed by some mainstream outlets’ embrace of the list, which seemed to raise the specter of crucial distribution platforms like Facebook and Google suppressing conservative opinion as part of their crackdown on fake news. To be clear, there is no evidence that Facebook and Google used Zimdars’ list in any way, and both appear to be taking care not to flag legitimate sites as fake just because they’re controversial. But New York magazine used the list as the basis for a “handy browser extension” designed to “flag fake news sites” with an automatic pop-up warning. New York added a note clarifying that not all of the sites on the list were fake, and it said its tool had been edited to remove sites that had been unfairly flagged, but that nuance went overlooked amid the outrage. Zimdars has since taken the list down in response to a backlash that included not just legitimate criticism but nasty threats and abuse. Spying an opportunity, right-wingers stopped ignoring the fake news discussion and began to co-opt the phrase as a synonym for liberal bias. A Twitter search for the term “fake news” on Tuesday suggested that it has by now crossed over from a liberal rallying cry to a conservative one. Here are three of the most popular tweets that included the phrase: The Hill: Where's the outrage over Obama's fake news peddling? [http://thehill.com/blogs/pundits-blog/media/308940-wheres-the-outrage-over-obamas-fake-news-peddling …](https://t.co/xPalMHcPvI" \t "_blank" \o "http://thehill.com/blogs/pundits-blog/media/308940-wheres-the-outrage-over-obamas-fake-news-peddling) CNN is putting out fake news that Trump might put Muslims in camps. This will radicalize actual jihadists. Chilling. [http://www.infowars.com/fake-news-cnn-runs-segment-suggesting-trump-will-put-muslims-in-internment-camps/ …](https://t.co/5haCDNM2kL" \t "_blank" \o "http://www.infowars.com/fake-news-cnn-runs-segment-suggesting-trump-will-put-muslims-in-internment-camps/) "Fake news" was born in August 2014 in Ferguson MO. when [@MSNBC](https://twitter.com/MSNBC) [@nytimes](https://twitter.com/nytimes) [@washingtonpost](https://twitter.com/washingtonpost) [@CNN](https://twitter.com/CNN) all propagated the Hands up, Don't shoot lie. To state what should be obvious, these are not stories fabricated by hoaxsters or Macedonian teenagers looking to make a buck. They are opinions and analyses with which the tweeters happen to strongly disagree. But throwing the term fake news back at the mainstream media allows the right-wing fringe not only to insult their specific targets, such as CNN, but to devalue the term itself and along with it the idea that there is any clear distinction between truth and fiction. It’s no surprise that those on the right who have embraced the meme most enthusiastically include conspiracy-mongers such as Infowars, which built its reputation by suggesting that the U.S. government helped orchestrate the Oklahoma City bombing and 9/11 attacks. We’re now faced with a grim irony in which mainstream news outlets reporting on “Pizzagate” as a fake news story are themselves being labeled fake news outlets by the conspiracy theorists that propagated it. This is not to say that the truth is always simple or that mainstream news outlets are infallible. Lazy journalism is an epidemic in the social media age, and to some degree or another, it probably always has been. Even the most respected outlets, like the New York Times, get things wrong. And there is a wide spectrum of scrupulousness among online media outlets, which helps to muddy the boundaries between mainstream and fringe outlets, news and opinion, speculation and conspiracy theory. There are plenty of sites that till the borderlands between propaganda and outright falsehood, complicating the task of differentiating fake news from real. It does not help that we have elected a president who not only lies—that’s hardly novel for a politician—but feels comfortable doing so even when the lie is so readily refuted that anyone with a computer can debunk it in moments. In such an environment, fake news in the strictly defined sense is a relatively minor problem compared with the broader crisis of media credibility. Still, it’s a real one, and one that ought to be relatively easy to combat. Instead, even the question of what constitutes fake news has begun to devolve into a matter of partisan opinion. At this point, no one can stop right-wing nuts from attaching fake news as an epithet to every CNN report that bothers them. But there may still be time for the reality-based community to find enough common ground to tackle the original problem. If we can’t collectively find a way to counter misinformation so egregious that [even its authors admit it’s a hoax](http://www.npr.org/sections/alltechconsidered/2016/11/23/503146770/npr-finds-the-head-of-a-covert-fake-news-operation-in-the-suburbs" \t "_blank), the outlook for the media—and the truth—in the Trump era is bleak indeed.

### A2 Fake News –Impact D

#### Fake news doesn’t change minds Griswold 16

(Alex, 11-17, http://www.mediaite.com/online/so-you-want-to-clamp-down-on-fake-news-who-decides-whats-fake/)

In general, people who fall for fake stories do so when they turn off their BS detector because they want a story to be true (coughcoughRollingStonecough). Meanwhile, the people who don’t share their biases immediately recognize when a story is false. Fake news doesn’t change minds, it preaches to the choir. If people weren’t spreading fake news about Clinton and Trump, they’d have been spreading the very real, very troubling stories about Clinton and Trump.

#### Censorship of fake news is paternalism Griswold 16

(Alex, 11-17, http://www.mediaite.com/online/so-you-want-to-clamp-down-on-fake-news-who-decides-whats-fake/)

There’s also a strain of paternalism here that I find unhealthy. The sentiment appears to be that the average American is too dumb and uneducated to tell fake news from real news, and therefore we need our betters in Silicon Valley to spoonfeed us the news. That the decisions from Google and Facebook came immediately after Trump’s win and after Politico reported that former Clinton advisors and other Democrats were organizing a campaign to combat fake news also doesn’t inspire confidence about their motives.

## A2 Frat PIC

### 1AR – Frat PIC

#### The CP is unconstitutional- it creates a gender based censorship policy (only fraternities) that would never pass constitutional muster- this is why there is no solvency advocate for it- anyone with ½ a brain knows it’s a non starter. This should be a reason to reject the counterplan- don’t give them a risk of solvency with no evidence

#### 1. CP doesn’t solve, forces the issue underground, and causes fraternity lobbyist backlash, which makes things worse. Zeilinger 15

Julie zeilinger [Julie Zeilinger is a staff writer at Mic as well as the founder and editor of The FBomb (thefbomb.org), a feminist blog partnered with the Women’s Media Center.] April 20th 2015 <https://mic.com/articles/115468/fraternities-frequently-do-horrible-things-we-still-shouldn-t-ban-them#.H2KNxfqx7>

Individuals outside of the Greek system also commit violent or otherwise offensive acts. Colleges without official Greek life — like Harvard University, for example — have still been investigated for failing to adequately address sexual assault cases. In fact, research shows that 9 out of 10 assaults are committed by a small group of serial rapists, not men belonging to any particular social group or organization. Fraternities neither create nor are predominately composed of rapists, but rather allow them a safe haven in which to act largely without consequence. ¶ What's more, banning fraternities will not prevent men who maintain these beliefs from coming together, especially as society continues to segregate spaces and activities like bathrooms and sports teams based on gender. The fact that underground fraternities have emerged on campuses like Middlebury College that have chosen to ban frats only underscores this point.¶ "Men will continue to self-select to come together with men in all-men groups," Kalin told Mic. "Getting rid of frats will not change that." While he agrees there are serious, systemic problems within Greek organizations, Matt Leibowitz, founder of the organization Consent Is So Frat, argues that bans don't provide real solutions for broader change, and can in fact antagonize members. ¶ Recent legislation related to campus sexual assault put forth by the national organization Fraternity and Sorority Political Action Committee demonstrates this. The legislation, seemingly in response to the way fraternities are tied to assault, aims to make it impossible for colleges to suspend all fraternities on a campus based on actions committed by a single house or to force chapters to admit women, according to Bloomberg. ¶ Activists claim this legislation, which also includes a proposal requiring sexual assault survivors to report to the police before reporting to campus authorities, will make investigating rape allegations more challenging, while harming survivors and failing to address the real issues at hand. Ultimately, the revolution must come from within. Dixon and Leibowitz are pushing back on this specific legislation through a Change.org petition. Yet they note that the true key to creating positive change won't be found in a cycle of accusations and defense, but by empowering fraternities to seek a more constructive solution based in education.¶ Groups of men can't be written off or simply told to change, according to Leibowitz. Instead, fraternity members must work hard to educate each other and do better. The solution starts with posing difficult questions, like "'What type of culture do we create?' and 'How do we recognize that we can lead, but only when we listen and respect those who have led before us?'" Leibowitz said.¶ "I think all-men spaces are extremely powerful in their ability to flip the script on performing masculinity," Kalin said. When that's allowed to happen, there's no doubt systemic change is, in fact, possible.

#### 2. Reactionary policies to fraternities causes a patronizing view of minority students and fosters resentment. Collins 15

SEAN COLLINS <http://www.spiked-online.com/newsite/article/why-frat-boys-even-racist-ones-should-have-free-speech/16776#.WIzpQrYrIlI> 16 MARCH 2015

Given the chant’s derogatory language and reference to lynching, it is obvious why nearly everyone (myself included) found it repugnant. Many supported the punishments handed down by Boren because they saw in those actions a way to express their own revulsion at the frat members’ chant, and to show solidarity with black students.¶ It is admirable that people wish to make moral judgements. However, today’s moral imagination is very limited, and there is a widespread belief that the only way to take a stand is to call for silence and expulsion – from school, job or social life generally. It is as if we have forgotten that there are many ways to oppose racist views without crossing the line into authoritarianism. Rather than argue against such views, show why they are wrongheaded, express disgust with them and organise against them, the reflex is always to call for censorship.¶ This recourse to censorship not only undermines the values of a free society — it also avoids the real issue at hand. Indeed, the move to censor does not confront racist views, it runs away from them. It is an immature response, one that says: ‘l don’t want to hear it, make it go away.’ It assumes that students are too young and fragile to handle unpleasant views, and calls on mommy and daddy — in the form of the university president — to deal with the scary stuff. In particular, this stance adopts a patronising view of black students, as if they are in need of special protection. All in all, these actions seek to turn the campus into a childlike fairytale world, sealed off from the rest of society.¶ Attempts to ban racist speech, or other forms of so-called hate speech, are ineffective as well. France has had laws forbidding Holocaust denial in place for decades, and yet anti-Semitism in the country has increased. Censoring racist views endows them with more significance than they ought to have, and turns losers into martyrs. It is far better for a society to know that such views exist, in order to confront and defeat them. It is only through open debate that we can challenge bigoted views.¶ Many admit that Boren’s response was exceptionally harsh, but they say it is justified because the SAE video is especially abhorrent. But the hullabaloo over the SAE chant is far from unique, and is only further evidence of a social trend that dismisses the value of free speech. Boren’s actions were in fact entirely consistent with the intolerant sentiment on US campuses, where the impulse is to squash any speech that is deemed to be offensive. In a university environment where students and administrators ‘disinvite’ speakers, demand ‘trigger warnings’ on everything (including on works of literature like The Great Gatsby), faint at the sight of a sleepwalking man statue, and ban t-shirts with Game of Thrones slogans, Boren’s actions fit right in.

#### 3. CP Snowballs to gut campus speech rights

Lukainoff, JD, 11

(Greg, 12-5, http://www.huffingtonpost.com/greg-lukianoff/fraternities-disastrous-f\_b\_910680.html)

This will likely come as a surprise to no one: Fraternities consistently produce some of the least sympathetic cases for campus free speech advocates. Those of you who have followed my work over the years know that college students can and do get in trouble for remarkably tame speech, from the student who was expelled for a Facebook collage criticizing a parking garage to, more recently, a student who was not allowed to walk at his graduation because of his mild criticism of his university’s bureaucracy. Fraternities, on the other hand, sometimes get in trouble for incidents like dressing in blackface and Klan robes for a Halloween party, as Tau Kappa Epsilon at the University of Louisville did in 2001. Most recently, in the fall of 2010, Yale’s chapter of Delta Kappa Epsilon (DKE) apparently required pledges to march around campus chanting repugnant slogans like “My name is Jack, I’m a necrophiliac, I fuck dead women” and “No means yes, yes means anal.” While Supreme Court decisions in favor of the likes of Fred Phelps and the Westboro Baptist Church demonstrate that the offensiveness of a particular expression is not a legitimate reason to ban it, the often intentionally puerile and offensive speech of fraternity members poses a real challenge to those of us who try to build grassroots support for free speech on campus. But make no mistake, the dilemmas posed by fraternity incidents like these and, more importantly, from the way fraternities choose to handle them, have ramifications far beyond the strange parallel universe of Greek life. The free speech controversies posed by fraternities — and the responses to them — often threaten the free speech rights of all students. This concern applies equally to public colleges, which are directly bound by the First Amendment, and to most private colleges, which are bound by their explicit promises to respect their students’ freedom of expression. In my 10 years defending student rights at the Foundation for Individual Rights in Education, fraternity free speech cases have often followed this pattern: Fraternity members do something specifically intended to offend — and, lest we ignore much of modern day comedy and satire, it is important to note we often value poking fun at sacred cows — but the frat brothers overshoot their mark. Word gets out to the larger campus and the community erupts in calls to punish the fraternity. The fraternity members and the fraternity itself apologize, and the students throw themselves at the mercy of the college and their superiors within the frat. Often the fraternity or its national organization will launch some kind of investigation resulting in the punishment of individual members, if not the whole fraternity. Occasionally, instead of apologizing, a member of the fraternity realizes that even though the speech was offensive, it’s probably protected by the First Amendment, and so he decides to stand up for himself. In that case, time and time again, his fellow members will not support him and the student ends up being both punished by the fraternity and rendered defenseless against the university. In the rare case that the entire campus chapter fraternity is united in its desire to fight for its First Amendment rights to provoke and offend, their national organization does not have their back and either pressures the fraternity to back down or punishes it outright. One of the interesting things about this pattern is that when a fraternity does choose to stand up for its First Amendment rights, it often wins. So, why should we care about frat boys getting in trouble for saying stuff that they know to be offensive? If fraternities want to shoot themselves in the foot, that’s their choice, and it doesn’t have any bearing on the free speech rights of non-fraternity members, right? Wrong. The downside of this “offend, capitulate, offend, capitulate, repeat” pattern is that it provides an excuse for unconstitutional and illiberal speech codes, and other crackdowns on student speech, in general. The DKE case at Yale is perhaps the most spectacular example of this. At first, the case followed the familiar pattern: The fraternity made their pledges say obnoxious chants specifically because they knew it would offend the community, the campus predictably became angry and offended, the fraternity members apologized, the national fraternity promised an investigation and punishment, and Yale condemned the fraternity speech, but didn’t express a clear interest in punishing the fraternity because it had agreed to discipline its own members. If it ended there, this would all be no big deal. Fraternities certainly have every right to punish their own members for breaking their rules or otherwise acting ungentlemanly. Furthermore, you have just as much of a free speech right to apologize for offensive speech, if you so choose, as you do to engage in it. However, the combination of the DKE case and Yale’s allegedly weak action in other cases (including the serious charge that Yale did not adequately punish those found guilty of assault) angered students enough to prompt complaints to the Department of Education’s Office for Civil Rights (OCR). OCR then launched an investigation of Yale, with the power to act to ensure that Yale enforces anti-discrimination laws. In fact, OCR can punish universities for their inaction on such issues by taking away all of their federal funding. At Yale, this means a potential loss of half a billion dollars per year. In the face of this huge financial threat, Yale rushed to announce that it was individually punishing students involved in the chanting incident on charges of intimidation and harassment and had suspended the campus chapter of DKE for five years. Despite all these punishments, the national DKE organization (at least for now) has chosen not to fight the ruling, although it has stressed that “Equating this behavior to illegal harassment is an unjust overreaching by an administration looking to shift campus anger away from real issues of harassment.” Nor have the DKE students at Yale decided to defend their rights. The failure to fight back has bad ramifications for student free speech at colleges and universities across the country. If colleges know that they can be subjected to an onerous OCR investigation and potentially face a ruinous financial hit if they do not punish “offensive” speech on campus — even if that speech would’ve been protected by the First Amendment outside university walls — they have every incentive to overreact. And as I’ve seen over the years, some campus administrators hardly need an excuse to punish students who dissent, offend, or provoke, or those whom they simply dislike, so the climate for free speech on campus may have just become far worse in one fell swoop. So, DKE members, it is not too late to change your mind. By all means apologize for your members’ behavior as your conscience dictates, but push back on the punishments that are strictly based on offensive speech. Yes, the university may still punish you for behavior that actually breaks Yale’s rules, or it may redefine its charges as hazing, rather than harassment, and perhaps retry the case, but this case has become much bigger than you. It’s true that your members have provided the fraternity with an extremely unsympathetic set of facts with which to argue your case, but keep in mind that the principles at stake are the same ones that allow students to question authority and ask the kind of provocative questions that need to be asked on a college campus.

#### 4. OU SAE proves free speech better tackles fraternity problems than censorship

Shibley, Exec. Director @FIRE 15

(Robert, <http://www.usatoday.com/story/opinion/2015/03/10/racism-fraternity-oklahoma-free-speech-free-marketplace-column/24697041/>, 3-10)

Free speech has many benefits, but one of the most overlooked is its ability to warn us of truths about the world — especially when we'd rather not hear them. Doesn't the video tell us something we need to know about the racial attitudes of at least some OU students? The protesters who flooded the OU campus this week certainly must think so. University President David Boren has wasted no time condemning the SAE chapter, expelling two members, and giving the others a single day to clear all their belongings out of their house and swearing that OU will give its members no help in finding new lodgings. He has also pledged to investigate whether further punitive action is possible against the students. But while OU may punish SAE if it finds that the chapter actually engaged in unlawful discrimination against African-American students, it cannot punish the fraternity members solely for the content of their expression. Wickham: Moment I discovered the real Obama Like this column? Get more in your e-mail inbox Many people may find this disappointing. Indeed, punishing those who engage in offensive expression is perennially popular because it gives the impression that we're "doing something" about the problem of racism, sexism and bigotry. In France, for instance, Holocaust denial has long been illegal, and just this year the country arrested more than 70 people for praising the Charlie Hebdo terrorist attack. France has put real teeth into laws that punish offensive speech. Yet according to the Anti-Defamation League, 37% of the French harbor anti-Semitic opinions. In the U.S. — which, thanks to the First Amendment, has never banned Holocaust denial or hateful speech — that number is 9%, among the lowest in the world. While this comparison can't capture all the differences between the two nations, it strongly suggests that punishing expression is no real cure for bigotry, and refusing to punish hateful speech does not lead inevitably to its spread. Censorship isn't necessary for those who are confident in the truth of their views. It's a signal of insecurity and displays a fear that if an idea is allowed to be expressed, people will find that idea too attractive to resist. Somehow, college administrators are convinced that if they don't officially punish racism, their students will be drawn to it like moths to a flame. But there's simply no reason to expect that. Given the history of campus activism in our nation from the civil rights movement onward, there are myriad reasons to expect the opposite. Instead of government crackdowns on a viewpoint, it is far better to let the marketplace of ideas determine the social consequences for racist speech. In this instance, the OU members of SAE are not only likely to spend the rest of their college careers as pariahs but to be hounded to the ends of the earth on social media and exposed for posterity on Google. Baseless bigotry won't survive in a truly free marketplace of ideas — which is what our campuses are supposed to be. College students are adults. Let's allow them to make up their own minds about what to believe, free from the coercive power of the state.

#### 5. Regulating off campus speech creates massive censorship because it expands title IX into ppl’s personal lives – other forms of discipline solve. Bader 15

Hans Bader is a senior attorney at the Competitive Enterprise Institute. <http://www.cnsnews.com/commentary/hans-bader/fallout-racist-oklahoma-frat-may-harm-free-speech-and-even-private-colleges> March 25, 2015

Unfortunately, the university president’s letter expelling the two fraternity members does not rely on any such voluntary, proprietary, or collegial rationale. Instead, it relies on a legally unsupportable rationale that is scary in its sweepingness, and implies that even a private college would be required to discipline students for racist speech even when it occurs off campus. It would create a massive regulatory headache for both private and public colleges alike if the courts in Oklahoma were to accept the university’s president dubious rationale.¶ In his letter expelling the two students, University President David Boren argued that their racist chant had created a “hostile educational environment” in violation of Title VI of the Civil Rights Act, which covers private and public colleges alike, and allows students to sue colleges for monetary damages for violations.¶ If the courts were to accept this rationale (which is a big “if”), that would be a radical expansion of Title VI liability, essentially jettisoning past limits on such “hostile environment” liability, and requiring colleges to regulate speech more broadly than in the past. The appeals court with jurisdiction over the University of Oklahoma, the Tenth Circuit has made clear in cases such as Witt v. Roadway Express (1998) and Bolden v. PRC, Inc. (1995) that even using the N-word in the workplace is generally not enough to create a racially hostile environment when the hateful epithets are merely overheard or learned about second-hand, or when they are not repeated more than a few times. Moreover, appeals court rulings like Lam v. University of Missouri (1997) have rejected sexual and racial harassment claims against schools based on individuals’ off-campus conduct – even serious misconduct like “assaults.” Accepting the university president’s rationale that off-campus speech (like a racist chant on a bus that is leaked to the public) creates a hostile environment on campus would create severe free speech and privacy problems, since colleges would be required to meddle in people’s private lives to avoid damages liability under Title VI.¶ Even core political speech and academic debate can in some cases create a hostile environment, not just intellectually worthless speech like the Oklahoma fraternity’s vile racist chant. For example, in Rodriguez v. Maricopa Community College, a federal appeals court had to rely on the First Amendment to quash a racial harassment suit against a professor for sending anti-immigration emails, which a college’s Hispanic faculty claimed created a hostile work environment in violation of Title VII of the Civil Rights Act and 42 U.S.C 1983. As UCLA’s Eugene Volokh notes, hostile-environment regulations can already reach a variety of core political speech.¶ Courts may well be tempted to adopt the University of Oklahoma’s rationale, due to utter disgust with the fraternity (a national poll shows the public overwhelmingly supports the fraternity members’ expulsion). Thus, future litigation over the fraternity’s discipline (it is already suggesting it might possibly sue) may end up setting a bad precedent for private and public colleges alike, if judges twist the law out of distaste for the fraternity, resulting in expanded Title VI liability for private colleges as well.¶ But the courts should reject the University of Oklahoma’s invitation to stretch the concept of a hostile environment even further, in light of the canon of constitutional doubts, which instructs courts to interpret statutes narrowly to avoid even potential constitutional problems. See Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Constr. Trades Council (construing National Labor Relations Act narrowly to avoid potential free-speech problems, despite the broad deference that the NLRB’s interpretation usually gets); Miller v. Johnson (rejecting Justice Department’s broad interpretation of a civil-rights law); cf. Saxe v. State College Area School District (voiding as unconstitutionally overbroad a school district’s hostile-environment harassment policy that defined hostile environments more broadly than the Supreme Court’s Davis decision had done); Dambrot v. Central Michigan University (voiding college’s hostile-environment racial harassment policy as overbroad); UWM Post, Inc. v. Board of Regents of University of Wisconsin System (striking down hostile-environment racial and sexual harassment policy that went beyond banning fighting words; “since Title VII is only a statute, it cannot supersede the requirements of the First Amendment”).¶ This does not mean that courts should stop the University of Oklahoma from inquiring into the fraternity’s lamentable mindset, to see whether it resulted in tangible discrimination. For example, Professor Volokh notes that the racist chant might have been “evidence of discriminatory decision-making by the fraternity in admitting members. A university may demand that groups to which it provides various benefits not discriminate in admissions … . The university might thus be able to discipline students who (a) are involved in a fraternity’s admissions decisions, and (b) can be shown to have denied membership to people based on race, or intentionally tried to communicate to potential members that they would deny them membership that way.” But the university president’s letter does not rely on any such rationale, and no such fact-finding seems to have occurred prior to its hasty issuance (which thus raised both free speech and due process concerns).

#### 6. Universities scapegoat greek life to avoid taking responsibility- the CP causes a shift to worse, less regulated forums. University Primetime 15

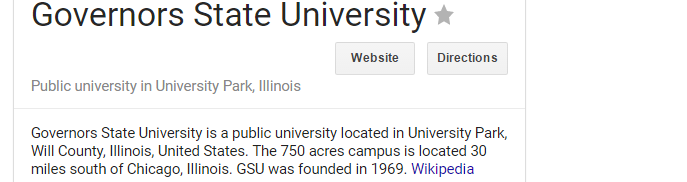
University Primetime 15

(6-6, http://www.universityprimetime.com/greeklife/)

“There’s nothing a university loves more than a scapegoat, especially one made of students and easily cracked down on to make a public overture of “progress” in dealing with a problem. When universities are confronted about their big problems, like campus assaults and other major student body issues, their first move is to yell as loudly as possible to the media that it’s all the fault of those evil dens of sin and privilege known as fraternities and sororities. At this point, maybe we should all start working on our evil laughs and moustache twirling, because we’re basically cartoon villains. Next year, they’ll start blaming fraternities for tying well-respected maidens to railroad tracks to lure out Dudley Do-Right, mark my words. The issue at hand is simple: universities, like any large community, have social problems. These are not confined to fraternities and sororities, but because of the social nature of Greek life, campus problems are conveniently both easy to observe and easy to cast blame for within the community. That isn’t to say we don’t have issues as Greeks — we do. We need to lock our shit down so national reporters don’t show up at our door salivating like starved dire wolves any time we have a pledge event. Pledging should be tough, and occasionally weird, but it shouldn’t ever be actually fucking dangerous. That’s not the point, and it was never intended to be the point. It should be the best six weeks you’ll never want to do again, but there shouldn’t be lingering PTSD that causes former members to cower in a corner any time the Barney theme comes on. We all know one guy that pledged a chapter like that, and that is definitely a problem. As for the assault issue, we need to make damn sure we’re the most proactive about preventing sexual assaults. We should be the goddamn poster children for consent, because without that ammunition, the university can’t blame it’s own failings on us. All that said, universities often fail to take responsibility for the problems on their campuses because liability is a bitch and they don’t want the Department of Ed citing them for failing to report things under the Clery Act. It looks bad to prospective students and parents when your school ranks top 10 for “Oh, were we supposed to report violent crimes and sexual assaults? Oops.” I don’t know about you, but that would not have reflected well to my parents on orientation weekend. Dad would have gotten me a concealed carry permit if I was even considering a school like that. As such, it behooves universities to have one easy to target group of students, and Greeks are that group. We host social functions, we plan major events, and we do have some inherent risk associated with us. Most of us are productive, successful and positive contributors to a university community, even if we do throw the occasional wild party on the weekend. I got a lot out of my time in Greek life, and I can say I would absolutely not be the person I am today without it (mostly, I’d still be nerdy as hell and pretty awkward). giphy (85) The temptation to blame Greeks for campus ills is high for one very simple reason: money. We’re capable of defending ourselves against lawsuits thanks to our national organizations and insurance. Universities want to avoid being named parties to these, so they try to foist blame wherever they can as a risk management option, leaving us to the wolves. The media, of course, jumps on the bandwagon because for that 70% of Americans that don’t have college degrees, we are the highest profile example of what the 1% looks like. To them, we buy our friends, own million dollar houses and vacation in the Hamptons. It’s irrelevant that many of us pay our own way through college, work multiple jobs and contribute to a massive philanthropy outpouring that accounts for much of what universities contribute to charities yearly, or that we generally come out of our houses with work ethic and teamwork skills that you can’t get in a classroom. Nothing teaches you teamwork like setting up a social event for you and your closest 500 friends. The biggest issue is that situations generally don’t improve at schools that eliminate Greek life. Some other group will take over — sports teams, clubs, professional organizations. It varies from school to school, but the result is usually the same. College kids will always look for social outlets. Responsible fraternities know how to provide those while running afoul of the law as minimally as possible. Universities have relied on us, in an unspoken agreement at most schools, to provide that scene without the rampant chaos disorganized house parties can create. We actually have to manage risk, attend to our guests and ensure that we’re at least trying to keep things legit.

## A2 Governors State PIC

#### 1. Governors state is a college in Illinois



#### 2. Illinois state law already precludes the CP

SPLC 16

(<http://www.splc.org/article/2016/07/illinois-new-voices-bill-signed>, 7-29)

An Illinois bill protecting student journalists’ rights was signed by Gov. Bruce Rauner Friday and is effective immediately. The state had existing protections for college journalists, but the bill adds similar protections for students in public high schools as well. Students in public high schools will now have a legally protected right to choose what content will be part of their publications, even those produced for credit as part of a class. The law does not restrict a school from removing material that is libelous, obscene, invasive of privacy, or likely to provoke disruptive or unlawful behavior. However, the law places the burden on school

## A2 Holocaust Denial PIC

### 1AR - Holocaust Denial PIC

#### O/V: PICs against affs that defend all speech are bad – moots 6 minutes of AC offense and there’s an infinite number of small things to PIC out of for hyper-specific speech scenarios – kills fairness. PICs are a voting issue – prevents my ability from generating substantive offense so evaluate before other flows

#### 1.There’s no hate speech in newspapers on campus – editorial boards solve their offense.

#### 2. Turn – Newspapers get censored when they write about instances of racism on campus to protect the schools PR – That’s Schuman

#### Case Outweighs – Advantage 1

#### The plan allows dissent and trains young people to make a difference through journalism and action which controls the internal link to stopping holocaust denial and outweighs into the future. That’s Sanders

#### Case Outweighs – Advantage 2

#### A. Warming kills everyone on earth which is irreversible – there’s at least a chance you stop getting harassed.

#### Holocaust memory laws get modeled and justify rampant censorship and misapplication – Bangladesh and Rwanda prove. Mchangama 16

Jacob Mchangama OCTOBER 2, 2016 <http://foreignpolicy.com/2016/10/02/first-they-came-for-the-holocaust-deniers-and-i-did-not-speak-out/> Jacob Mchangama is co-founder and director of the Freedom Rights Project.

It is, of course, the Holocaust that has been the driver of European memory laws. Most of the laws on the continent prohibit the denial, justification, or trivialization of the crimes committed by the Nazis during World War II, the mass murder of Jews chief among them. According to University of Amsterdam legal scholar Uladzislau Belavusau, “the monumental legal prescription of historical truth has fulfilled a remarkable role in the project of Europe’s unification, with both [the EU and the Council of Europe] building their foundational discourse on the urge to avoid the misfortunes of World War II through European integration and acknowledgement of foundational atrocities.”¶ France has had a ban on Holocaust denial in place since 1990. Austria’s ban was adopted in 1992, and Belgium’s is from 1995. Germany itself did not adopt an explicit ban until 1994, though it countered Holocaust denial before then through laws against defamation, incitement, and disparaging the memory of the dead. The European Union also took steps in this direction through a joint action adopted in 1996, which obliged member states to take steps toward criminalizing the “public denial” of the crimes that formed part of the Nuremberg trials. Holocaust denial laws were also approved in the 1990s by the European Court of Human Rights (under the Council of Europe), which stated that the negation or revision of “clearly established historical facts — such as the Holocaust — … would be removed from the protection” of free speech under the European Convention on Human Rights. The joint action was given more bite in 2008 with the adoption of a much more detailed framework decision on combating racism and xenophobia.¶ Given its unprecedented scale, there are compelling reasons for affording the Holocaust a special place in European history, memory, and politics. “Never again” is a fitting raison d’être for the institutions that underpin modern Europe. But it is not clear that “never again” should be accomplished through limiting freedom of expression. It is also clear that these memory laws have been fraught with unanticipated consequences, both in and outside the EU.¶ With the post-Cold War enlargement of the European Union, new member states joined for which the disaster of World War II was not followed by a new golden era of European integration and liberal democracy but rather by another disaster: communist rule. These states’ most recent experiences with totalitarianism were not genocidal Einsatzgruppen but the brutal and decades-long repression of communism, and some — Lithuania, Latvia, and Hungary, for instance — have adopted laws criminalizing the denial of not just the crimes of genocide or Nazism but also those of communism.¶ Perhaps this doesn’t seem so bad on its face — both Nazism and communism were horrible regimes, and their atrocities ought to be remembered. But this is where the story becomes complicated. Despite pressure from former communist states, the EU has rejected including the denial of communism’s crimes in its 2008 framework decision. And although the European Court of Human Rights excludes Holocaust denial from free speech protection, it decided in 2015 that Switzerland had violated freedom of expression by convicting a Turkish national for denying the Armenian genocide initiated by the Ottoman Empire during World War I. Accordingly, Europe operates with differing legal standards when it comes to criminalizing the denial of historical crimes.¶ That is a morally and politically awkward position with severe consequences in the many places outside Europe’s established democracies that have drawn inspiration from the continent’s memory laws. As the Kremlin-funded media outlet RT noted about the Russian law used to convict Luzgin, “the bill’s sponsors also refuted all criticism and said that … many foreign nations, such as Germany, Austria and France already had similar legislation protecting the historical truth as stated by the Nuremberg Tribunal.” In 2015, post-Maidan Ukraine went even further and criminalized not only the denial of the “criminal nature of the communist totalitarian regime of 1917-1991 in Ukraine,” but also the denial of the legitimacy of “the struggle for the independence of Ukraine in the twentieth century” and “publicly show[ing] contempt for” those officially recognized as “fighters for independence of Ukraine.” That law’s preamble refers to various human rights conventions and resolutions by the European Parliament and names as its purpose the protection of human rights and liberties and strengthening the independent, democratic, and constitutional state. Despite these ostensibly noble purposes, the law has been criticized by concerned international and Ukrainian historians, who worry that the law bans criticism or even factual historical accounts of some Ukrainian resistance groups that were involved in mass killings of Jews and Poles during World War II, sometimes in direct collaboration with the Nazis. Moreover, a nuanced discussion of the Soviet era distinguishing between the levels of repression during different periods might also be impeded.¶ Outside Europe, Rwanda and Bangladesh are examples of how European memory laws have migrated across continents and are being wielded as a weapon by undemocratic regimes. Following the Rwandan genocide in 1994, perhaps understandably, tough memory laws were passed in 2003 and 2008. Today, any person who has “publicly shown, by his or her words, writings, images, or by any other means, that he or she has negated the genocide committed, rudely minimised it or attempted to justify or approve its grounds” risks between 10 and 20 years imprisonment. Human rights lawyer Nani Jansen estimates that as of 2014 the Rwandan memorial laws had resulted in upwards of 2,000 cases being brought; she also notes that they have been used to “restrict a free and open debate on matters of public interest in the country and especially the restrictive effect the laws have had on free speech in the media.” Those convicted under the law include journalists and political opponents of President Paul Kagame. When human rights organizations criticized the broad and vague nature of the country’s law, Rwanda’s then-prosecutor-general shot back at Western critics: “Their narrative is as if this is a draconian law meant to suppress political dissent and freedom of speech. What is not often told however is that the laws of similar nature actually have been in place in a number of European Countries for decades!” He then went on to specifically highlight the EU framework decision, the Holocaust denial laws in European democracies, and the case law of the European Court of Human Rights.¶ This year, the government of Bangladesh tabled a draft “Liberation War Denial Crimes Act” aimed at settling the historical account of that country’s bloody separation from Pakistan. The Bangladeshi draft law, too, is justified with a reference to European Holocaust denial laws. According to the draft law, undermining, misinterpreting, distorting, disrespecting, or running propaganda campaigns against the official historical account would be punishable with up to five years in prison. According to the government’s official account, the liberation war resulted in the deaths of some 3 million people. However, a number of studies suggest alternative figures ranging as “low” as 200,000 to 300,000 deaths. Yet such historical accounts would no longer be permissible if the bill is passed. Apart from cementing a questionable historical account as unquestionable truth, Bangladesh-based journalist David Bergman also worries that if passed, the law would shore up the current government and be used as a weapon against its opponents.¶ European memory laws have spread and metamorphosed to the extent that they now serve as the model for criminalizing accurate but nationally inconvenient historical accounts, as well as entrenching deeply flawed alternative histories used as foundations for specific national ideologies and repressive political agendas. This was hardly what the EU and its member states had in mind in the 1990s. But, in hindsight, this development was almost unavoidable in a globalized world, where legal norms spread to countries with very different histories, values, and systems of government.¶ Given the role that memory laws have come to play in undermining both academic freedom and political speech, the EU should urgently reconsider its approach. The Holocaust can still serve as the low point of modern European history, and its lessons as a focal point for European institutions, without criminalizing its denial. In fact, decriminalizing the denial of genocide and international crimes will only serve to strengthen the very values that have allowed historians to demonstrate beyond doubt the occurrence and magnitude of the Holocaust. That has ultimately been the most effective means of marginalizing deniers of historical truth to the ranks of xenophobes, pseudo-historians, and conspiracy theorists.¶

#### Accusations of anti-semitism are used to silence dissent and reinforce racism. Abraham 15

(Susan, Associate Professor and Chair of Theological Studies @Bellarmine College of Liberal Arts Asian/Asian North American Feminist Theology and the Secular Academy Journal of Feminist Studies in Religion, Volume 31, Number 1, Spring 2015,

pp. 121-126

A second way to engage US academic and imperial desire is to examine “academic containment.” As the editors claim, “state warfare and militarism have shored up deeply powerful notions of patriotism, intertwined with politics of race, class, gender, sexuality, and religion,” that reconfigure belonging as patriotic citizenship, privileging conformity over critical methods.5 Anything that represents dissent is likened to terrorism. As is known to many of us, conformity with regard to church, state, and family is a hallmark of US nationalist rhetoric—rhetoric that spills over into the Christian hegemonic racism that Kim and Joh point out as the basis of US support for Israeli Zionism. Arab American scholar and activist Thomas Abowd asserts that the BDS movement (Boycott, Divestment, and Sanctions movement) has been disparagingly referred to as “anti-Semitic in their effect if not their intent.”6 Such allegations of anti-Semitism of course reflect the imperial university’s collusions with corporate and particular histories disembedded from their state-sponsored narratives. Abowd’s case, painfully chronicled in his essay, reveals “the rank hypocrisy that many schools—in their claims to racial equality and academic freedom—display when racism toward Muslims and Arabs comes to the fore.”7 Antiracist efforts by Asian/Asian North American feminist theologians need to examine more deeply how racism is structured in academic practices, particularly in its state-sanctioned maneuver to curb dissent.(123)

#### Denial speech codes backfire and create more violence. Schulman 15

SAM SCHULMAN [a New York writer whose work appears in New York Press, the Spectator (London), and elsewhere, and was formerly publisher of Wigwag and a professor of English at Boston University. ]JAN 26, 2015 http://www.weeklystandard.com/the-great-free-speech-experiment/article/823845

¶ The terrible martyrdom of January 7 comes after a years-long campaign against speaking out and speaking honestly that persuaded only the mouthpieces and censors. An energetic and beautifully expressed campaign of vilification and isolation of unsocial elements has failed. France’s momentary embrace of free expression as a pure good last weekend was unconvincing, but the idea has much to recommend it.¶ ¶ Let me propose an unprincipled defense of free speech. Let’s not consider whether placing limits on free speech is just or unjust, an act of mercy to minorities and the unprivileged or a betrayal of liberty that will destroy the French Republic and our own. Instead, let’s ask if it has worked.¶ ¶ Advocates of censorship in the United States argue that this country should be ashamed to be the only free nation that has not defined hate speech as a crime. We are also outside the honorable group of nations that have declared Holocaust denial a criminal act​—​in this shame we are joined by the United Kingdom. Europe’s unfree-speech regime has been in place for a generation or more. So it is actually possible to consider the question of how much good hate speech and Holocaust-denial bans have done for the societies that enjoy them, and how much harm the First Amendment’s power, so far, to prevent our having these laws has done to our nation and our citizens.¶ ¶ Nobody on the free speech side can comprehend how deeply and sincerely the hate-speech censors believe that banning hate speech will reduce the amount of hate in society, that controlling speech is the path to better, happier thoughts. This conviction is so deep-seated in its advocates that the question of its accuracy is rarely even considered.¶ ¶ Rather than measure the good that such laws may do, advocates of speech criminalization focus on the harm that hate speech and Holocaust denial do. That they have an interest in showing this is obvious, but much of the work on the harm of hate speech is thoughtful and persuasive. Yet so confident are they that silencing and punishing people for speaking in a hurtful way is necessary that they feel no need to present data to answer whether it is effective.¶ America, by standing apart from the Western world’s rush to impose criminal penalties on hate speech, has thus ended up serving as a voluntary control group in this great experiment. As Dr. Walter Reed did with yellow-fever-transmitting mosquitoes, we have exposed ourselves to hate speech and Holocaust denial without the protection of cops, judges, and jailers. Never mind that the question has not been asked: We can answer it simply by comparing the amount of hate speech and Holocaust denial in European countries with that in our own​—​and in the case of Holocaust denial, with that in the United Kingdom as well. Holocaust denial has the advantage of being a clearly defined thing, not subject to the rococo elaboration of varieties of hate on the part of the hate-speech condemnation profession.¶ Consider these data points on Holocaust denial, assembled from two widely examined surveys that compared U.S. and global attitudes toward Jews, one conducted for the American Jewish Committee (AJC) in 1992 in the United States and in France, Germany, and the U.K. in 1993 and 1994. The whole project was reexamined and presented in a useful pamphlet in 1995 by Tom W. Smith, the director of the General Social Survey at the National Opinion Research Center (NORC) at the University of Chicago.¶ We can compare these data with the results of last year’s massive survey of antisemitic attitudes worldwide conducted by the Anti-Defamation League. The ADL asked citizens of 101 countries their opinion about the Holocaust (along with other questions about Jews and Judaism) to establish an overall antisemitism score for each country. We are concerned here only with certain categories of Holocaust denial that can be measured from both the 1992-94 survey and the 2013-14 survey. Here are the results for the United States, the U.K., France, and Germany, measured soon after Holocaust denial was criminalized in Germany and France. (I have regularized the numbers to ADL’s 2014 practice of measuring Holocaust denial and acceptance as a percentage of those who are aware of the Holocaust. See Table 1.)¶ So at the outset of our test, it’s clear that the level of Holocaust denial is fairly similar, except in Germany, which also has what one might call a level of Holocaust denial reflected in the unusually high percentage of people who say they’ve never heard of it. The other countries reflect their respective distance from the event. France, an occupied country and a site on which Holocaust events took place, knows it best, Britain, across the channel, not nearly as well, and we bring up the rear.¶ The next chart shows the state of play two decades later. Of course, in 1992, many of the generation who lived through World War II were still in the prime of life, while in 2014, almost all were elderly or dead. Each country’s population of adults included a generation none of whose parents were alive or old enough to have a reasonable experience of the war. Still, a surprising gap has opened between the countries that banned Holocaust denial and those that did not. (See Table 2, opposite.)¶ Twenty years of policing speech about the Holocaust has produced a perverse result. In the two countries in which Holocaust denial is freely available to anyone, the level of Holocaust denial and what might be termed Holocaust skepticism has changed very little. But despite the vigilance and police powers of the regulated-speech countries, the percentage of Holocaust deniers plus skeptics increased substantially, from 5 percent to 26 percent in France and from 8 percent to 11 percent in Germany. Yet in laissez-faire America, the percentage of those who remain ignorant of the Holocaust was cut nearly in half, from 19 to 11 percent, while in France ignorance of the Holocaust rose from 1 to 13 percent. Those who accept the historical truth in the United States and the U.K. grew from the ’70s to the ’80s in percentage terms; in Germany it remained the same; in France, it fell precipitously from 89 to 67 percent. (I should add, at the risk of being reported as an Islamophobe, that the ADL sample of French respondents in 2013 was only¶ 2 percent Muslim.)¶ Tom W. Smith expressed surprise at the low level of actual Holocaust denial in 1992-94, and I feel the same way about Holocaust denial among Americans and Britons today. However contemptible Holocaust denial may be, it is, when people are permitted to discuss it, at a very low level. Smith points out that the vast majority of those who question the Holocaust’s scale and other details are unaware that there is an organized historical revision movement. They are not deniers-in-training, but merely ornery. The very rough data here, despite some problems with comparability, suggest that indignation, disgust, and contempt for Holocaust denial may be more effective than policemen.

#### Holocaust laws gut free speech, foster anti-Semitism and prevent ridiculing Nazis. Universities are the place where these convos should happen. Ash 07

Timothy Garton Ash [Timothy Garton Ash is a historian, political writer and Guardian columnist] 1/17/07 <https://www.theguardian.com/commentisfree/2007/jan/18/comment.secondworldwar>

That a measure is well-intended does not, however, make it wise. The road to hell is paved with good intentions. And this proposal is very unwise. First of all, if passed, it would further curtail free expression - at a time when that is under threat from many quarters. Free expression is a unique and primary good in free societies; it's the oxygen that sustains other freedoms. You must therefore have very good reasons for restricting it by law.¶ The German justice minister, Brigitte Zypries, argues that she has such reasons. Recalling the way in which the anti-semitic words of Hitler and others paved the way for the horrors of Nazism, she says: "This historical experience puts Germany under a permanent obligation to combat systematically every form of racism, anti-semitism and xenophobia. And we should not wait until it comes to deeds. We must act already against the intellectual pathbreakers of the crime" (I translate from a speech posted on the German justice ministry's website). So this additional restriction on free expression - an EU-wide ban on Holocaust denial and Nazi insignia - is justified because it will make a significant difference to combating racism, anti-semitism and xenophobia today.¶ But what is the evidence for that? Nine EU member states currently have laws against Holocaust denial: Austria, Belgium, the Czech Republic, France, Germany, Lithuania, Poland, Romania and Slovakia. That happens to be a list of countries with some of the strongest rightwing xenophobic parties in the EU, from France's National Front and the Vlaams Belang in Belgium to the NPD in Germany and the Greater Romania party. Self-evidently those parties don't exist as a result of Holocaust denial laws. Indeed, the existence of such parties is one of the reasons given for having the laws, but the laws have obviously not prevented their vigorous and dangerous growth. If anything, the bans and resulting court cases have given them a nimbus of persecution, that far-right populists love to exploit.¶ The same thing has happened with the imprisonment of David Irving in Austria. Six years ago Irving lost, in the British high court, a spectacular libel case that he had himself initiated against the American historian Deborah Lipstadt, who had described him as "one of the most prominent and dangerous Holocaust deniers". Mr Justice Gray concluded that Irving was "an active Holocaust denier". The last shreds of his reputation as a serious historian were torn apart - in a country that does not ban Holocaust denial. Now, having served time in Austria for statements he made there 16 years before, he can pose as a martyr for free speech and receives renewed publicity for his calumnies. At a press conference after his release, he reportedly endorsed the drunken anti-semitic comment of Mel Gibson that "the Jews" are responsible for all the wars in the world¶ Now suppose the ban on displaying Nazi insignia had already been in force EU-wide and the British courts had therefore been obliged to prosecute Prince Harry for (offensively and idiotically) sporting an Afrika Korps uniform and swastika armband at a friend's fancy dress party. What would that have done to combat Eurosceptic and xenophobic extremism in Britain? Nothing. Quite the reverse: it would have been worth thousands of votes to the British National party. And while we're on the subject of the swastika, Hindus across Europe are protesting against the proposed ban, on the grounds that for them the swastika is an ancient symbol of peace. Meanwhile, the German legal authorities have got themselves into a ridiculous tangle because a court in Stuttgart has convicted the manager of a mail-order company for selling T-shirts showing crossed-out and crushed swastikas. These might be anti-fascist T-shirts, you see, but they still showed swastikas and were therefore illegal. And so it goes on, and would go on even more if the whole EU adopted such measures.¶ The argument that these well-intentioned bans actually feed the flames they are meant to quench is, of course, ultimately unprovable, although circumstantial and anecdotal evidence points in that direction. But the burden of proof is on the proponents of the ban. In a free society, any restriction on free speech must have a compelling justification - and that is not available here.¶ Holocaust denial should be combated in our schools, our universities and our media, not in police stations and courts. It is, at most, a minor contributing factor to today's far-right racism and xenophobia, which now mainly targets Muslims, people of different skin colour, and migrants of all kinds. Nor will today's anti-semitism be countered most effectively by such bans; they may, at the margins, even stoke it up, feeding conspiracy theories about Jewish power and accusations of double-standards. Citizens of the Baltic states, who suffered so terribly under Stalin, will ask why only denial of the Holocaust should be criminalised and not denial of the gulag. Armenians will add: and why not the genocide that our ancestors experienced at the hands of the Turks? And Muslims: why not cartoons of Muhammad?¶ The approach advocated by the German justice minister also reeks of the nanny state. It speaks in the name of freedom but does not trust people to exercise freedom responsibly. Citizens are to be treated as children, guided and guarded at every turn. Indeed, the more I look at what Zypries does and says, the more she seems to me the personification of the contemporary European nanny state. It's no accident that she has also been closely involved in extending German law to allow more bugging of private homes. Vertrauen ist gut, Kontrolle ist besser (trust is good, control is better). Isn't that another mistake Germany made in the past?

### Impact Turns

#### Fear of holocaust denial is Zionist propaganda. Hanna 15

William Hanna is a freelance writer with recently published books the Hiramic Brotherhood of the Third Temple and The Tragedy of Palestine and its Children. February 17, 2015 http://www.globalresearch.ca/israels-persecution-of-palestinians-and-the-reality-of-present-day-anti-semitism/5431642

The reality is that by simply asking such a valid question innocent people can become targets for unjustified accusations of anti-Semitism and Holocaust denial which together have become the most powerful weapon — by conflating Zionism with Judaism — for silencing criticism of, or preventing activism against Israeli violations of international law including a barbarous disregard for human rights. Maintaining this effective Zionist policy has required the Anti-Defamation League (ADL) and other Jewish groups to covertly contribute vast sums, to politically coerce, and to calculatingly con the mainstream media into perpetuating the totally false premise that only Jews are semites. This appropriation of the word “semite” and the subsequent evolvement of the term “anti-Semitism” has with irresponsible impunity facilitated the silencing of Israel’s critics even to the extent of wrecking their careers, their social standing, and their lives. Consequently people in politics, the media, and other public service professions cringe at at the thought of being labeled, “anti-semitic” and unfortunately — even against the better judgment of their conscience — succumb to Zionist blackmail, bribery, or bullying and publicly present themselves as being diehard supporters of Israel.¶ “Israelis and American Jews fully agree that the memory of the Holocaust is an indispensable weapon — one that must be used relentlessly against their common enemy . . . Jewish organisations and individuals thus labour cut continuously to remind the world of it. In America, the perpetuation of the Holocaust memory is now a $100-million-a-year enterprise, part of which is government funded.”¶ According to Israeli author Moshe Leshem, the expansion of Israeli power is commensurate with the expansion of ‘Holocaust’ propaganda. Balaam’s Curse: How Israel Lost its Way, and How it Can Find it Again, Simon & Schuster, 1989. So what exactly is a semite? Diligent, impartial research will reveal that the word “semite” has no relation with any particular religious group or ethnicity, but with a group of semitic languages: Amharic (spoken by Ethiopians and Eritreans in lands formerly known as Abyssinia); Arabic (spoken by Arabs and others in Muslim countries because it is the language of the Qur’an); Aramaic (spoken mostly by the Chaldeans of Iraq, some Catholics, and Maronite Christians at least liturgically if not socially); Hebrew (spoken by Israelis, some Jews, and others outside of Israel); and Syriac (spoken by some in various parts of Syria and the Middle East). Linguistic experts also point out that Abraham, the father of the Arabs and Jews, did not speak Hebrew, but Aramaic which was then the language of the land.¶ Anti-Semitism: The word anti-Semitism was an invention; H.H. Beamish, in a New York address, October 30 – November 1, 1937:¶ “In 1848 the word ‘anti-Semitic’ was invented by the Jews to prevent the use of the word ‘Jew.’ The right word for them is ‘Jew’.”¶ Ever since the Jews invented the libel charge of ‘anti-Semitism’ in the 1880s. It was first printed in the Jewish Encyclopaedia (1901 Vol. 1, p. 641), and has been built up with Jewish money, organisations, propaganda and lies (such as the Holocaust — Holohoax), so that now the word is like a snake venom which paralyses one’s nervous system. Even the mention of the word ‘Jew’ is shunned unless used in a most favourable and positive context.¶ Furthermore, actual genetic Jews are from Spain, Portugal, North Africa and the Middle East and are known as “Sephardic,” a word derived from the Hebrew “Sepharad,” which relates to Spain. Sephardic Jews, because of familiarity with their own history and the true meaning of the word “semite,” tend to avoid using the term “anti-Semite” because it is utter nonsense. Alternatively, Ashkenazi Jews who exploit Israel’s Law of Return — Israeli legislation passed on 5 July 1950, giving Jews the right of return, the right to live in Israel, and the right to acquire citizenship — have as recent studies illustrate (http://www.livescience.com/40247-ashkenazi-jews-have-european-genes.html) a maternal lineage derived largely from Europe which contradicts the notion that European Jews are mostly descendants of people who left Israel and the Middle East some 2,000 years ago. In 1970, Israel extended the right of entry and settlement to include people of Jewish ancestry, and their spouses while in the meantime forcibly expelled indigenous Palestinians (http://www.ifamericansknew.org/history/ref-nakba.html) continue to have no such right.¶ “Strictly speaking it is incorrect to call an ancient Israelite a ‘Jew’ or to call a contemporary Jew an Israelite or a Hebrew.”¶ Well organised, incessant, and shrill accusations of rampant “anti-Semitism” by Jewish organisations cannot therefore be simply accepted with silent obedience and without question. To begin with it is only right to acknowledge that anti-Jewish sentiment does exist just as does Islamophobia, inter-religious hatred and racism because fanaticism and ignorance are deleterious maladies that humanity has so far failed to overcome. It is very hypocritical of Jewish organisations to demand acknowledgement and respect for their human rights to be “Jewish” while denying those same rights to the Palestinian people with more than 60 years of persecution whose Nazi-style barbarity deserves to be classified as a “Palestinian Holocaust.” In this respect, the mainstream media has a journalistic obligation to shed its blatant Israeli bias (cowardice) and instead encourage a public debate that clearly distinguishes between anti-Jewish sentiment and justified criticism of consistent Israeli violations of international law including human rights.¶

#### This censorship kills criticism of violence against Palestinians and perpetuates the Israeli apartheid state – free speech is key. Hanna 15

William Hanna is a freelance writer with recently published books the Hiramic Brotherhood of the Third Temple and The Tragedy of Palestine and its Children. February 17, 2015 http://www.globalresearch.ca/israels-persecution-of-palestinians-and-the-reality-of-present-day-anti-semitism/5431642

Jewish attitudes have also with contemptuous presumption continued to encroach upon and undermine the the rest of humanity’s right to free speech with the latest outrage being a request by Israeli politicians that other nations across the world should enact legislation outlawing any criticism of Jews or Israel. They claim that their request is due to an apparent increase in “anti-semitism” across the world. It is very hard to believe that a people chosen by God Himself are unable to differentiate between abhorrent anti-Jewish sentiment and justified criticism of Israel for its barbaric crimes against humanity.¶ “One has to realise that Israel’s efforts having nothing to do with hate speech, anti-Semitism or holocaust denial, but are rather about stifling critical speech that affects Israel and its lobbyists. For example, we know that Israel and its lobbyists are not offended by holocaust denial because Israel and its lobbyists are the leading proponents of Armenian holocaust denial in the world today. Israel should also not be particularly offended by anti-Semitism, because Israel is actually one of the most racist and anti-Semitic nations on the planet.” “The crime against the Palestinian people is being committed by a Jewish state with Jewish soldiers using weapons displaying Jewish religious symbols, and with the full support and complicity of the overwhelming mass of organised Jews worldwide. But to name Jews as responsible for this crime seems impossible to do.” It may seem impossible to do, but in order to save humanity — responsible people with a conscience and respect for other human beings — must at all costs resist Zionism’s all out onslaught on the right to free speech because without that right and an unfettered mainstream media we become just brainwashed subjects rather than enlightened citizens. The actuality of our becoming brainwashed citizens is unfortunately already with us because in Britain for example any condemnation, protest, or activism against Israel’s irrefutably barbaric treatment of the Palestinian people is immediately met with accusations of anti-Semitism by a government whose leaders threaten tough legislation to further criminalise criticism of Jews or Israel. So rather than upholding their citizens’ noble right to demand universal respect for human rights, Western leaders like Prime Minister David Cameron insist that current legislation prohibiting discrimination or racism is not good enough for Jews whose “specialism” and “separateness” require additional laws to protect them and their rights while encroaching on the rights of others. Cameron recently continued with his Jewish lobby appeasement by announcing Government plans for a new £50million Holocaust memorial in central London. Such benevolence raises the question of whether that money would be better spent on medical aid to the traumatised and physically mutilated victims of Israel’s latest genocidal assault on Gaza.

#### This promotes anti-blackness – complacency with Israeli censorship kills fights against racism in the US. IJAN No Date

IJAN “The Anti-Defamation League Sticks to What it Knows Best: Racism” http://www.ijan.org/new-opinions/the-anti-defamation-league-sticks-to-what-it-knows-best-racism/

The ADL’s decision to firmly support the police and attempt to silence nation-wide collective action is no surprise given their history of collaboration with and support of police violence and surveillance in the US. The ADL directly trains tens of thousands of police and other “security forces” and leads population control training of US Police by Israeli military and police forces. By facilitating the training of US police in Ferguson and other cities, the ADL acts as a driving force in the cross-pollination of the most repressive practices and the increasing militarization of police forces in the US and Israel.¶ In this context, the ADL attacked Black football player Reggie Bush for courageously affirming the link between Ferguson and Palestine. Consistent with its pattern of suppression, the ADL slammed Reggie Bush for sharing messages of solidarity from Palestinians to the people of Ferguson on social media. The ADL claims that there is no connection between racist violence in Ferguson and across the US, the repression of community resistance to this violence through mass protest, and the racist violence against Palestinians. Yet, the ADL is itself perhaps the most direct link between the racist violence against Black people and Palestinians, having literally trained former St. Louis County Police Chief Timothy Fitch in Israel. Abraham Foxman, Executive Director of the ADL, went so far as to suggest that Reggie Bush does not understand racism in either the United States or Palestine, saying: “He should stick to football.”¶ We are disgusted that the ADL continues to stick to what it knows best: racism.¶ Beyond the ADL, Israel’s connection to Ferguson is not strange or exceptional, but is rather, as is laid out in Israel’s Worldwide Role in Repression, part of its broader role in global repression. Just as the US military trains police around the world based on its long history of repressing of Black people and other oppressed communities, Israel takes the technology, military tactics, and racist brutality it has developed through its colonization of Palestine and exports them to the rest of the world.¶ In the United States alone, over 9,000 US officials have trained with Israeli military and police, including the Atlanta police who killed a 92 year old Black woman, Kathryn Johnson, Oakland police who used tear gas and rubber bullets to repress Occupy Oakland, and the LAPD who are now utilizing the drone technology that Israel pioneered. Thus, when Palestinians declare their solidarity with the people of Ferguson or offer protestors advice on dealing with teargas, or when demonstrators in Missouri carry signs reading “from Ferguson to Palestine occupation is a crime,” it grows out of a deep recognition of the ways in which the struggles against racism and colonialism in the US and the struggle against racist colonization in Palestine are bound together.¶ As Jews committed to full justice for Black, Brown and Indigenous people in the United States, queer and trans communities, immigrants targeted by policing and repression, and for justice in Palestine, we assert that the ADL does not represent our interests and continually aligns itself with racism in the US and Israel and works to defend them against popular challenges. We reject this racism and proudly stand with Reggie Bush. We will work to expose the ADL, stop the role it plays in police collaboration between the US and Israel, and continue to organize against Police and military violence.

## A2 ISIS PIC

### 1AR – ISIS PIC

#### 1. Empirics prove the CP is overreaction and will devastate 1st amendment rights Stone 16

Stone, JD, 16

(Geoffrey R., Edward H. Levi Distinguished Service Professor of Law at the University of Chicago Law School., 12-22, http://www.huffingtonpost.com/geoffrey-r-stone/isis-fear-and-the-freedom\_b\_8864050.html)

In recent weeks, two of the legal scholars I most admire — Cass Sunstein and Eric Posner — have independently called for possible limitations on the scope of First Amendment protection in light of the dangers posed to the United States by online radicalization messages directed at Americans. Although I certainly understand the concerns driving these suggestions, it is essential that we resist the temptation to restrict our most fundamental freedoms in moment of panic. This is not to say that our nation’s security is not important or that preventing terrorist attacks is not a critical goal. But it is to say that this is not an appropriate way to protect ourselves. At the core of these concerns is the fear that if ISIS supporters are free to encourage others to join their ranks and to launch terrorist attacks against the United States, we will be less safe than if we could make it a crime for individuals to promote such messages. This is a credible fear. But a credible fear is not a sufficient justification for jettisoning hard-bought constitutional rights. We have a long history in the United States of compromising our First Amendment freedoms in the face of perceived danger and then later recognizing that we had overreacted, often with dire consequences for individual freedom and for our democracy.

#### 2. Empirics prove you should err aff- CP net benefit is panic, not fact. Stone 16

Stone, JD, 16

(Geoffrey R., Edward H. Levi Distinguished Service Professor of Law at the University of Chicago Law School., 12-22, http://www.huffingtonpost.com/geoffrey-r-stone/isis-fear-and-the-freedom\_b\_8864050.html)

Less than a decade after we adopted the First Amendment, which provides that “Congress shall make no law ... abridging the freedom of speech, or of the press,” Congress enacted the Sedition Act of 1798, which effectively made it a crime for any person to criticize the President, the Congress, or the government of the United States. The purported justification for the legislation was fear of a possible war with France, then the world’s leading military power. The rationale was that, if citizens could criticize the government, then the government would be less able to protect the nation in time of war. The war never came, but government officials relentlessly prosecuted their critics, in no small part in an unsuccessful effort to retain their power in the 1800 elections. In later years, Congress repealed the Act, the government released those who had been convicted under it, and the Supreme Court declared that the Sedition Act of 1798 had in fact been unconstitutional. A similar situation arose during World War I, when the federal government enacted first the Espionage Act of 1917 and then the Sedition Act of 1918. As interpreted and applied, these laws once again made it a crime for any person to criticize the government, the war, the draft, the military, or the flag of the United States. In another episode driven by fear, some 2,000 Americans were prosecuted, convicted, and sentenced to prison terms for as long as ten or twenty years for doing nothing more than questioning the morality, wisdom or legality of government policy during the war. Once again, after all the dust settled, those who were convicted were released from prison and pardoned, and the government eventually acknowledged that its actions had been driven by an illegitimate combination of panic and political expediency. Although the Supreme Court upheld the constitutionality these prosecutions and convictions at the time, in later years the Court recognized that they had violated the First Amendment. More recently, during the 1950s Red Scare and the era of McCarthyism, government at the federal, state and local levels all prosecuted, blacklisted, and jailed tens of thousands of Americans because they had once been members of the Communist Party, or affiliated organizations. The premise of these prosecutions was that these individuals were disloyal and posed a threat to the security of the United States because the Communist Party advocated the violent overthrow of government. Once again, with the passage of time, the nation came to the realization that it had panicked and that it had wrongly persecuted these individuals without justification. And once again, the Supreme Court, which had initially upheld these prosecutions and blacklists, later came to its senses and declared these actions unconstitutional. Finally in 1969, in its landmark decision in as Brandenburg v. Ohio, the Supreme Court, building upon the powerful dissenting opinions in the earlier eras of Justices Oliver Wendell Holmes and Louis Brandeis, declared in no uncertain terms that in the United States the government cannot constitutionally punish individuals for expressing their views, even when those views call for the use of violence, unless the government can demonstrate that such speech is likely to trigger imminent violence. Short of that, the Court held, the only proper response, even to expression we fear and despise is not suppression, but counter-speech. Of course, this is not without risk, but the price of freedom is always a degree of risk. Given our grim history in periods of perceived or real crisis, and given how long it has taken us to attain the wisdom and insight we have gained through painful national experience, this is definitely not the time to turn back the clock and to revert to long discredited doctrines that served us so poorly in the past. The temptation is certainly understandable, but the better part of wisdom is not to toss away our hard-bought freedoms in the absence of truly compelling necessity.

#### 3. CP Struck down. Eckholm 15

Eckholm 15

(Erik, <https://mobile.nytimes.com/2015/12/28/us/isis-influence-on-web-prompts-second-thoughts-on-first-amendment.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region&region=top-news&WT.nav=top-news>, 12-27)

All these legal experts, including Mr. Posner, agree that if today’s Supreme Court considered his proposed law, it would be struck down. But if more Americans who were indoctrinated by jihadist videos engage in terrorist attacks, they also agree, the court’s thinking could change. “Five years from now, who knows?” Mr. Stone said. “You can imagine a scenario in which things get so terrible that you start watering down the protections.”

#### 4. CP creates a dangerous, slippery slope- empirics prove. Post 15

Post, JD/PhD, 15

(David, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/12/21/protecting-the-first-amendment-in-the-internet-age/?utm_term=.9d0403633865>, 12-21)

The war on Internet free speech — spurred by the use of Internet social media by the Islamic State and other radical groups for disseminating propaganda and for recruitment — is heating up. It’s not just the Donald Trumps of the world.\*\* \*\*In a recent speech in South Carolina, Trump said: “We’re losing a lot of people because of the Internet. And we have to do something. We have to go see Bill Gates and a lot of different people that really understand what’s happening. We have to talk to them, maybe in certain areas, closing that Internet up in some way. Somebody will say, ‘Oh freedom of speech, freedom of speech.’ These are foolish people. It would be easier to deal with if it were. But Democratic presidential candidate Hillary Clinton, too, had her own very Trumpish “close that Internet up” moment recently, at a speech in Washington: “Resolve means depriving jihadists of virtual territory just as we work to deprive them of actual territory … They are using websites, social media, chat rooms and other platforms to celebrate beheadings, recruit future terrorists, and call for attacks. We should work with host companies to shut them down … [and] to figure out how we disrupt them. … You’re going to hear all of the usual complaints, you know, freedom of speech, et cetera. But if we truly are in a war against terrorism and we are truly looking for ways to shut off their funding, shut off the flow of foreign fighters, then we’ve got to shut off their means of communicating.” Ah, yes — that pesky First Amendment, always getting in the way! University of Chicago law professor Eric Posner — an occasional guest blogger here on the VC — has now joined their ranks as well, with a more thoughtful (and therefore even more distressing) argument for greater speech curbs (over at Slate.com: “ISIS Gives Us No Choice but to Consider Limits on Speech“). Terrorist groups, he notes, have become increasingly adept at using Internet social media platforms to “lure young men and women to their mission … without having to risk capture on U.S. soil,” creating a “radicalization echo chamber” that has “given rise to a historic and unprecedented danger from foreign radicalization and recruitment.” Posner then suggests that “there is something we can do to protect people from being infected by the ISIS virus by propagandists”: Consider a law that makes it a crime to access websites that glorify, express support for, or provide encouragement for ISIS or support recruitment by ISIS; to distribute links to those websites or videos, images, or text taken from those websites; or to encourage people to access such websites by supplying them with links or instructions. Such a law would be directed at people like Amin: naïve people, rather than sophisticated terrorists, who are initially driven by curiosity to research ISIS on the Web. The idea would be to get out the word that looking at ISIS-related websites, like looking at websites that display child pornography, is strictly forbidden. As for constitutional objections — “Oh, freedom of speech, freedom of speech …” — Posner says the following: The obvious problem with this law is that the courts could strike it down under the First Amendment. Under current doctrine, such an anti-propaganda law is unconstitutional because it would interfere with the right of people to receive or read political information—as would proposed laws that would require Internet companies such as Facebook and Twitter to remove ISIS-related propaganda from their websites. The Supreme Court has held that the government can ban political speech only when it poses an immediate threat to public safety, as when an orator encourages a crowd to go on a rampage. Speech that blasts the American constitutional system and praises America’s enemies has been held constitutionally protected time and again. However, these rules go back only to the 1960s. Before then, in the United States, people could be punished for engaging in dangerous speech. The U.S. government prosecuted Nazi sympathizers during World War II, draft protesters during World War I, and Southern sympathizers in the Union during the Civil War. It’s common sense that when a country is embroiled in a war, it should counter propaganda that could populate a fifth column with recruits. The pattern in American history—and, in the other democracies as well, even today—is that during times of national emergency, certain limits on speech will be tolerated. That is a singularly unpersuasive bit of argumentation: I would have thought that our history of tossing people engaged in “dangerous speech” into prison — from newspaper editors of the Jeffersonian persuasion in the 1790s (under the ghastly Alien and Sedition Acts) to socialists and pacifists during World War I, “Nazi sympathizers” during World War II, Communists during the Cold War — is not a proud one, and it does not inspire me to long for the good old days. True, limits on speech have been “tolerated … during times of national emergency,” but we look back at them — at least, I look back at them — as deeply misguided, counterproductive and often shameful. The “pattern in American history” may well be that we (and other democracies as well) react with hysteria when threatened — locking Japanese Americans up in internment camps during World War II also comes to mind — but that is precisely why we have a First Amendment, not an exception to it. Do we really want government agents deciding which Internet sites “glorify, express support for, or provide encouragement for ISIS”? That slope is far too slippery for me. Conspiracy to commit murder or mayhem is already a crime, and if it occurs at these sites, the government can and should take action. But “encouragement” or “support” for radical activities can be far too easily twisted into a prohibition against dissenting viewpoints of a nonviolent character.

#### 5. Enforcement of the CP requires mass surveillance power. Post 15

Post, JD/PhD, 15

(David, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/12/21/protecting-the-first-amendment-in-the-internet-age/?utm_term=.9d0403633865>, 12-21)

And just how is the government going to know who has visited those sites? I suppose we’ll have to let them look over our shoulders as we browse the Net — the Chinese seem particularly accomplished at this, and I’m sure they’d be willing to share their surveillance tactics with us. Posner suggests that “those who regard free speech as fundamental need to consider whether legal principles that arose centuries ago make sense in the age of Snapchat.” I decline the invitation. He’s correct when he says that “it’s common sense that when a country is embroiled in a war, it should counter propaganda that could populate a fifth column with recruits.” But countering propaganda is one thing — criminalizing the receipt and distribution of that propaganda is another.

## A2 Mascots PIC

### 1AR – Mascots PIC

#### 1. Perm to cp: it’s functionally plan plus – they say colleges remove all restrictions and change their mascots. Mascots are a school trademark policy that is distinct from what speech you allow. Newspapers have no say over the school’s mascot, which proves that reporter speech is compatible with the pic.

#### 2. PIC causes rampant censorship Toya 06

Ron Toya [a member of Jemez Pueblo Tribe] http://www.bluecorncomics.com/stype688.htm August 31, 2006

The latest legal move against the Washington Redskins is just an ultra, ultra-liberal initiative full of political correctness and out of step with what is going on in Indian country. In the battle over eliminating American Indian-based team nicknames, we are giving resources and attention to a cause that few support while taking away resources and energy from the real issues on our reservations.¶ What we have are lawyers and individuals trying to justify fighting against free speech and for censorship. While some may find certain aspects of Indian nicknames and/or mascots offensive, perceived bad taste and having your feelings hurt is not protected in the Constitution, whereas free speech and freedoms are. Any efforts to limit free speech should meet a very, very high standard. Even burning the American flag doesn't meet that level.¶ Certainly, somewhere, some people are offended by the use of American Indian nicknames or mascots as people are offended about a whole array of other things. But being offended is not sufficient to limit free speech in America.¶ It is also grossly ironic that those pushing this issue are holding that it is permissible for schools that are primarily American Indian to use Native nicknames and mascots while it is also permissible to censure free speech if you are non-Indian. By doing so, they are going to support discrimination based on race (only American Indian people can then use Indian nicknames). How can lawyers, especially American Civil Liberties Union-pedigree lawyers, support such a position?¶ In addition, those pushing this issue are claiming to represent the majority of American Indian people when first, no one elected them our spokesmen and second, facts and polls say the vast majority of American Indian people (and non-Indian people) oppose their viewpoint.¶ Even if the majority of people in the United States — Indian and non-Indian — agreed with them, you still cannot ban the use of nicknames. This is the United States of America, where free speech means something. We don't, and shouldn't, take limiting free speech lightly.¶ Every time I hear Boston Red Sox fans chant "Yankees suck!" I consider this vulgar, offensive, and even a hate crime where "hate" is admitted to proudly by these true evildoers. Why can't we stifle this free speech?¶ Limiting offensive language does not lead to a more accepting and more tolerant community. Columnist John Leo said it well: "An obvious thing to say about laws that limit speech is that we have no evidence that they work to meet their stated goal — reducing bigotry and increasing tolerance ... In real life, the creation of protected classes sharpens tensions and leads to competition for victim status."¶ As American Indians, do we need this protection from free speech? Many tribal leaders don't think so.¶ Chief Charles E. Dawes of the Ottawa Tribe once described those complaining about nicknames and mascots as "fringe militants who make their living by making this fuss, not legitimate Indian leaders," in "The Chronicle of Higher Education."¶ The New Mexico State House of Representatives once voted 49 — 7 on a memorial to support the use of Indian nicknames for sports teams. The memorial was sponsored by two Navajo representatives, both Democrat. The memorial stated that "some critics have emerged arguing that [the] use of Native American images is derogatory and offensive while the vast majority of Americans, including Native Americans, find these sporting images both acceptable and applaudable ... [and] ... that colleges, universities, high schools, and professional sports teams be encouraged to continue to use Native American names and images as part of their team image and that other teams be encouraged to adopt other Native American images."¶ The Albuquerque Journal in 2004 published an item in its sports page that stated: "A poll of American Indians found that an overwhelming majority of them are not bothered by the team name [Redskins]. Only 9% of those polled said the name was 'offensive."'¶ An often-cited Sports Illustrated poll several years ago found only 25 percent of American Indian people found the use of team names offensive.¶ I am an enrolled member of a federally recognized American Indian tribe. I have proudly played on Indian and non-Indian sports teams with the name Redskins, Chiefs, Warriors, Indians, Renegades and other names. I played on a team called the Albuquerque Breeds where everyone, it turned out, was half American Indian and half another race (some black, some white, some Hispanic). My friends, both Indian and non-Indian, wear Redskins, Braves, Chiefs and other images, whether these represent professional teams, college teams, high school teams or other recreational teams. And they do so proudly.

#### 3. Double bind – either the cp gets rollback because it’s unconstitutional or it’s not competitive, which justifies perm do the cp. Claussen 95

Claussen, Cathryn L. "Ethnic Team Names and Logos--Is There a Legal Solution." Marq. Sports LJ 6 (1995): 409.

A third approach to the problem of ethnic names and symbols is the¶ enactment of "hate speech" or discriminatory harassment codes, similar¶ to those recently put in place in many universities.28 Occasionally,¶ schools elect to abandon an ethnic symbol over the objection of the student¶ body. A school's attempt to do so in reliance upon a hate speech¶ code aimed at preventing demeaning racist speech would probably fail, because after R.A.V. the constitutionality of most hate speech codes is¶ suspect. It is, however, conceivable that because of the special nature of the¶ educational setting, another rationale could support such an effort. One¶ high school eliminated its "Johnny Reb" mascot after the principal received¶ several complaints from black students and their parents. Several¶ students ified suit claiming that their collective First Amendment right in¶ their school's symbol was violated. The Fourth Circuit upheld the principal's¶ decision under the Hazelwood doctrine that school officials, for¶ reasons of maintaining a proper educational environment, are not required¶ to promote all student speech, especially that speech that the¶ public "might reasonably perceive to bear the imprimatur of the¶ school."2 9 The court found that a school mascot or symbol "bears the¶ stamp of approval of the school itself," as did the school newspaper in¶ the Hazelwood case. The court concluded that the confederate symbol¶ was offensive enough to limit black students' participation in school activities,¶ and "[t]herefore, school authorities are free to disassociate the¶ school from such a symbol because of educational concerns."30¶ Often, however, schools do not voluntarily relinquish an established¶ team name or symbol. Then the question becomes, can a state legislature¶ force schools to change these labels? If the state attempts to do so¶ by enacting a hate speech statute, such an attempt most likely will not¶ pass constitutional muster. The conclusion that must be drawn after¶ R.A. V. is that most hate speech laws are unconstitutional. In R.A. V., the¶ hate speech statute that prohibited placing an incendiary symbol on public¶ property was struck down; similar statutes construed as forbidding the¶ adoption of offensive names and logos would in all likelihood suffer the¶ same fate. Hence, hate speech laws cannot be used to force schools to¶ change their offensive ethnic symbols and names.

#### 4. Endowments disad – getting rid of mascot will kill donations. Hartocollis 15

ANEMONA HARTOCOLLIS. With Diversity Comes Intensity in Amherst Free Speech Debate NOV. 28, 2015 https://www.nytimes.com/2015/11/29/us/with-diversity-comes-intensity-in-amherst-free-speech-debate.html

Some alumni have warned that being too cavalier about disposing of cherished traditions like mascots and building names may sour alumni who will stop giving the money that fuels scholarships, research opportunities and development.¶ Paul Ruxin, a retired lawyer in Chicago from the class of 1965, said he was concerned that Amherst — like other institutions — had not been able to translate its quest for diversity into a sense of community.¶ “They don’t understand that we’re all different, we are each of us unique,” Mr. Ruxin said of the students. “When you combine that with a sense of ‘my group,’ whether gays or African-Americans or Hispanics, with a sense that ‘my group’ has been historically oppressed, then you get this kind of moral passion that this is terrible.” For him, the atomization was epitomized in the college’s “open curriculum,” which does not have core requirements.¶ “The trouble is that diversity in and of itself doesn’t really do anybody much good if separate little groups come to Amherst to study their own particular points of interest and they don’t talk to each other,” Mr. Ruxin said. “As alumni, many of us have tried to encourage the college to try to bring common intellectual ground, so when you leave college, you leave not just with nostalgia and friendship, but with a sense of common intellectual interest.”¶ Students said that as they gathered at Frost Library on Nov. 12, emotions poured out. One young woman said she went to sleep at night wishing she would not wake up. Imani Marshall, a senior pre-med student from Chicago, who is black, felt a shudder of recognition and started to cry.¶ Ms. Marshall, who went to a selective public school in Chicago and came to Amherst on full financial aid, said she had felt unprepared academically and socially for Amherst. Yet she felt that by asking for help, she would undermine not just her own standing but that of her entire race.¶ “I feel like an impostor,” Ms. Marshall said the other day over lunch at the central dining hall. “I close myself off a lot of times from help. I always feel like I need to prove to other people that I do belong here.”¶ Mercedes MacAlpine, a black senior, who attended the Chapin School, an elite all-girls school in Manhattan, said, “You can walk into a room and have it look 50-50 and still not feel valued.” Racially ambiguous students said they had trouble fitting in. “I’ve been called Rachel Dolezal,” said Kaelan McCone, a freshman from Greensboro, N.C., referring to the white civil rights activist who identified as black. Mr. McCone, whose father came from Ireland and whose mother is African-American, said classmates had demanded that he show them family photos to prove that he is black.¶ Sanyu Takirambudde, a sophomore from South Africa, who is black, said she felt like a token. “I never felt so stupid,” Ms. Takirambudde said of her experience in her science and math classes at Amherst. “Even when I say the correct answer, no one’s going to listen to me.”¶ Brian Ragone, a senior and wide receiver on the Amherst football team, who is white, said he went to Frost Library out of curiosity, but stayed because the protesters touched on something universal, a chord of dissatisfaction with college life that many students feel. But it was not necessarily limited to minority students, he said.¶ “I don’t want to take away from the fact that those people are feeling the way they do because they are marginalized,” Mr. Ragone said. “But it’s like a 3-D or 4-D world, and some people are looking at it as just two-dimensional.”¶ The Frost Library sit-in became so heated that the president, Dr. Martin (who in Amherst’s egalitarian spirit is known as Biddy), returned to campus from Washington, D.C., and canceled a trip to Japan.¶ Although Dr. Martin rejected the students’ more ambitious demands, the administration has promised to hire a chief diversity officer, increase the number of faculty members from minority groups, tailor mental health services to students of color and train staff in “cultural competency.”¶ In a nonbinding vote, faculty members also moved to renounce Lord Jeffery Amherst, who proposed spreading smallpox among “disaffected” Native American tribes.¶ To many alumni, the students seem to be erasing history rather than using it to further their understanding.¶ “We sterilize history by eliminating the mascot,” William H. Scott, class of 1979, posted on the mascot forum. “It’s like burning books. It’s like censorship. It’s revisionist. We know the story. We’re not proud of the story. But we live with history unaltered, to avoid repeating it.”¶ The students, for their part, have shown a degree of realpolitik by ratcheting back their demands.¶ At an organizing meeting on campus after the sit-in, Ms. MacAlpine told students they might have to modulate their language to win their objectives, but that, having had a taste of their own power to make change, they would not stop. “This is for the long haul,” she said.

#### Endowment funds are key to US competitiveness – ensures college quality and outweighs net benefit. Leigh 14

Leigh 14 [Steven R. Leigh (dean of CU-Boulder’s College of Arts and Sciences), "Endowments and the future of higher education," UColorado Boulder, March 2014] AZ

These broad trends point directly to the need for CU-Boulder’s College of Arts and Sciences to increase endowment funding across the college. Endowments drive improvements in the quality of an institution and reflect alums, donors and supporters who recognize the importance of research universities in the 21st century. Endowed professorships are the first and most important component of increasing our academic quality. Named chairs recognize significant faculty achievements and help the university support faculty salary and research. CU-Boulder professors are among the most productive in the nation and are heavily recruited by competitors, including Harvard, Yale, Stanford, Cornell, Berkeley, Illinois, UC Irvine and many others. Often, these competitors offer our faculty endowed professorships, conferring prestige and research support. CU must provide its faculty with comparable support to be competitive. A second major area for endowments is student scholarships and, for graduate students, fellowships. A stable source of income that helps pay tuition is the most direct and effective way to offset the costs of education. Endowed scholarships are also effective recruiting tools for admitting the nation’s best to CU. Our dynamic programs, departments and majors are attracting more and more applicants, including the best in the nation. Like faculty support, endowed scholarships and fellowships confer prestige and, most importantly, allow students to focus entirely on academics without balancing jobs and worrying about future loan repayments. Finally, endowment funding for programs greatly enriches the institution, providing capabilities that are difficult to attain when tuition revenue provides the majority of funding. Institutions funded mainly by tuition must make sure that expenditures directly benefit students, which sometimes limits options for innovation and risk-taking. Programmatic funding enables faculty and students to take risks in their research and creative work. For example, in my own field, this might involve traveling to an unexplored region to prospect for human fossils or archaeological sites. Support for high-risk projects allows our faculty and students to develop new areas of knowledge, benefitting society by broadening the capacity of the institution to innovate. The future of higher education, including CU’s future, depends to a large degree on how successfully we can build major endowments. Ultimately, U.S. competitiveness and leadership in the global knowledge economy depends on this as well. For alums, donors and supporters, endowments indelibly affirm the importance of higher education and enduringly preserve its viability and vitality.

#### Loss of US competitiveness affects countries all around the world – causes widespread poverty. Porter and Rivkin ‘12

Michael E. Porter is a University Professor at Harvard, based at Harvard Business School in Boston. Jan W. Rivkin is the Bruce V. Rauner Professor at Harvard Business School. “The Looming Challenge to U.S. Competitiveness.” Harvard Business Review. March 2012. <https://hbr.org/2012/03/the-looming-challenge-to-us-competitiveness> JJN

The American economy is clearly struggling to recover from a recession of unusual depth and duration, as we are reminded nearly every day. But the United States also faces a less visible but more fundamental challenge: a series of underlying structural changes that could permanently impair America’s ability to maintain, much less raise, the living standards of its citizens. If government and business leaders react only to the downturn and fail to confront America’s deeper challenge, they will revive an economy with weak long-term prospects. During the past year, we have examined U.S. competitiveness with the help of a diverse group of scholars, business leaders from around the world, and the first-ever comprehensive survey of Harvard Business School alumni. Our research suggests that the U.S. faces serious challenges. Too often, America’s leaders, in government and business, have acted in ways that neutralize the country’s many strengths. However, the decline of U.S. competitiveness is far from inevitable. The United States remains the world’s most productive large economy and its largest market for sophisticated goods and services, which stimulates innovation and acts as a magnet for investment. To restore its competitiveness, America needs a long-term strategy. This will require numerous policy changes by government, which may seem unlikely with Washington gridlocked. However, many of the crucial steps can and must be carried out by states and regions, where many of the key drivers of competitiveness reside. More important, business leaders can and must play a far more proactive role in transforming competition and investing in local communities rather than being passive victims of public policy or hostages of misguided shareholders. What Is Competitiveness? America cannot address its economic prospects without a clear understanding of what we mean by competitiveness and how it shapes U.S. prosperity. The concept is widely misunderstood, with dangerous consequences for political discourse, policy, and corporate choices that are all too evident today. The United States is a competitive location to the extent that companies operating in the U.S. are able to compete successfully in the global economy while supporting high and rising living standards for the average American. (We thank Richard Vietor and Matthew Weinzierl for helping to articulate this definition.) A competitive location produces prosperity for both companies and citizens. Lower American wages do not boost U.S. competitiveness. Neither does a cheaper dollar. A weakened currency makes imports more expensive and discounts the price of American exports—in essence, it constitutes a national pay cut. Some steps that reduce firms’ short-term costs, then, actually work against the true competitiveness of the United States. Whether a nation is competitive hinges instead on its long-run productivity—that is, the value of goods and services produced per unit of human, capital, and natural resources. Only by improving their ability to transform inputs into valuable products and services can companies in a country prosper while supporting rising wages for citizens. Increasing productivity over the long run should be the central goal of economic policy. This requires a business environment that supports continual innovation in products, processes, and management. Boosting productivity over the short run by firing workers, as many U.S. firms did at the onset of the Great Recession in 2008, is a reflection not of competitiveness but of weakness. An economy in which many working-age citizens cannot find or do not even seek jobs may appear to enjoy high productivity in the short run, but in fact it has underlying competitiveness problems. It is a nation’s ability to generate high output per employable person—not per currently employed person—that reveals its true competitiveness. Improving competitiveness is not the same as creating jobs. Policy makers can stimulate employment in the short run by artificially boosting demand in labor-intensive local industries not exposed to international competition, such as construction. Creating jobs without improving productivity, however, will not result in sustainable employment that raises the nation’s standard of living. Rather than defining the sole goal as job creation, the U.S. must focus on becoming a more productive location, which will generate high-wage employment growth in America, attract foreign investment, and fuel sustainable growth in demand for local goods and services. Government efforts to stimulate demand are also different from improving competitiveness. Governments commonly play an important role by temporarily increasing outlays to soften the impact of recessions. Such moves may hold up living standards and company performance in the short run, but they typically don’t improve the fundamental drivers of productivity and therefore cannot improve living standards and company performance in the long run. American competitiveness is important not only for firms based or founded in the U.S. but also for foreign firms that operate in the country. Foreign firms contribute to U.S. prosperity if they bring productive activities to the U.S. that provide jobs at attractive wages. U.S. affiliates of foreign firms accounted for nearly 5% of U.S. private employment in 2009. Competitiveness is not a zero-sum game, in which one country can advance only if others lose. Long-term productivity—and, along with it, living standards—can improve in many countries. Global competition is not a fight for a fixed pool of demand; huge needs for improving living standards are waiting to be met around the world. Productivity improvements in one country create new demand for goods and services that firms in other countries can pursue. Greater productivity in, say, India can lead to higher wages and profits there, boosting demand for pharmaceuticals from New Jersey and software from Silicon Valley. Spreading innovation and productivity improvement allows global prosperity to grow. Because the global economy is not a zero-sum game, the decline of American competitiveness is a problem not only for the U.S. The global economy will be diminished if its largest national economy is weak, ceases to be an engine of innovation, and loses its influence in shaping a fair and open global trading system.

## A2 Muhammad Cartoons PIC

### 1AR – Muhammad PIC

#### Results in censorship and relies on an anti-Muslim sentiment. Rosenberg 15

Alyssa Rosenberg 1/15/15 [blogs about pop culture for The Washington Post's Opinions section]. <https://www.washingtonpost.com/news/act-four/wp/2015/01/15/what-we-lose-when-we-cant-depict-muhammad/?utm_term=.b3bec19ba5fa>

But it’s also worth considering which less-extreme voices are being silenced either out of belief that it is always improper to depict Muhammad or out of fear of retaliation from people who believe that such images violate religious law.¶ The violent responses to “The Innocence of Muslims,” the provocative — and low-quality — film that played a role in sparking protests that gave cover to the attack in Benghazi, Libya, might not seem to be an indicator of risk for a more respectful project about Muhammad, like two that are in production in Qatar and Iran.¶ But as the Hollywood Reporter explained in 2013, one of the projects had already been met with calls that it be banned on the grounds that it showed part of the prophet’s body, though it does not reveal his face.¶ And other aspiring filmmakers might have to consider the example of “The Message,” a 1977 movie that, as Aslan points out, made the creative choice to use the camera as Muhammad’s eyes, letting viewers share his perspective in a way that precluded director Moustapha Akkad from showing the prophet’s face. That tactic didn’t prevent a group of Muslims who followed the Hanafi theory of legal jurisprudence and were lead by a man named Hamaas Abdul Khaalis from treating “The Message” as a provocation and using the movie to call attention to other grievances. They took nearly 150 hostages in Washington, killed a radio reporter and shot then-D.C. Council member Marion Barry. More recently, Darren Aronofsky’s “Noah” was banned in a number of majority-Muslim countries for depicting a prophet. That movie had built-in Christian and action movie audiences in the United States in the way a look at the life of Muhammad might not. The difficulty of getting a Muhammad movie into theaters in significantly Muslim countries, as well as the possibility of protests and even violence in countries where such a film did make it to theaters, seems likely to deter an industry that is more and more attentive to the preferences of overseas moviegoers.¶ It’s also important to remember that the Danish cartoon controversy was in part a response to what editor Flemming Rose described in The Post in 2006 as a cultural retreat.¶ “Last September, a Danish children’s writer had trouble finding an illustrator for a book about the life of Muhammad. Three people turned down the job for fear of consequences. The person who finally accepted insisted on anonymity, which in my book is a form of self-censorship. European translators of a critical book about Islam also did not want their names to appear on the book cover beside the name of the author, a Somalia-born Dutch politician who has herself been in hiding,” Rose wrote. “Around the same time, the Tate gallery in London withdrew an installation by the avant-garde artist John Latham depicting the Koran, Bible and Talmud torn to pieces. The museum explained that it did not want to stir things up after the London bombings. (A few months earlier, to avoid offending Muslims, a museum in Goteborg, Sweden, had removed a painting with a sexual motif and a quotation from the Koran.)”¶ The affair finally came full circle when Yale University Press published an academic book about the response to the cartoons that declined to reproduce those images or other depictions of Muhammad, discussing them in absentia. Responses like these raise questions about whether museums might hesitate to display more respectful images, like the folios from the “Compendium of Chronicles” of Rashid al-Din, which include a number of depictions of Muhammad at various points in his life. Aslan suggests that while such decisions often come out of a desire to be respectful, they don’t just deny audiences important opportunities to see powerful relevant images, but they reinforce a kind of soft anti-Muslim sentiment.¶ “The idea that Yale University Press thought that a book that 13 people would read anyway, an academic tome about the cultural, political and religious ramifications of these images,” he said, “that somehow that would threaten the lives of Yale University Press employees, it’s that kind of silly, knee-jerk cowardice that only feeds into this notion that Muslims are this kind of irrational, almost animal-like being who have to be handled with gloves.”

#### Publishing isn’t discrimination – the ban reinforces western stereotypes of Muslims. Rosenberg 15

Alyssa Rosenberg 1/15/15 [blogs about pop culture for The Washington Post's Opinions section]. https://www.washingtonpost.com/news/act-four/wp/2015/01/15/what-we-lose-when-we-cant-depict-muhammad/?utm\_term=.b3bec19ba5fa

“The history of Islam teems with images of the prophet Muhammad. There are tens of thousands of images of the prophet Muhammad, throughout history, drawn by Muslims. They are images from his entire life,” Aslan noted.¶ And while in recent years, images that were designed to give deliberate offense have met with violent responses, members of certain extremely conservative Muslim sects have destroyed respectful images of Muhammad and sites associated with the prophet and his family.¶ “The first thing the Wahhabis did when they burst onto the scene was to go around destroying all these sacred tombs of the prophet and his family throughout the Arabia. Because even though [those sites] were of the prophet himself, their iconoclasm forbade these things to exist,” Aslan explained. “They were just barely stopped from destroying the prophet’s tomb and the central area in Medina, the first mosque.”¶ This is hardly a dead issue: Last year saw the revival of a proposal to demolish Muhammad’s memorial site and bury his remains in an unmarked grave.¶ Aslan suggested that accepting the idea that depicting Muhammad and the other prophets violates Muslim law, rather than looking at the issue as one that has been contested throughout the faith’s history, was to fall into a kind of trap.¶ “We readily accept the narrative of the extremists and the loudest voices, because it’s the only voices that we hear. For the vast majority of non-Muslism, their belief in what a Muslim thinks, believes, and strives for is predicated on the Muslims they see on Fox News. So of course they believe that when a Muslim says the Koran says that if you depict the prophet, you should have your head cut off — which is ridiculous — or that the punishment for blasphemy is death,” Aslan said, “[That person] is simply mimicking the views of the extremists.”¶

#### Doesn’t solve the net benefit, but would justify mass prior restraint censorship. Ortner JD 16

Daniel Ortner [J.D. BYU Law ’15, Law Clerk to Judge Kent A. Jordan, Federal Court of Appeals for the¶ Third Circuit.], The Terrorist's Veto: Why the First Amendment Must Protect Provocative Portrayals of the Prophet Muhammad, 12 Nw. J. L.¶ & Soc. Pol'y. 1 (2016).

Fifth, the efficacy of prior restraints is also highly questionable in light of the¶ incredible developments in technology, and the ability of individuals to disseminate¶ information in an instant.220 Even in the 1970s when the Pentagon Papers case was¶ decided, Justices White and Stewart noted that usually “publication will occur and the damage be done before the Government has either opportunity or grounds for¶ suppression,” and that “efficacy” of prior restraints is “doubtful at best.”221 Technological¶ advances certainly make the possibility of a successful prior restraint far less likely. As¶ has been argued, concern over prior restraint “appears in hindsight almost medieval given¶ the ease with which any individual can anonymously upload classified information to the¶ Internet and the ease, in turn, with which that information can suddenly ‘go viral.’”¶ 222¶ Indeed, David Corneil argues that the requirement that publication will “surely result in¶ direct, immediate, and irreparable damage,” means that a prior restraint can almost never¶ be acquired in time to prevent the release of information.223 Because “[i]nformation¶ moves so fast over the Internet by the time a judge [could] consider [this factor], . . . [the¶ harm] would already [be] done.”¶ 224¶ Prior restraints imposed for provocative images are unlikely to be effective.¶ 225 For¶ one, it is not at all clear that restricting the publication or republication of such images¶ will actually do anything to limit violent outrage.226 This is especially true given that¶ those seeking to spark outrage are responsible for much of the spread of the¶ images.227 These individuals may be outside the jurisdiction of U.S. Courts, and,¶ thus, efforts to restrain publication will be unavailing. 228 Moreover, given the nature¶ of the internet it is far too easy for image to be reposted anonymously. Additionally,¶ the mere fact that someone is attempting to publish such an image may be sufficient to¶ trigger a reaction, especially if radical elements seek an excuse for provocation.229 Just as the Danish imams printed provocative images that had not actually been published,230 it¶ would be relatively easy to manufacture a controversy based on the mere allegation that¶ such an image was to be published.¶ These practical concerns give greater emphasis to the aforementioned doctrinal¶ concerns. With so much dependent on how others choose to respond to the¶ publication of the images, it is impossible to say that harm “inevitably, directly, and¶ immediately” follows publication. Unlike the release of state secrets, where release of¶ the information itself causes harm, organized efforts were needed to provoke¶ violence in response to each of the controversial publications.¶ 231 Because of the¶ potential for individuals to use the threat of harm as a way to stifle speech they find¶ offensive, prior restraints are an inappropriate response to provocative images.232 The¶ same distinction exists with respect to other categories of unprotected speech¶ discussed below.

#### [One of these last two depending on what their cp text is.]

#### CP justifies mass censorship – controversial religious speech deserves heightened protect so it doesn’t spill over. Ortner JD 16

Daniel Ortner [J.D. BYU Law ’15, Law Clerk to Judge Kent A. Jordan, Federal Court of Appeals for the¶ Third Circuit.], The Terrorist's Veto: Why the First Amendment Must Protect Provocative Portrayals of the Prophet Muhammad, 12 Nw. J. L.¶ & Soc. Pol'y. 1 (2016).

First, the value of the speech threatened by the terrorist’s veto is far more likely to¶ be high-value political and/or religious speech that deserves heightened protection.314 For¶ instance, the heckler’s veto frequently arises in the fighting words context where speech¶ is of “slight social value,”¶ 315 or in response to threats or incitement that have “little¶ democratic value.”316 Thus, any heckler’s veto in those contexts is less likely to disrupt¶ valuable speech. In contrast, the Muhammad images that led to violence raise important¶ questions about religious pluralism, fundamentalism, and the boundaries of speech.317¶ The Jyllands-Posten cartoons in particular touched upon matters of ongoing debate and¶ discussion in Denmark and elsewhere.318 The Charlie Hebdo cartoons likewise sparked¶ debate about the appropriateness of religious satire.319 Even the Innocence of Muslims¶ film, which by all accounts lacked artistic value or subtlety, still challenged the¶ traditional accounts of the founding of Islam.320 Just as the deeply offensive “God Hates Fags” signs held by the Westboro Baptist church deserved heightened First Amendment¶ protection, even though such speech was highly provocative, so too does the publication¶ of provocative images of the Prophet Muhammad. 321 Additionally, as suggested earlier,¶ speech that touches on religion deserves added protection because of the vital nature of¶ religious discourse.322 The terrorist’s veto will almost always target highly valuable¶ speech touching on vital matters of politics and religion, which will require protection¶ under the First Amendment.¶ Second, the terrorist’s veto seems completely unconcerned with the speaker’s¶ intent. As discussed in Part III of the article, in many cases where the heckler’s veto¶ arises, a speaker will have diminished protection because of an intent to harm. Although¶ malicious intent is not expressly required with fighting words, it is implied by the fact¶ that the speech must be a “direct personal insult” akin to “an invitation to exchange¶ fisticuffs.”323 Malicious intent is expressly required with incitement and true threats¶ where the speaker either expressly desires that an unlawful act occurs, or intends to¶ frighten or intimidate the listener.324 In contrast, those publishing images of the Prophet¶ Muhammad had a wide variety of intents: of those discussed, the Innocence of Muslims¶ filmmaker stands on one extreme, as he unapologetically hoped to offend though he did¶ not desire a violent reaction;¶ 325 the Jyllands-Posten editors hoped to spark a conversation¶ about censorship, but were certainly aware of the possibility of offending; and on the¶ other end of the spectrum Jyttee Klausen wrote an academic book on the Danish cartoon¶ saga and had no desire to offend or provoke, but still had her speech stifled by the¶ terrorist’s veto.326 The Charlie Hebdo editors are somewhat in the middle between these¶ two extremes, as they sought to lampoon and satirize, but also acted with the goal of pushing the boundaries of free speech.327 The terrorist’s veto is dangerous because it is a¶ blunt force, indifferent to whether the author actually intended to offend.¶ Third, because the terrorist’s veto, when granted, validates the feeling of offense or¶ outrage, it can further encourage encroachment on once acceptable speech. This is¶ powerfully illustrated by outrage over images featuring Muhammad. Images of the¶ Prophet Muhammad were an accepted part of both Christian and Islamic society until¶ very recently, and yet fear of potentially violent reactions has led to publishers to decide¶ not to publish or republish such historically acceptable images;¶ 328 Similarly, Comedy¶ Central censored an episode of the show South Park that included images of Muhammad,¶ despite the fact that the episode had previously aired without incident.329 What has¶ changed is not the nature of the speech itself nor its publication, but simply the reaction¶ from the audience. It is the radicalization of certain sects of Islam that has led to¶ divergent reactions rather than a change in the content or form of the speech.330 As¶ attitudes continue to harden towards the publication of images of Muhammad, it is likely¶ that the terrorist’s veto will continue to chill more and more content that was once¶ acceptable.33

OR

#### Definition problems give the state control over what’s islamaphobic – make them give you an exact criteria for what a cartoon is/what constitutes islamaphobia. Foster 09

Joshua Foster JD MA [Associate, Fulbright & Jaworski L.L.P. J.D., 2008, St. John's University School of Law; M.A., Theology, 2004, Boston College; B.A., English and Theology, 2002, Boston College] “: PROPHETS, CARTOONS, AND LEGAL NORMS: RETHINKING THE UNITED NATIONS DEFAMATION OF RELIGION PROVISIONS” 48 J. Cath. Leg. Stud. 19 2009

Particularly troubling is the resolutions' lack of an adequate definition for the term "defamation." Admittedly, it is extraordinarily difficult to achieve international consensus on any matter, let alone definitions that satisfy everyone. However, the ambiguity inherent in the 2006 Resolution risks a broad range of differing interpretations which might run afoul of international human right norms. n153¶ [\*52] The only statements resembling a definition of defamation derive from the provision urg-ing countries to adopt prohibitions against certain types of behavior. Specifically, the Resolution "urges States to take resolute action to prohibit the dissemination [through political institutions and organizations] of racist and xenophobic ideas and material aimed at any religion or its followers that constitute incitement to discrimination, hostility or violence." n154 The U.N. seemingly defines defamation as "racist" or "xenophobic" ideas, which must be aimed at a particular religion, but de-clines to further extrapolate on what this means. Such sweeping terms could conceivably encompass a tremendous amount of material depending upon the perspective of those making the determina-tion. Conversely, these terms could be interpreted very narrowly, leaving some frustrated by a gov-ernment's perceived inaction despite statutory authorization to prohibit the material. More concern-ing is that the substantive a posterori element of this provision, seemingly requiring some sort of public reaction. This requires the government to determine whether an idea is likely to have discriminatory effects. To make this determination, the government might be called upon to make a value judgment based upon the religious beliefs of the allegedly defamed religion.¶ Furthermore, this ambiguous definition leads to possible double standards. Undoubtedly, one of the major aims of international human rights legislation is to ensure the protection of minority viewpoints. n155 To take the cartoon example, the Danish government is forced to make a determi-nation - here evidenced by their inaction - as to whether the cartoons are racist and aimed at Islam or more likely whether they were aimed at inciting discrimination, hostility, or violence. Once again, this results in a minority viewpoint being permitted to press their perspective upon the major-ity due to their particular sensitivities and as a result, causing a degradation of the human right to free expression as a result.¶ [\*53] Hypothetically, had the Danish government decided to prosecute the newspaper accord-ing to its express authorization in the statute, it likely would have affirmed the action upon discrim-ination grounds. However, if a Muslim newspaper published a cartoon in Denmark depicting Jesus Christ carrying a gun or some analogous depiction, the Danish government would not be able to prosecute the newspaper on blasphemy grounds, given that the likelihood of discrimination simply would not be present because of the substantial Christian majority in the country. n156 Ultimately, the ambiguous definition results in varying interpretations entirely dependent upon the specific con-text. This is simply bad law, especially when presented in light of the allegedly universal nature of the human rights at stake.¶ By contrast, the American system provides much more structure for the general public. Obvi-ously, there are no defamation of religion provisions requiring value judgments by the state. This does not mean, however, that minority religions do not have any protection against statements and images that cut very deeply. It does mean that the allegedly harmful statements must fall into one of the well-defined categories of speech that is not protected by the First Amendment mentioned pre-viously. n157 Applying the American approach, the Danish cartoons would clearly not fall into any of these categories, and it would be incumbent upon Muslim citizens to express their outrage in an appropriate manner - to convince the public that they have a moral obligation to refrain from de-meaning them so deeply. At its heart, the American approach requires an individual response stem-ming from an individual moral obligation, which is more closely akin to what the U.N. human rights doctrine requires. n15

administrators for demonstrating, without undue delay, that speech fits within one of the unprotected categories before it may be restrained.

## A2 N-Word Pic

### 1AR – N Word PIC

#### 1. The CP is illegitimate and a voting issue

#### A. PICS are bad- they artificially inflate the worth of bad disads by creating any risk of a link analysis. This is literally a pic about 1 word said by 1 group of people- the aff can’t possibly prepare for all possible pics

#### B. No solvency advocate- their “rucker” evidence is actually from Volokh- a free speech absolutist- and that article says its ILLEGAL for the CP to happen- we have the full text available upon request. The CP would never pass scrutiny- its not an argument in the topic literature

#### C. Deterrence- rejecting the argument forces the aff to spend time on theory at no cost- creates perverse incentives for abuse

#### 2. perm- do the CP. Its not textually competitive- it adds a detailed exclusion to the text of the affirmative. Textual competition is the only non infinitely regressive standard- the neg can read PICS as long as they exclude part of the aff, not something unrelated

#### 3. No Solvency- no evidence says school policies prevent racist speech- OU already had a policy, it didn’t deter the fraternity. You may think the risk of a solvency deficit is low, its exponentially larger than the net benefit . The solvency deficit is huge- the CP makes it legal for certain words to be restricted for certain identities- we shouldn’t even have to explain the 1st amendment dangers that poses

#### 4. CP is unconstitutional/would be rolled back, and trades off with more effective societal response

Silvergate, JD, 3-14-15

(Harvey, http://news.wgbh.org/post/n-word-1st-amendment-and-university-oklahoma-no-contest)

Was University of Oklahoma President David Boren legally justified in expelling two students for leading a highly offensive, racist chant on a private bus? This is the question that I have been asked over and over again these past few days, and most recently discussed on the evening of March 12th on WGBH TV’s Greater Boston with Jim Braude. The answer is unequivocally: No. I have stretched my memory trying to recall another time when I’ve argued with so many sophisticated people who did not understand when the First Amendment’s instruction as to a particularly awful bit of speech is utterly clear. The First Amendment is near-absolute in its terms (“Congress shall make no law…abridging the freedom of speech…”), but critics of this foundational right seem always bent on finding, imagining, or creating an exception. Even some sophisticated students, and teachers, of the First Amendment have been trying to wiggle out of the obvious fact that speech this ugly is protected. These efforts to re-define what constitutes unprotected speech, or to craft exceptions where there are none, reminds me that Sigmund Freud is said to have reminded us that “sometimes a cigar is just a cigar.” A recap for anyone who has been asleep recently: In early March a video was uploaded showing members of Oklahoma University’s Sigma Alpha Epsilon chapter chanting the following, contemptible lines: “There will never be a nigger at SAE There will never be a nigger at SAE You can hang him from a tree But he’ll never sign with me There will never be a nigger at SAE” The Supreme Court has made it very clear that government actors (the University of Oklahoma is a state institution, and President Boren is what the law designates as a “state actor”) may not censor speech in the absence of one or more factors that would exempt that speech from First Amendment protection. Such protection does not apply to: defamatory speech; copyrighted speech used without permission, with the exception of short quotes; obscene speech; incitement to violent conduct; and clear threats. The argument for expelling the students is as follows: First, it is claimed by those who would withhold speech protection that the chant constituted a real threat, since the singers were saying that they would lynch their African-American classmates. This exception clearly does not apply, since, for one thing, the song was not directed to those students; it was sung in a bus containing, needless to say, no African-Americans. (So, there’s one irony – the vicious speech was not a threat in part because it was sung among a group of all-white fraternity brothers and their non-African-American dates.) Lest there be any doubt, there is a recent Supreme Court opinion that makes perfectly clear that bigoted language such as the SAE brothers sang on the bus is fully protected by the First Amendment. In Virginia v. Black, decided by the high court on April 7, 2003, the justices dealt with a Virginia statute that criminalized cross-burning. At issue was a KKK rally, on private property with the permission of the property-owner, at which a cross was burned as a symbolic statement of racial hatred. The Supreme Court made it clear when the state could, and when it could not, criminalize the act of cross-burning. If the act was simply a declaration of racial prejudice and contempt, even if done in a public setting, it must be deemed constitutionally protected speech. If, on the other hand, the particular cross-burning was performed in a time, place and manner such that it reasonably could be seen as a true threat, it could be punished by the state. (Thus, for example, the burning of a cross on or near the property of a particular black family could reasonably be seen as a threat.) The bottom line is that the puerile, racist ditty chanted on a fraternity bus is not a close case. There was no threat, merely the expression of racial superiority and hatred. Second, it is argued that the song created a “hostile educational environment” on the campus, in violation of federal Department of Education (“DOE”) regulations (based on Title VI of the Civil Rights Act of 1964) that require university administrators to provide a campus atmosphere sufficiently simpatico to students in certain classifications (race being one such category) so that the teaching-and-learning enterprise is not unduly disturbed. This claimed exception to free speech clearly does not apply for three reasons: One – The singers did not utter their words directly to any African-American students; they sang the words among themselves, encased within the walls of the racially segregated fraternity bus. The chant got to the ears of the multi-racial student body because it was recorded – presumably surreptitiously – and leaked out to the world. Two – The academic campus is a community quintessentially designed to discuss, argue, and deal with controversial, even disturbing ideas and words. It is precisely because the University of Oklahoma is an institution of higher education, where students are presumptive adults, that the “hostile educational environment” claim fails. Three – No regulation by an administrative agency (the DOE, in this case) can take precedence over a constitutional right, period. If the “hostile educational environment” is interpreted as applying to the use of the “N-word” in a chant not directed to any African-American students, the regulation cannot be enforced because it would conflict with the superior command of the First Amendment, which trumps statutes and mere regulations. So, one may ask, if expulsion or other punishment is barred by law, what is to be done? Boston Herald contributing columnist and WGBH guest commentator Jennifer Braceras (who appeared on “Greater Boston” minutes after I did) wisely suggests the most effective remedy: a sustained program of old-fashioned “shaming.” Is our society so devoid of moral and ethical standards that shaming would not be an effective remedy? I’ve not yet become sufficiently cynical to answer that question in the negative. Indeed, before President Boren had made his expulsion decisions clear to the students, at least one of them had already withdrawn from the university, having come under precisely such heated community criticism. But Boren proceeded anyway, in the classic “holier than thou” fashion that we have grown accustomed to seeing exhibited by insufficiently courageous and principled academic administrators everywhere, to dismiss both students, including the one who had already withdrawn! Finally, some have suggested “sensitivity training” for students at Oklahoma. Such indoctrination on matters of personal morality is inappropriate in an institution of higher education. When administered at the college level, such programs smack of the kind of “thought reform” that George Orwell has warned us about. I am not prepared to accept such heavy-handedness by academic administrators. The obligation to shame bigots is an obligation that we free citizens undertake voluntarily as a matter of civic duty. We do not need the Borens of the world posturing and ostensibly ridding their campuses of racism by merely protecting us from hearing bigoted language. Indeed, free speech for bigots serves all of us in an important practical fashion: It lets us know who among us are the haters and on whom we should not comfortably turn our backs. This is one of the important practical benefits of free speech: It allows us to know where we, and others, stand. No one is fooling anyone else with excessive public displays of piety. Free speech actually has benefits that counter-balance its occasional pain. That’s what freedom is all about.

#### 5. Cp results in euphemisms which are worse

Burnett 14

(Zaron, is black http://thoughtcatalog.com/zaron-burnett-iii/2014/05/black-people-dont-own-the-n-word-so-use-it-whenever-you-want/)

Louis CK once joked, “It’s bullshit ‘cause when you say ‘the n-word’ you put the word nigger in the listener’s head. That’s what saying a word is. You say ‘the n-word’ and I go, ‘Oh, she means nigger.’ You’re making me say it in my head. Why don’t you say it instead and take responsibility … for the shitty words you want to say?” No two ways about it, Louis CK nailed it. The “n-word” is like a tasteful raincoat that a flasher wears. A London Fog trench coat may look nice, but it doesn’t change the pervert inside. You could argue that nigger is the most powerful word in the world, other than “love” or “money.” It has equal power to divide, as well as to bond people. It can soothe as well as enflame. Nigger covers the full spectrum of human emotions. And I want you to know, it’s yours to use. Yes, yours. Take it. Do with it what you will. No one owns a word (unless you invent it and patent it). American laws are based on the idea that in order to own something you must exercise control. If you can’t control it – well, then you don’t own it. Thus, we can’t control words, we can only use them. We own words the same way we own the wind. You can harness the wind, direct it, make it do work for you, but you can’t control it, and thus, you can’t own the wind. If no one owns the word nigger, then no one can tell you who can or cannot say it. Yes, you read that correctly, black people don’t own nigger. Sorry, black folks. I’m not taking it away or giving it away. It was never ours; not even after it was “reclaimed.”

## A2 Noose PIC

PICs are a voting issue –

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that otherwise the case would easily outweigh.

#### B. They are unpredictable and force the debate away from the core of the topic to a fringe issue, which hurts topic education and also kills fairness b/c it’s impossible to predict every PIC so the neg can break new every round and be way ahead.

#### Vote on theory b/c unfairness proves substance is irreparably skewed.

#### Perm do both – Nooses aren’t protected b/c they intend to intimidate. Analysis of best precedent proves. Barger 08

Allison Barger\*J.D., William & Mary School of Law, 2009; B.A., Towson University, 2006. 17 Wm. & Mary Bill of Rts. J. 263 October 2008

Courts use a balancing test to determine whether symbols or conduct express ideas and to measure the effect of statutes that may endanger First Amendment free speech guarantees. 98 The Court in Black was careful to differentiate hate speech regulated on the basis of its viewpoint-as was declared unconstitutional in R.A.V. 99 -from hate speech that is prohibited because it "seriously threatens issues of personal security (e.g., threat, intimidation, harassment)"-which was held to be constitutionally proscribable in Black. 100 "It is true that free speech has never been interpreted to protect absolutely all expression, with justification. It makes little sense to protect 'threats [that can] instill fear, incitement [that can] provoke violence, [or] false advertising [that can] defraud,' to name a few examples of harmful speech." 101 In Black, Justice O'Connor used a "true threat" analysis to balance the impingement on free speech with the state's need to regulate conduct representing a "true threat" to a person or group of people. 102¶ Some scholars such as James Swanson, however, fear that O'Connor's "true threat" standard "is susceptible to expansive interpretation that might chill protected expression. . . . One effect of Virginia v. Black might be to chill expression by driving all cross burning underground and out of the public square. That may be good social policy, but it is not good constitutional law." 103 Roger C. Hartley, a professor at Catholic University's Columbus School of Law, made a similar argument, fearing further hate symbol prohibitions that "proscrib[e] speech on only one side." 104 Hartley [\*277] criticized the Court for announcing that the statute in Black admittedly discriminated based on content but did not discriminate based on viewpoint because a cross could be burned for reasons other than racism. 105 Hartley found this idea difficult to harmonize, and feared that allowing this type of discrimination would lead to explicit prohibitions on other hate symbols that-under Hartley's view-should be protected as expressions of viewpoint. 106 This fear transformed into foresight when states began to add explicit prohibitions on swastikas into their criminal laws. 107 Although these additional regulations may be disfavored in Hartley's view, Supreme Court precedent in Black as well as social policy reasons uphold the constitutionality of the prohibitions whereby speech may be subdued in light of the "particularly virulent form of intimidation" presented. 108¶ Swanson's analysis of the decision in Black seemed to resonate with Hartley's view. 109 Swanson, however, veered in a different direction from Hartley in his solution. Swanson proposed that states should not include in their criminal laws any explicit mention of potentially symbolic speech such as cross burning or the display of Nazi swastikas, but instead should adopt laws banning "all intimidating speech that threatens people with bodily harm or death." 110 Swanson explained that this proposal "will certainly proscribe some cross burnings, but not because they are cross burnings." 111 Under Swanson's solution, however, one may foresee definitional problems in interpreting "intimidating speech," and states may refrain from prosecuting under such statutes because of fear of misapplication. By including explicit proscriptions against specific acts like cross burning in hate crime statutes, states do not participate in viewpoint discrimination, but rather ensure that these especially demoralizing acts of harassment do not go unpunished.¶ Problems are bound to arise in differentiating speech from conduct because "[c]onceptually, all expression is both speech and action." 112 Hate speech and workplace speech may involve words mixed with conduct, while actions such as cross burning and pornography may not involve words at all, but may carry implications of free expression. This type of behavior has been referred to as "fringe speech." 113 [\*278] Conduct and words contained in this category "legitimately possess communicative content based upon value determinedvis-a-vis established free speech justifications. Yet, these areas also may present legitimate harms or problems, to individuals or society, that properly may call for regulation in order to safeguard people or the social order." 114¶ States generally have broad police powers to legislate for the people on matters affecting the health, welfare, safety, and-occasionally-morals, of the public. States are constrained by their own constitutions and bills of rights, as well as by federal constitutional and statutory standards, due to the limitation on state power contained in the Supremacy Clause in Article VI. 115 A law imposing criminal punishment for the display of a hangman's noose would fall within the state's police power to regulate based on public welfare and safety. State police powers ultimately verified the constitutionality of the Virginia statute at issue in Black because of its purpose to protect against intimidation. 116 "[O]ur focus on speech should not blind us to the important countervailing interests that often arise when speech interacts with social reality. These social interests comprise appropriate objectives for governmental attention, helping to assure the public health, safety, and welfare." 117

#### Hate crime laws are bad – they don’t provide institutional support and operate through the lens of criminality. Lydon 12

* Serial policy failure - Liberal politicians never act in interest of marg groups – just seek to increase own power/popularity and look good
* False faith in the state dooms the perm – never challenge structure
* Punishment model bad and recreates state violence – gives state power to act violently
* Make marginalized groups bow down to state

Jason Lydon, A Compilation of Critiques on Hate Crime Legislation, Against Equality: Prisons Will Not Protect You, 2012. NS

Hate crime laws are an easy way for the government to act like it is on our communities’ side while continuing to discriminate against us. Liberal politicians and institutions can claim “anti-oppression” legitimacy and win points with communities affected by prejudice, while simultaneously using “sentencing enhancement” to justify building more prisons to lock us up in. Hate crimes legislation is a liberal way of being “tough on crime” while building the power of the police, prosecutors, and prison guards. Rather than address systems of violence like health care disparities, economic exploitation, housing crisis, or police brutality, these politicians use hate-crimes legislation as their stamp of approval on “social issues”. Hate crimes laws focus on punishing the “perpetrator” and has no emphasis on providing support for the survivor or families and friends of those killed during an act of interpersonal hate violence. We will only strengthen our communities if we take time to care for those who have experienced or been witness to violence. We have to survive systems of violence all the time and are incredibly resilient. We must focus on building our capacity to respond and support survivors and create transformative justice practices that can also heal the perpetrator (though focusing first and foremost on survivors). Hate crime law sets up the State as protector, intending to deflect our attention from the violence it perpetrates, deploys, and sanctions. The government, its agents, and their institutions perpetuate systemic violence and set themselves up as the only avenue in which justice can be allocated; they will never be charged with hate crimes. The state, which polices gender, race, sexuality, and other aspects of identity, is able to dismiss the ways it creates the systems that builds a culture of violence against marginalized communities as it pays prosecutors to go after individuals who commit particular types of interpersonal violence. Hate crimes legislation puts marginalized communities in the place of asking the state to play the savior while it continues to perpetuate violence.

#### This o/w’s the net benefit – it strengthens state violence and gives the state an out. Smith 07

Smith, Andrea. "Unmasking the state: Racial/gender terror and hate crimes." Australian Feminist Law Journal 26.1 (2007): 47-57.

Unfortunately, the ‘remedies’ that have been pursued by the mainstream anti-violence movement have often strengthened rather than undercut State violence. While the anti- sexual/domestic violence movements have been vital in breaking the silence around violence against women and in providing critically needed services to survivors of sexual and domestic violence, these movements have also become increasingly professionalised in providing services, and consequently there is often reluctance to address sexual and domestic violence within the larger context of institutionalized violence. In addition, those who go to prison for domestic violence are disproportionately people of color. Julie Ostrowski reports that of the men who go to domestic violence courts in New York, only twelve percent are white. Half of them are unemployed, and the average income of those who are employed is $12, 655.15 The issue is not primarily that anti-violence advocates are supporting the prison industrial complex by sending batterers and rapists to jail, since many anti-violence advocates simply say, ‘If someone is guilty of violence, should they not be in jail regardless of their racial background?’ The co-optation of the anti-violence movement by the criminal justice system has far-reaching effects besides the immediate victims of domestic violence. The Right has been very successful in using anti-violence rhetoric to mobilise support for a repressive anti-crime agenda that includes three strikes legislation and anti-drug bills. These anti-crime measures then make abused women more likely to find themselves in prison if they are coerced by partners to engage in illegal activity. When men of color are disproportionately incarcerated because of these laws that have been passed in part through the co-optation of anti-violence rhetoric, the entire community, particularly women who are often the community caretakers, is negatively impacted. For instance, the Violence Against Women Act was attached to a repressive anti-crime bill that was then heralded by anti-violence advocates as ‘feminist’ legislation.¶ Furthermore, as Kimberle Crenshaw notes, this racialisation of criminalisation serves not just to criminalise men of color, but to codify the rapability of women of color.16 That is, what determines criminality is not just the race of the perpetrator, but the race of the victim.17 So those who commit violent acts against women of color are least likely to be criminalised. This rapability of women of color under the law is continuous with the rapability of Black women under slavery and Native women in colonial massacres of indigenous peoples.18¶ So, essentially, the adoption of ‘hate crimes’ as a strategy for addressing racial/gender justice has shifted our analysis from articulating the state as partially constituted by heteropatriarchy and white supremacy to uncritically upholding the liberal multicultural state as that institution that recognises and legitimises legal and political claims based on gender and race. As Elizabeth Povinelli has so aptly demonstrated, the liberal state depends on a politics of multicultural recognition that includes ‘social difference without social consequence.’19 As Povinelli further states:¶ These state, public, and capital multicultural discourses, apparatuses, and imaginaries defuse struggles for liberation waged against the modern liberal state and recuperate these struggles as moments in which the future of the nation and its core institutions and values are ensured rather than shaken.20¶ Thus, the state, rather than being understood as defined through gender and racial differentiation and subordination becomes positioned as the body to recognise and protect racial and gender difference. Because these differences are recognised within the liberal multicultural nation-state, the difference that can be recognised as subject to protection are those differences that are least threatening to the state. Sociopolitical economies that have a recogniseable capitalist component operate intrinsically, though discretely, through gender subordination and commodification. It is the process of commodification that enables capitalism to function, and therefore acts of criminalisation or even decriminalisation fundamentally fail to alter the capitalist economy of subordination. At heart, those occupying the social margins continue to reside, simply under differently sanctioned labels that are variously related to criminal identity (state sanctioned labels of identity) as opposed to self- or community derived identity. Thus, when ‘women’ are protected by domestic violence, these women are not generally sex workers, women are addicted or otherwise criminalised, poor women, etc.

#### No Impact – focus on the symbolic violence of lynching trivializes the past and prevents black students from empowering themselves. Myers 11

Black civil rights attorney

Michael Myers [Michael Meyers is president and executive director of the New York Civil Rights Coalition (www.nycivilrights.org) and a former assistant national director of the National Association for the Advancement of Colored People (NAACP). Meyers is also a former longtime member of the national board of directors of the American Civil Liberties Union (ACLU) and od the board of directors of the New York affiliate of the ACLU (NYCLU). Meyers, a nationally prominent liberal, and the protege of the civil rights legend Dr. Kenneth B. Clark, is also a former national vice president of the ACLU.¶ ] <http://www.huffingtonpost.com/michael-meyers/blacks-should-toss-noose-_b_70413.html> 5/25/11

Anti-racist students and staff at Columbia University’s Teachers College were outraged recently about a hangman’s noose on a black professor’s office door, and protested it as a “hate crime.”¶ They also lambasted the climate on campus as “racist,” chanting, “No diversity, no university!” One sign declared: “Protest Racist Lynch Rope Provocation.”¶ Madonna Constantine, the professor, who’s an expert on race, racial identity and multiculturalism, was catapulted to instant fame. She was interviewed on TV news shows because she would “not be silenced” or cowed by the noose — a racist badge of intimidation directed at the black community.¶ Although she was warned in advance by an eagle-eyed colleague about the noose and did not happen upon it when entering her office, Constantine was nonetheless shocked, hurt and, she says, “embarrassed” by it.¶ I’ve never found a noose on my office door, but if I had, I would have handled it differently — and not because it wouldn’t have been a startling discovery. Had someone told me in advance about such a thing on my door, I would have told them to toss it where it belongs, in the trash. Had I come upon it on my own, I would have done the tossing myself. Symbols don’t scare me. And they should not, in this day and age, frighten or intimidate any black person, much less an expert on race and racial identity.¶ Had I been a professor at Teachers College, I would have recoiled at, rather than encouraged, the taunts in headlines about how my elite university was “Poison Ivy.” However one rates Columbia, it is not a racist institution, and New York City is not a remnant of the Old South, where mobs ruled and strung up blacks on a whim, where blacks had no protection in law, much less were feted on an Ivy League campus.¶ So, as a black American, I must dissent from the surge of racial histrionics and hysteria over the discovery of a hangman’s noose at one of our campuses. I must dissent from the hard and fast conclusion about the incident as a “hate crime,” even before the investigation is complete.¶ And I must question the motivations of those who’ve rushed to the judgment that this was not an isolated incident or even a prank by a malcontent or just an ordinary despicable individual.¶ As a New Yorker, I resent the stain of racism against my city and against one of the finest universities in our nation, even if the university officials can’t defend their reputations for fear of offending angry blacks.¶ Indeed, if there is any racism on that campus, it does not take the form of mobs full of hate carrying ropes. It is the kind of racism that takes the form of paternalism directed at black students and black faculty — the attitude that blacks are fragile and need special protections from the foul deeds of social misfits.¶ We blacks have gotten too soft and too sensitive over symbolic speech — burning crosses, the “n” word and the hangman’s noose. We are too quick to label a school “racist” and inhospitable because blacks are “only” 12 percent of the student body.¶ I more resent blacks who band with “anti-racist” whites to support hate speech codes and to cut off controversial speakers on campus than I could ever resent “offensive” speech from students or faculty who contend blacks have been quota-ed in and are beneficiaries of a double standard in admissions to Ivy League campuses.¶ That’s because I am a race expert, and I know better. I know the truth about preferential treatment and the real history of lynchings in America — where blacks, for no other crime than being visible and vocal, were strung up, beaten, bombed and torched. Whatever happened on Columbia’s campus was no such hate crime, regardless of what the rope symbolizes.¶ It may shock the university officials, but blacks by and large are not impressed, much less reassured, when a college president — as did Teachers College’s Susan Furhman — pledges racial tribute in the form of “more scholarships” and renewed efforts at diversity. Recruiting and retaining minority group students and staff are legitimate efforts in their own right, but illegitimate as a means for buying racial peace.¶ When will Columbia learn its lesson? What chances are there that it will ever learn not to overreact to overblown racial rhetoric when, in the face of challenges to its core values, even its race experts deem every hostile word or symbolic expression of ignorance as prima facie evidence of a culture and climate of racism fit for either censorship or punishment?¶ We blacks don’t need any special protections or double standards of justice. And surely we can do without foolish comparisons of racist antics today on a liberal campus with that of an era when wanton racist violence directed against blacks was unbridled, and when American blacks, according to the law, had no rights to any, much less equal, protection of the laws.

## A2 Nudity PIC

#### (read pics bad, perms etc)

#### Yes Spillover- the CP is a content restriction

#### A. This sets a legal precedent- 1AC evidence is explicit the court has never upheld a content restriction. This unravels the first amendment according to Strossen- future lawsuits can use the CP as precedent

#### B. Nudity has expressive value- Politicians like Clinton/Weiner, as well as University Admins have been taken down by sex scandals that relied on risqué images/dialogue. Their evidence discusses a famous painting that sparked major changes by the catholic church- you can’t prejudge the value of a type of speech

#### C. Case outweighs- a millionth of a percent of the aff is enough- the impact to the net benefit is awful, “protect the children”, and their impact card is about kids shopping in a store- not newspapers

#### Nudity isn’t protected-recent decisions prove

SF Gate 13

(1-29-13, http://www.sfgate.com/bayarea/article/Free-speech-doesn-t-cover-nudity-4233650.php)

Nudity isn't speech. To put it another way, as of Friday in San Francisco, no nudes is good news. A suit by a group of naked activists challenging an impending city ordinance that bans exposing one's genitals in public was dismissed Tuesday by U.S. District Judge Edward Chen, who said requiring people to wear at least some clothing doesn't violate the First Amendment. "Nudity is not inherently expressive," Chen wrote. "The ordinance's general ban on public nudity for the most part regulates conduct only.

## A2 Off the Record PIC

### 1AR – Off the Record PIC

#### 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage imossible

#### 2. The CP doesn’t solve the case

#### A. Who decides what was off the record- administrators will claim any damaging quotes were off record, they can do it retroactively

Greenslade 13

(Roy, https://www.theguardian.com/media/greenslade/2013/may/20/thetimes-dailytelegraph)

Even if one accepts the denials of the Conservative party co-chair, Lord Feldman, that he didn't say it, someone clearly did. And maybe he did anyway, and conveniently forgot he had. Or perhaps he wished to forget it. And then there's the little matter of where he was said to have said it. You can hardly expect journalists not to monitor who their peers are talking to. Let's face it, down the years we have been here many, many times. People say things to journalists, possibly in a light-hearted fashion, that end up in print. Inevitably, "official" denial follows. They may also fail to grasp what we mean by "off the record". For journalists, it simply means that it is reportable as long as the source is not identified.

#### B. 1st amendment- an ambiguous category creates a slippery slope that spirals out of control. The first amendment outweighs the net benefit- anonymity is a right, free speech is the foundation of all rights. And genocide and war outweigh on magnitude

#### C. Civic engagement- denial most likely with political speech- this makes holding the government accountable impossible

#### 3. No Link- their evidence is about journalistic ethics, not constitutional protections. How would a school know to censor in advance something was off the record?

#### 4. Journalists don’t write articles about things off the record – it would get them fired and blacklisted. Plus they aren’t liars. Taylor 14

Chris Taylor, What 'off the record' means and how to use it: A cheat sheet, Mashable, November 19, 2014 EE

To those who harbor views of the media as a pack of amoral sharks — and we know there are one or two of you out there — it might come as a surprise that something as quaint as a code of honor actually functions in our profession. But the fact is, most of us live in fear of burning a source. Not only might you be the one person who gives us the scoop of our lives a year or two down the line, but also if word got out that we broke an off-the-record deal, our careers would be largely over. Colleagues don't take kindly to that sort of thing. Plus if a source feels we've broken their trust, it's an agonizingly awful fact to live with — even when we're actually in the right.

#### 5. Presume aff –this is a garbage pic. They’ve had months to prepare for this aff- hold them to a high standard when evaluating their evidence all of it says journalists don’t write off the record stories.

#### 6. Perm do the CP- Libel is not protected speech. If a journalist publishes something they are claiming it is on the record, which means they are claiming the person agreed to be on the record, which is a lie.

## A2 Open Carry Gun PIC

### 1AR – Open Carry Gun PIC

#### 1. Guns aren’t protected under the first amendment—newest court precedent proves. Justifies perm: do both Hudson 12

David L. Hudson Jr., 11-28-2012, "Court rejects 1st Amendment concept in 2nd Amendment case," First Amendment Center, <http://www.firstamendmentcenter.org/court-wont-import-first-amendment-concept-into-second-amendment-case/> MG

The First Amendment’s presumption against prior restraints should not be used in Second Amendment cases, a federal appeals court has ruled in rejecting a constitutional challenge to New York’s restrictive handgun-permit law. Five people — Alan Kachalsky, Christina Nikolov, Johnnie Nance, Anna Marcucci-Nance and Eric Detmer — challenged the state’s restrictive handgun-permit laws on Second Amendment grounds after they were denied full-carry licenses to carry concealed handguns. Part of the law provides that a license “shall be issued to . . . have and carry [a firearm] concealed . . . by any person when proper cause exists for the issuance thereof.” This provision has been interpreted to mean that individuals can obtain permits for limited purposes, such as hunting or target practice. However, the state law also says individuals can show “proper cause” to obtain a full concealed-carry license for self-defense only if they can demonstrate a “need for self protection distinguishable from that of the general public.” After a federal district court upheld the law in September 2011, the plaintiffs appealed to the 2nd U.S. Circuit Court of Appeals. On Nov. 27, a three-judge panel of the 2nd Circuit in Kachalsky v. County of Westchester affirmed the lower court and upheld the law. The plaintiffs sought to invoke the First Amendment’s presumption against prior restraints — laws that impose hurdles on speech-related activities, such as licensing laws. They argued that just as the First Amendment generally forbids the government from requiring anyone to obtain a license before speaking, the Second Amendment also should forbid government from making individuals obtain licenses before exercising their fundamental right to “keep and bear arms.” “We are hesitant to import substantive First Amendment principles wholesale into Second Amendment jurisprudence,” the appeals court panel wrote. The court recognized the Supreme Court drew analogies between the First and Second Amendments in District of Columbia v. Heller (2008), in which the Court first ruled that the Second Amendment protects an individual right to keep and bear arms, as opposed to a collective right of maintaining a militia. “But it would be as imprudent to assume that the principles and doctrines developed in connection with the First Amendment apply equally to the Second, as to assume that rules developed in the Second Amendment context could be transferred without modification to the First,” the appeals panel reasoned. Furthermore, the appeals court noted that the New York law on issuing full-carry permits was not without standards. It was not an example of a law that vests government officials with “unbridled discretion” — a very negative term in First Amendment law — in deciding whether to issue or deny permits. Even though the appeals court rejected the prior-restraint concept, it did embrace analogies to other parts of First Amendment law. The court said the highest form of judicial review in free-speech law was reserved for the core types of speech the First Amendment was designed to protect – such as pure political speech — whereas a lesser form of judicial scrutiny is used to review restrictions on commercial speech (advertising). The panel reasoned that a higher form of judicial review should be reserved for restrictions on handgun ownership in the home as opposed to carrying a handgun in public. The opinion shows a continued trend in the courts to discuss First Amendment free-speech precedents when evaluating Second Amendment claims.

#### 2. Guns are only protected speech if they are unloaded or the barrel is blocked—your own author – no net benefit to the PIC Blanchfield 14

Patrick Blanchfield, Patrick Blanchfield is a doctoral candidate and Woodruff Scholar in Comparative Literature at Emory University and a graduate of the Emory Psychoanalytic Institute., 5-4-2014, "What Do Guns Say?," The New York Times Company, <https://opinionator.blogs.nytimes.com/2014/05/04/what-do-guns-say/?_r=0> MG

In practical terms, this litmus test suggests that you can carry a gun as symbolic speech, particularly in the context of a pro-Second Amendment demonstration. The state’s clear interest in maintaining public order can be narrowly satisfied by demanding that protesters either carry guns that are unloaded — at least with an open chamber — or which otherwise have the barrel or action blocked. Thus far, open carry protesters have largely followed this rule, notably by sticking tiny American flags into their guns. “If the SWAT team comes down and starts surrounding us with tactical gear, it only takes a minute to pull them out,” the organizer of one such event told reporters. “But that’s not going to happen.”

## A2 Plagiarism PIC

### AT: Plagiarism PIC

#### 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage imossible

#### 1. The PIC is incoherent – there are complex, contradicting precedent for government regulation on plagiarism and it’s a constitutional issue of the 14th amendment and property rights, not the 1st, justifies perm: do both

“The Tangled Web of Plagiarism Litigation: Sorting Out the Legal Issues,” Brigham Young University Education and Law Journal, Volume 2009 Issue 2 Article 3, Ralph D Mawdsley.

Plagiarism has become a complex litigation field in the¶ United States. In drafting academic misconduct policies,¶ educational institutions have not always been clear whether¶ intent should be a prerequisite to a finding of plagiarism.¶ Where intent to plagiarize is not clearly required as part of the¶ definition, courts have tended to apply only an objective¶ analysis that requires no intent.¶ Issues of fairness in investigating claims of plagiarism and¶ disciplining those found guilty reach constitutional questions¶ under the Liberty and Property Clauses, as well as compliance¶ with procedural rights ensconced in institutional catalogs and¶ handbooks. Courts seem willing to defer to the judgment of¶ educators as to whether plagiarism has occurred, and as long¶ as investigation and discipline accords with minimal¶ constitutional due process requirements, courts are not likely¶ to intervene. The irony is that this deference applies even¶ though the penalties for plagiarism can be as severe as those¶ for disciplinary infractions.

#### 2. Plagiarism discourse is imperialist and ignores cultural differences in ownership of language – marginalizing international students, that’s a voting issue. Lyon 09

“You Fail”: Plagiarism, the Ownership of Writing, and Transnational Conflicts. Arabella Lyon (University of Buffalo), 2009, National Council of Teachers of English.

Western legal concepts of copyright seem logical in the context of the¶ university, but as so many have noted, the ownership of writing is not transparent.2¶ In fact, the possessiveness of the Western author is an anomaly, the¶ product of a particular history that requires disciplinary apparatus from law¶ courts to classrooms to maintain its status. After all, language functions not¶ as a private enterprise, but rather as a shared human attribute, forming our¶ identities and marking our memberships through conflicts, escapes, tensions,¶ claims to power, and demonstrations of control. The negotiated and relational¶ aspects of language may be why the ownership of writing creates such irresolvable¶ tensions.¶ The month after I was in Cambodia, Douglas Hesse delivered the chair’s¶ address “Who Owns Writing?” to the Conference on College Composition¶ and Communication. Concerned with property rights, teaching conditions,¶ pedagogical content and authority, and responsibility for assessment, Hesse¶ suggested that “those who teach writing must affirm that we, in fact, own it”¶ (459; emphasis in original). He responded to the U.S. commissions and forces¶ who would take writing away from writing teachers, refusing to recognize their¶ expertise. Still, inherent in his argument is a belief that writing can be owned,¶ that it is some sort of commodity to be controlled, and that the ownership is in¶ one place, a space for teachers. Similarly concerned with how forces outside of¶ teachers and writers control academic writing in the United States, Bill Marsh,¶ in Plagiarism: Alchemy and Remedy in Higher Education, examines the disciplinary¶ powers of U.S. higher education in the late twentieth and early twentyfirst¶ century, looking at the ways in which faculty, administrators, journalists,¶ policymakers, and software entrepreneurs regulate plagiarism and student¶ writing through a range of technologies and techniques. Ownership in the age¶ of Internet, desktop publishing, and corporate capitalism is an increasingly¶ contested space. Conflicts over ownership grow and will continue to grow as¶ the ownership of words—given our theories of discourse, ideology, historical¶ contingencies, and identity formation—is more complicated than any laws,¶ especially laws founded on a modernist, if not romantic, view of the author and¶ teacher. Still, writing owned by a national history, authors, or teachers seems¶ preferable to the growing claims, if not control, by software entrepreneurs and¶ international corporations.¶ In “An Essay on the Work of Composition: Compositing English against¶ the Order of Fast Capitalism,” Min-Zhan Lu does not discuss the ownership of¶ writing, but she examines the English language in light of the “lived reality”¶ of “people stratified by labels such as Native-Speaking, Educated, Developed¶ Countries, or Democracy and their Others” and the ways in which composition¶ is used to “police how peoples the world over use English” (20). Describing the¶ forces that would control English and its market values, desiring long-term¶ change in “existing structure and order of competing languages, englishes,¶ and discourses” (42), Lu argues that “English is enlivened—enlightened—by¶ the work of users intent on using it to limn the actual, imagined, and possible¶ lives of all its speakers, readers, and writers, the work of users intent on using¶ English to describe and, thus, control those circumstances of their life designed¶ by all systems and relations of injustice to submerge them” (44). Inherent in¶ her view is an equalitarian sense of language use; speakers should use English¶ to describe their experiences and not be controlled by those benefiting from¶ transnational capitalism, those claiming ownership of the standards of English.¶ Lu’s acknowledgment of the porous borders of English, its diaspora, and the¶ dissonance across language demands, in turn, an acknowledgment of the porous,¶ diasporic, and dissented ownerships of English. Ownership claims grow.¶ My purpose in this article is to question who owns writing in a world of¶ international education, what global forces enter into discussions of international¶ student writing, and how might we discuss cultural differences around¶ ownership more productively. In this brief excursion, I am not asking who owns¶ writing about Cambodia or who controls writing in a classroom or a country—¶ for the ownership of writing is always partial. Rather, using the discourse of¶ plagiarism to control the breadth of my inquiry, I wish to examine how culture¶ forces and assumptions about the nature of speaking and writing complexly¶ interact in an international classroom. To do this, I examine the claims made¶ for differences between Chinese and Western views of rhetoric and writing¶ and how those claims are then used to homogenize Chinese experience and¶ to characterize Chinese students as deficient and in need of remediation. In¶ response to ongoing failures to recognize difference productively and to acknowledge¶ different forms of ownership, I offer two theoretical insights, and I¶ argue that comparative rhetorics require an interrogation of the standpoints¶ of both sets of cultural assumptions (Hum and Lyon).

#### 3. Regulation of language reflects cultural imperialism and disciplinary power against the marginalized, particularly with racist plagiarism practices. Saltmarsh 05

“'White pages' in the academy: Plagiarism, consumption and racist rationalities,” Sue Saltmarsh (Dr Sue Saltmarsh is a Postdoctoral Research Fellow working with the Narrative, Discourse & Pedagogy Research Group in the School of Education at the University of Western Sydney, Australia. Her research concerns the discursive production of subjectivities and social relations, with particular reference to issues of educational consumption, institutional violence and social justice), University of Western Sydney, 2005.

This raises particular questions surrounding the discursive visibility of international and¶ EAL/NESB students, particularly with respect to the ways in which language use becomes a¶ primary technology for citing difference. In the case of both face-to-face classrooms as well¶ as in subjects offered online, the contribution of students to online discussions in unit¶ websites, group work, essays and assignments is marked by the standard and consistency of¶ written English that students are able to produce in a number of communicative contexts.¶ Detection of plagiarism and other forms of academic misconduct among EAL/NESB¶ students, therefore, becomes an instance not only of identifying noticeable anomalies in¶ written work, but also an instance of reinscribing the ‘compulsory visibility’ (Foucault, 1977,¶ p. 187) through which their marginalised discursive status is in part constituted. According to¶ Foucault:¶ Disciplinary power…is exercised through its invisibility; at the same time it imposes¶ on those whom it subjects a principle of compulsory visibility. In discipline, it is the¶ subjects who have to be seen. It is the fact of being constantly seen, of being able¶ always to be seen, that maintains the disciplined individual in his subjection.¶ (Foucault, 1977, p. 187)¶ Foucault’s work is instructive here, highlighting as it does the ways in which disciplinary¶ power is brought to bear upon individuals precisely because of the discursive visibility¶ imposed upon them. As has been mentioned already, the discursive visibility of overseas and¶ EAL/NESB students is marked particularly by language use, even while the institutional¶ practices of both subjecting their written work to increased levels of scrutiny in the¶ assessment process remain largely invisible. Thus in the context of the globalisation of higher¶ education, “with its overtones of intellectual and cultural imperialism” (Alexander and Blight,¶ 1996, cited in Mason, 1998, p. 155), assessment and its attendant technologies of control¶ remain “a site of institutional power…where [students] must fulfil the requirements of ¶ understanding, knowledge and skill that grants them formal recognition and validates their¶ knowing” (Clifford, Nicholas and Lousberg, 1998, cited in MacKinnon and Manathunga,¶ 2003, p. 132).¶ It might be argued, of course, that the work of all tertiary students is subjected to scrutiny and¶ assessment, and that problems such as those raised in the media reports cited above have¶ emerged out of a complex set of circumstances including not only increased numbers of¶ international students, but also a measure of corporate greed which has seen a rise in numbers¶ of inadequately prepared and ill-equipped students accepted into tertiary courses on the basis¶ of their capacity to pay, rather than their capacity to satisfactorily meet the academic demands¶ of tertiary study. While I would agree that these are complex and necessary points of debate, I¶ would also suggest that maintaining as the primary focus in these debates the language use,¶ textual practices and assessment strategies deployed by international students, while largely¶ ignoring these problems as they pertain to local, English speaking students, brings¶ discrimination on the basis of race (albeit perhaps unwittingly) into the largely invisible¶ processes of disciplinary power.

#### 2. The CP doesn’t solve the case

#### A. Who decides what was is plagiarism- there is no agreed upon definition

SPLC 15 http://www.splc.org/article/2015/08/avoiding-plagiarism-in-the-student-media

Plagiarism is not a legal term. As noted above, it is a term for academic dishonesty, usually defined by professional or academic bodies. No civil or criminal statutes apply. You won't be tossed in jail or fined by a judge if found guilty of plagiarizing someone else's work. But you might be subject to punishment or censure by a professional association, have your work discredited, and suffer academic consequences.

(continued)

Understanding and defending against a charge of plagiarism can be a confusing and complicated process. While some cases are so blatant that no defense is possible, most are "in disguise," requiring significant effort to adequately and fairly address the various nuances or shades that are hallmarks of the creative process. The results can be messy. Cautious and deliberate avoidance is the best — and only — sure defense.

#### B. 1st amendment- an ambiguous category creates a slippery slope that spirals out of control. The first amendment outweighs the net benefit- free speech is the foundation of all rights. And genocide and war outweigh on magnitude

#### C. Civic engagement- denial most likely with political speech- this makes holding the government accountable impossible

#### 3. No link- plagiarism is not constitutionally protected- scrutinize their evidence- they don’t have anything CLOSE to a card that says it is. Plagiarism is a student conduct code you voluntarily agree to when you attend a college, the plan doesn’t change that

#### 4. No solvency- their evidence says newspaper articles were plagiarized because at the time it was published NO ONE KNEW it was plagiarized- the CP can’t stop that

#### 5. Censorship and plagiarism are unrelated

Private Writing no date https://www.privatewriting.com/blog/are-plagiarism-and-censorship-having-something-in-common

Censorship is commonly known as suppression of anything objectionable while plagiarism prevents stealing and offering other authors ideas as your own.

### AT: WSN

#### This evidence is out of context- The odyssey is not a school newspaper, its an independent website

Specifically on the university level, publications like The Odyssey have damaged journalism by providing a professional sphere to anyone with a keyboard and an opinion. The publication began as a student-run newspaper, but in the last few years it has expanded to include hundreds of campuses across the country and now publishes over 2,000 articles each week. As the pieces are shared thousands of times across social media, more and more viewers click on catchy titles, see a polished website and read underdeveloped yet agreeable articles. Despite its promises to provide relevant content and multiple perspectives, The Odyssey will never be able to do so.

#### Some university publications don’t have external accountability which leads to educationally bankrupt journalism and an inability to check journalism

WSN 16, WSN Editorial Board, 2016, Fake News Problem Includes Quack Journalism, http://www.nyunews.com/2016/12/01/fake-news-problem-includes-quack-journalism/

Specifically on the university level, publications like The Odyssey have damaged journalism by providing a professional sphere to anyone with a keyboard and an opinion. The publication began as a student-run newspaper, but in the last few years it has expanded to include hundreds of campuses across the country and now [publishes](http://www.prweek.com/article/1361353/online-content-hub-odyssey-posts-2000-articles-week-its-growing) over 2,000 articles each week. As the pieces are shared thousands of times across social media, more and more viewers click on catchy titles, see a polished website and read underdeveloped yet agreeable articles. Despite its [promises](https://www.theodysseyonline.com/about) to provide relevant content and multiple perspectives, The Odyssey will never be able to do so. There are no qualifications needed to write for The Odyssey, and that is not a good thing. Reporters for large media organizations have worked hard to get to their position, and this can be seen in their work. The Odyssey, on the other hand, is flooded with submissions that lack nuance and accountability and is not an example of constructive citizen journalism. Supporters of the company may point to BuzzFeed as a similar website that lists serious news pieces right next to lighthearted entertainment, but it is a real media organization with firsthand sources and qualified staff. Furthermore, with so many The Odyssey pieces bombarding timelines every hour, no reader is actually exposed to opposing perspectives on their website, nor is anyone able to filter out worthy journalism from the rest. Unedited fluff pieces certainly have a place on the internet. By no means is it problematic to publish a personal blog, but presenting this as real journalism is not only irresponsible, but also downright dangerous. Real news sites are bound to hold their editors and contributors — even those expressing opinions — to higher journalistic standards. Those interested in writing for the masses during their college years can easily join their on-campus publications and improve their own reasoning and writing skills at the same time. This is not possible on The Odyssey, which has circulated articles like [I Hate Millennials](https://www.theodysseyonline.com/hope-theres-mass-shooting-in-your-safe-space), [The Worst Girls You Meet In College](https://www.theodysseyonline.com/the-worst-girls-you-meet-college), [I Am A Female And I Am So Over Feminists](http://theodysseyonline.com/usf/female-over-feminists/447633) and other vapid rants posted next to pieces [reporting](https://www.theodysseyonline.com/breaking-news-11-hospitalized-attack-ohio-state-university-campus) on serious events, such as the Ohio State knife attack. At a time when the President-elect has [threatened](http://www.politico.com/blogs/on-media/2016/02/donald-trump-libel-laws-219866) freedom of the press, it is now more important than ever that Americans reject all kinds of fake news sites and support the genuine article.

## A2 Racial Insults PIC

### 1AR – Racial Insults PIC

#### 1. Their author doesn’t advocate the CP-we’ll enter the conclusion into evidence- he agrees with aff, turns the PIC Byrne 91

J. Peter Byrne 91 ~Associate Professor, Georgetown University Law Center.~, Racial Insults and Free Speech Within the University, 79 Geo. L.J. 399 (1991), http://scholarship.law.georgetown.edu/facpub/1577

V. CONCLUSION In the above analysis I have attempted to prove that the Constitution can and should be read to afford universities the authority to prohibit racial insults by members of the academic community. It does not follow from this, however, that every college and university should explicitly proscribe racial insults. Although such a rule might effectively stem verbal abuse, each school must carefully consider whether such regulations would likely be effective in its setting and whether any benefits so gained would exceed the undoubted costs of such regulation of speech. Permit me to expand on these prudential considerations. Disciplinary rules are the least effective way that a university can enhance the quality of speech or foster racial tolerance among its members. The educational program must celebrate and instruct its students in the beauty and usefulness of graceful and accurate speech and writing; a liberal education should leave students intolerant of propaganda and commercial manipulation, and competent to directly and forcefully express coherent views as citizens. Such teaching is not amoral; the graduate ought freely to prefer the exercise of skill, reflective perception, and an abiding curiosity to desires for acquisition, consumption, and domination. Without the university's consistent action on a commitment to reasoned discourse as central to its mission, the university's attempt to prohibit insulting or lewd speech may seem a hypocritical denial of its own failings. Similarly, prohibiting racial insults will advance racial harmony on a campus only when the university has effectively committed itself to educate lovingly the members of every ethnic group. Although nearly every university admits minority students using criteria that aspire in good faith to be fair, many have failed to transform themselves into truly multi-ethnic institutions. Not to have succeeded at this daunting task does not merit reproach; the university's origins and traditions are explicitly European, growth and accommodation to the extent required to create a multi-ethnic community must take time and witness false steps. However, not to have made plain that blacks, hispanics, Asians, Indians, and others who have been excluded in the past are not only now welcome, but are requested to collaborate in shaping new university structures and mores so that the benefits of advanced education will be available without regard to birth and so that the university can continue to spawn for a changing society a cosmopolitan culture based on reason and reflection standing above tribal fears and blind desires, not to have begun this work in earnest merits regret and will provoke anger. Universities that pass rules against racial insults which are not part of a comprehensive commitment to ethnic integration will serve only to exacerbate racial tensions .Schools that adopt prohibitions on racially offensive speech ought to enforce them with restraint. Certainly, when students have sought to intimidate or frighten other students with racial insults, the school should treat this behavior as a fundamental breach of university standards meriting the strongest punitive measures. But often insulting expressions will result from insensitivity or ignorance; complaints about such behavior should be seen as opportunities for teaching, and creative informal measures that make the offenders aware of the harmful consequences and injustice of their behavior should be pursued. The school should also provide succor to the victim whose hurt and anger must be acknowledged and meliorated. But severely punishing ignorant young people for expressions inherited from their parents or neighborhoods may serve to harden. and focus their sense of grievance, create martyrs, and prolong racial animosity. Deans who administer such rules must overcome their personal repugnance at racist speech and enforce the rules for the benefit of the entire community. Controversial interpretative application of the rules should be placed in the hands of faculty and students representative of the entire institution, and the accused, the victim, and the dean should have an opportunity to express their perspectives.

#### 2. Fixation on racial insults collapses 1st amendment Byrne 91

J. Peter Byrne 91 ~Associate Professor, Georgetown University Law Center.~, Racial Insults and Free Speech Within the University, 79 Geo. L.J. 399 (1991), http://scholarship.law.georgetown.edu/facpub/1577

This article seeks simultaneously to clarify a current and difficult question of constitutional law and to advance a more general approach to student free speech claims. This dual purpose can lead to problems. On the one hand, the phenomenon of racial insults on campus deserves serious consideration and ought not be handled merely as the exemplar of a general theory. On the other hand, too exclusive an attention to racial insults can spawn interpretations of the first amendment tailored only to a preferred policy outcome that slights other troubling implications of the analysis. These problems should be addressed in due course. It is worth stating here that it was consideration of the appropriateness of university prohibition of racial insults, as a member of a Georgetown University committee drafting a student speech and expression policy, that led me to conclude that orthodox views regarding the free speech rights of students at universities were inadequate.4 This reconsideration occurred at a time when I was trying to formulate a general understanding of the special character of free speech in higher education. 5 Thus, I am content to view this article as an application of my general understanding to a specific problem; the general understanding would not have taken the form it has, however, had I not been worried about this specific problem.

#### 3. No link- their article is about verbal assault and relies on “offensiveness”

J. Peter Byrne 91 ~Associate Professor, Georgetown University Law Center.~, Racial Insults and Free Speech Within the University, 79 Geo. L.J. 399 (1991), http://scholarship.law.georgetown.edu/facpub/1577

It is necessary at the outset to choose a working definition of a racial insult. This definition, however, is necessarily provisional; any such definition implies the writer's views on the boundaries of constitutionally protected offensive speech, and the reader cannot be expected to swallow the definition until she has had the opportunity to inspect the writer's constitutional premises. Having offered such a caution, I define a racial insult as a verbal or symbolic expression by a member of one ethnic group that describes another ethnic group or an individual member of another group in terms conventionally derogatory, that offends members of the target group, and that a reasonable and unbiased observer, who understands the meaning of the words and the context of their use, would conclude was purposefully or recklessly abusive. Excluded from this definition are expressions that convey rational but offensive propositions that can be disputed by argument and evidence. An insult, so conceived, refers to a manner of speech that seeks to demean rather than to criticize, and to appeal to irrational fears and prejudices rather than to respect for others and informed judgment. 3

#### 4. “offensiveness” creates a slippery slope-the CP can’t solve the case. Lukianoff 14

Lukianoff, JD, 14

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Over the past two decades, the topic of censorship on campus has often been treated as a “conservative issue,” because the fact is that socially conservative opinions are the ones most likely to be stifled at colleges and universities today. While many attempts at censorship are apolitical, you are far more likely to get in trouble on campus for opposing, for example, affirmative action, gay marriage, and abortion rights than you are for supporting them. Political correctness has become part of the nervous system of the modern university and it accounts for a large number of the rights violations I have seen over the years. For decades, our universities have been teaching students that speech with a chance of offending someone should be immediately silenced; but the slope for offensiveness has proven remarkably slippery, and the concept of hurtful speech is often invoked by campus administrators in the most self-serving ways. The press has gotten so used to such cases that they are often shrugged off as the same old “political correctness” on campus. But the problem is much more serious than that dismissive definition. When students risk punishment for speaking their minds, something has gone very wrong in the college environment.(5-6)

#### 5. Restrictions on offensive speech snowball out of control- collateral damage o/w. Kozinski 10

Kozinski, 9th circuit judge, 10

(Alex, RODRIGUEZ v. MARICOPA CO. COMM. COLLEGE http://cdn.ca9.uscourts.gov/datastore/opinions/2010/05/20/08-16073.pdf)

Nor are we impressed by plaintiffs’ suggestion that the district could have suppressed Kehowski’s speech by limiting discussion on its mailing list and web servers to official school business. We assume the First Amendment would not prevent the district from restricting use in that manner. See id. at 49; Desyllas v. Bernstine, 351 F.3d 934, 943-44 (9th Cir. 2003). We also assume plaintiffs are correct that the district already had such a written policy, although it was not enforced. Plaintiffs don’t allege that defendants selectively applied this policy in favor of Kehowski’s speech; their claim is that once Kehowski began to speak, defendants were obliged to apply the policy to silence Kehowski, even if that meant they had to also silence everybody else. The power to limit or close a forum does not entail any such obligation. If speech is harassment, the proper response is to silence the harasser, not shut down the forum. And if speech is not harassment, listeners who are offended by the ideas being discussed certainly are not entitled to shut down an entire forum simply because they object to what some people are saying. Such a rule would contravene the First Amendment’s hostility towards laws that “confer broad powers of censorship, in the form of a ‘heckler’s veto,’ upon any opponent of” certain points of view. Reno v. ACLU, 521 U.S. 844, 880 (1997). Because some people take umbrage at a great many ideas, very soon no one would be able to say much of anything at all.

#### 6. 1st amendment is goldilocks- fighting words allows punishment of harmful speech, the CP goes to far and guts the first amendment. Rosenberg 91

Rosenberg, Law @Harvard, 91

(David, RACIST SPEECH, THE FIRST AMENDMENT, AND PUBLIC UNIVERSITIES: TAKING A STAND ON NEUTRALITY Cornell Law Review Volume 76 Issue 2 January 1991 Article 6)

Sometimes college students engage in speech intending that it lead to racial violence. These acts, it can safely be said, constitute fighting words, and deserve punishment by the full force of the law. However, Matsuda fails to prove that this standard is not also sufficient in the context of a university. Indeed, there is compellingjudicial support for the notion that a university should, at the very least, be a place where freedom of speech is commensurate to the standard observed outside of academia. To go beyond the accepted standard unnecessarily chills the atmosphere of freedom that the Supreme Court has deemed essential to the goals of the university. Even if one accepts that the Supreme Court's attitude toward free speech at universities is inadequate, it is not clear that Matsuda is able to delineate a policy suppressing racist speech that would not significantly harm the values of free speech. In particular, the problem of vagueness, which plagued the University of Michigan's policy, causes great harm to the values of free expression. As outlined above, Matsuda has formulated a fairly straight-forward calculus to judge the type of speech the university may ban. The speech must 1) be of racial inferiority; 2) be directed against a historically oppressed group; and 3) be persecutorial, hateful, and degrading. Her formulation leaves so many gaps that even had the University of Michigan adopted the standard, the Doe court would have rejected it.224 It forces students and professors alike to wonder about what can and cannot be said. To impose such a restriction on the academic community almost certainly chills its members' willingness to explore their own attitudes towards questions of race. It would also constrain discourse between the races for fear of offending one another. Ultimately, Matsuda does not fully resolve these problems. The Doe court would have found the same problems in her formulathough to a lesser extent-that they found in the University of Michigan's ineptly formulated policy. Matsuda does not provide a new standard that adequately supersedes the Supreme Court's refusal to allow suppression of speech "simply because it [is] found to be offensive, even gravely so, by large numbers of people. '225 She has merely shown the extent of the harm done by racist speech, without actually showing how it somehow fits, or should fit, into an unprotected category of speech. This, to paraphrase the Doe court, is the fundamental infirmity of her proposition. While the presence of racist speech on college campuses is deplorable, it cannot and should not be stopped through prohibiting rules. The university represents a unique forum that fosters the exchange of ideas, even patently offensive ones. To sanitize the atmosphere of the university in order to protect the sensibilities of the traditional victims of oppression would ultimately do little to eradicate the scourge of racism in this country, but would do a great deal to inhibit the discourse around which university learning revolves. The Supreme Court has recognized the state's right to redress real harm inflicted through violence and through fighting words. Universities can and must suppress violence and oppression on campus, but they should do nothing to stop the exchange of ideas-even offensive ones-lest they destroy the atmosphere essential to their purpose.

## A2 Religion PIC

### 1AR – Religion PIC

#### Suppressing anti religious speech backfires. **Malik 12**

(Kenan, . NBB/history of science @Imperial College <https://kenanmalik.wordpress.com/2012/04/19/why-hate-speech-should-not-be-banned/> 4-19)

PM: What do you think about proposals for restricting defamation of religion? KM: It is as idiotic to imagine that one could defame religion as it is to imagine that one could defame politics or literature. Or that the Bible or the Qur’an should not be criticized or ridiculed in the same way as one might criticize or ridicule The Communist Manifesto or On the Origin of Species or Dante’s Inferno. A religion is, in part, a set of beliefs – about the world, its origins, and humanity’s place in it – and a set of values that supposedly derive from those beliefs. Those beliefs and values should be treated no differently to any other sets of beliefs, and values that derive from them. I can be hateful of conservatism or communism. It should be open to me to be equally hateful of Islam and Christianity. Proponents of religious defamation laws suggest that religion is not just a set of beliefs but an identity, and an exceptionally deeply felt one at that. It is true that religions often form deep-seated identities. But, then, so do many other beliefs. Communists were often wedded to their ideas even unto death. Many racists have an almost visceral attachment to their beliefs. Should I indulge them because their views are so deeply held? And while I do not see my humanism as an identity with a big ‘I’, I would challenge any Christian or Muslim to demonstrate that my beliefs are less deeply held than theirs. Freedom of worship – including the freedom of believers to believe as they wish and to preach as they wish – should be protected. Beyond that, religion should have no privileges. Freedom of worship is, in a sense, another form of freedom of expression – the freedom to believe as one likes about the divine and to assemble and enact rituals with respect to those beliefs. You cannot protect freedom of worship, in other words, without protecting freedom of expression. Take, for instance, Geert Wilders’ attempt to outlaw the Qur’an in Holland because it ‘promotes hatred’. Or the investigation by the British police a few years ago of Iqbal Sacranie, former head of the Muslim Council of Britain, for derogatory comments he made about homosexuality. Both are examples of the way that defense of freedom of religion is inextricably linked with defense of freedom of speech. Or, to put it another way, in both cases, had the authorities been allowed to restrict freedom of expression, it would have had a devastating impact on freedom of worship. That is why the attempt to restrict defamation of religion is, ironically, an attack not just on freedom of speech but on freedom of worship too – and not least because one religion necessarily defames another. Islam denies the divinity of Christ, Christianity refuses to accept the Qur’an as the word of God. Each Holy Book blasphemes against the others. One of the ironies of the current Muslim campaign for a law against religious defamation is that had such a law existed in the seventh century, Islam itself would never have been born. The creation of the faith was shocking and offensive to the adherents of the pagan religions out of which it grew, and equally so to the two other monotheistic religions of the age, Judaism and Christianity. Had seventh-century versions of today’s religious censors had their way, the twenty-first-century versions may still have been fulminating against offensive speech, but it certainly would not have been Islam that was being offended.

## A2 Revenge Porn PIC

### 1AR PIC

#### 1. Pics are a voting issue

#### A. They artificially inflate the worth of bad disads by capturing the case which makes aff prep impossible- we have to allocate time to silly impact turns for disads that don’t link

#### B. Topic education-PICS dodge the central question and focus on the most obscure, least relevant arguments to catch the aff unprepared

(optional)

#### C. Conditional pics are uniquely abusive- they force us to withhold our best offense and affect the way we debate every other issue. Combined with procedurals like T they make aff coverage impossible

#### Perm do both – no revenge porn in newspapers – editorial boards solve and they can’t name a single example

#### Exposure inevitable – CP doesn’t regulate things like the internet and social media. Risk of a turn o/w

#### Revenge porn is unconstitutional because of lack of consent- first amendment irrelevant -perm do the CP

Barmore, JD Candidate, 15

(Cynthia, Criminalization in Context: Involuntariness, Obscenity, and the First Amendment, The Board of Trustees of Leland Stanford Junior University Stanford Law Review February, 2015 Stanford Law Review 67 Stan. L. Rev. 447)

The speaker's interests in revenge porn immediately run up against those of the person who never consented to distribution of his or her sexually explicit images. Unlike other speech that harms the person it is about, revenge porn visually communicates, in extreme detail, the most private of facts: how someone looks engaged in sexual acts. The speaker's interest in communicating disgust toward the victim is minute compared to the vast quantity of private information actually conveyed. This type of pornography, patently offensive for the violation of consent within sexual relationships rather than for the speaker's ideas, fits squarely within the Court's tradition of regulating obscenity. As the Court stated more than forty years ago, "to equate the free and robust exchange of ideas and political debate with ... exploitation of obscene material demeans the grand conception of the First Amendment and its high purposes in the historic struggle for freedom." n216 The First Amendment does not create a right to publicly distribute sexually explicit images without the consent of those depicted.

#### Rollback – Revenge porn laws must include an intent requirement- if they do its not competitive, if they don’t it will be struck down

Driscoll, JD Candidate, 16

(Sarah E., Revenge Porn: Chivalry Prevails as Legislation Protects Damsels in Distress over Freedom of Speech Roger Williams University Law Review Winter, 2016 Roger Williams University Law Review 21 Roger Williams U. L. Rev. 75)

When California first drafted its revenge porn bill, the American Civil Liberties Union ("ACLU") strongly objected to its implementation on the grounds that it was in violation of the First Amendment because the legislation did not include an element of intent and was thus overinclusive, creating liability for those legally in possession of the images of another. n133 The ACLU also opposed the law because of the potential chilling effect it posed on other types of protected speech due to the overinclusive and overbroad nature of the wording of the bill. n134 In its opposition, [\*101] the ACLU argued that: "the posting of otherwise lawful speech or images even if offensive or emotionally distressing is constitutionally protected. The speech must constitute a true threat or violate another otherwise lawful criminal law, such as stalking or harassment statute, in order to be made illegal." n135 The bill was amended to include language that limited its reach to only those specific instances where "the person who posted the revenge porn [did so] with the intent to "cause serious emotional distress.'" n136 The final version of the bill also required that the victim experience serious emotional distress or harm caused by the posting of the involuntary pornography. n137 Without this intent requirement, the ACLU and legal blogger Eric Goldman, argue that the law would potentially be in violation of First Amendment protections. n138 Goldman wrote: California's new law probably sidesteps First Amendment problems by requiring intent to cause serious emotional distress. Without such a restriction, involuntary porn laws can face significant First Amendment limits. Intimate depictions are often part of other people's life history-a story that person may want to tell in full. Further, by design, privacy laws suppress the flow of truthful information. For example, consider Anthony Weiner's sexting photos. California's new law wouldn't apply to them (they were selfies), but any law restricting a recipient's redistribution of those images may substantially hinder important social discourses. The [\*102] recipient could publicly claim that she received sexting photos from a famous politician, but she may need to provide photographic proof to substantiate her claims-especially in the face of the politician's inevitable denials. Weiner's sexting photos provide crucial evidence of his dubious decision-making and recidivism, so any law that interfered with their disclosure may violate the First Amendment. n139 With the addition of the requirement of the intent to cause serious emotional distress and the requirement that actual, serious emotional distress be caused, California's revenge porn law has remedied some of the concerns surrounding the laws possible violation of First Amendment protections. n140 However, Goldman's fear of how the law may chill protected speech is not entirely remedied by the amendments. n141 As Goldman comments, "intimate depictions are often part of other people's life history-a story that person may want to tell in full." n142 Goldman's example, however, demonstrates the complexities surrounding the creation of revenge porn legislation and the issues faced by legislators. The example does not address the real possibility that a person may have multiple reasons for sharing images, and one of those reasons, even in the case of Goldman's example, may be to seek revenge. As Goldman appropriately reasons, revenge porn legislation could prohibit the redistribution of private, sexual images when such redistribution is required for the greater good.

#### Prohibiting revenge porn blocks meaningful political speech and trades off with more effective civil action

Reisenwitz 13

(Cathy, is a sexuality and law writer, <http://talkingpointsmemo.com/cafe/revenge-porn-is-awful-but-the-law-against-it-is-worse> 10-16)

While well-intentioned, this kind of legislation is over-broad, poses serious free-speech threats and may not even be necessary going forward. The first thing it's important to keep in mind is that revenge porn laws criminalize speech. The only California state senator to vote against SB 255, Leland Yee, voiced concerns about the law. "First Amendment protections are fundamental to our free society," he said in a statement to NBC News. "While I appreciate the intent of this legislation, I feel it was too broadly drawn and could potentially be used inappropriately to censor free speech." While many would argue that there exists speech so egregious that banning it warrants violating the First Amendment, most would also agree on the extreme importance of keeping that bar very high. Banning revenge porn undoubtedly lowers that bar, and comes with some consequences which are problematic for freedom of the press. As the ACLU has discussed, such laws can be used to censor photos with political importance. As Jess Rem pointed out for Reason magazine, people such as Jeff Hermes, Director of the Digital Media Law Project at Harvard, share this concern about the law. Hermes has stated that revenge porn laws could have kept former New York Rep. Anthony Weiner's (D) nude selfies legally suppressed. Hermes said to take, for example: "Circumstances where photographs exist of a political candidate who has run their campaign on their squeaky-clean image," but there are photographs of that candidate in a compromising position. "The distribution of these photos could indicate (to voters) that candidate might be lying about their past." The difficulty in differentiating newsworthy stories and smut is the reason it's important to keep even uncomfortable speech free. Another important kind of speech the law might forbid is a photo or video which contains evidence of a crime. In talking with Katie Couric, Rebecca Wells discusses trying to work with law enforcement to get the photos taken down. As she describes it, nothing could be done because, up until now, distributing an uncopyrighted photo wasn't illegal. But this isn't entirely true. Civil lawsuits have always been available to victims. Late last year a Texas judge ordered an 'indefinite' lock on revenge porn site PinkMeth.com as Shelby Conklin sought "punitive damages of more than $1 million for intrusion on seclusion, public disclosure of private facts, appropriation of her name and likeness and intentional infliction of emotional distress." The case was eventually settled, and the offenders paid restitution instead of serving time in jail. This is just one example of the many successful lawsuits by victims of revenge porn. Before the law, there were already at least seven different kinds of laws revenge porn could have violated, depending on the circumstances. They include but are not limited to laws dealing with extortion and blackmail, child pornography, invasion of privacy, copyright infringement, voyeurism, intent and violation of the Consumer Protection Act. Lawsuits benefit the victims through compensation, cost the state less than imprisonment, and only go to trial in a case of serious harm. In addition, allowing the courts to deal with these individual cases poses far less threat to the First Amendment than more legislation.

#### CP won’t solve and reinforces the public/private dichotomy

Driscoll, JD Candidate, 16

(Sarah E., Revenge Porn: Chivalry Prevails as Legislation Protects Damsels in Distress over Freedom of Speech Roger Williams University Law Review Winter, 2016 Roger Williams University Law Review 21 Roger Williams U. L. Rev. 75)

Delaware has made a valiant effort to criminalize revenge porn. n123 The statute entitled "Violation of privacy" creates a class A misdemeanor for those who post revenge porn. n124 The law applies to anyone who: Knowingly reproduces, distributes, publishes, transmits or otherwise disseminates a visual depiction of a person who is nude, or who is engaging in sexual conduct, when the person knows or should have known that the reproduction, distribution, exhibition, publication, transmission, or other dissemination as without the consent of the person depicted and that the visual depiction was created or provided to the person under circumstances in which the person depicted has a reasonable expectation of privacy. n125 Two problems arise from Delaware's legislation: (1) its definition of "nude," and (2) the required element that the person depicted in the image has a reasonable expectation of privacy in the image. The statute defines "nude" to include the genitals, the pubic area, the buttocks, or "any portion of the female breast below the top of the areola." n126 The definition requires that the area be uncovered or visible through "less than opaque clothing." n127 [\*99] The following hypothetical illustrates why this is a problem. Josh and Katie have been dating for six months. Over the summer, the pair spent a week vacationing in Hawaii. While on vacation, multiple photographs were taken of Josh and Katie while at the beach. In the photographs, Katie is wearing a white bikini. Unbeknownst to Katie at the time, the swimsuit becomes see-through when wet. Multiple pictures taken during the vacation show Katie in her see-through white bikini. After Josh breaks up with Katie a few months after the vacation, Katie notices pictures from their trip to Hawaii on his Facebook in which she is wearing the white see-through bikini, images which she never consented to Josh posting. Katie brings suit against Josh claiming she had a reasonable expectation of privacy in the images and that the images depict Katie in the "nude" as defined under Delaware law. Josh argues that the images do not depict Katie in the "nude." Under the statute, however, the images do. Katie argues that although she was unaware of the see-through nature of her bikini at the time, she is aware now and that she has a reasonable expectation of privacy in the images taken of her bikini-clad body. Delaware's definition of "nude" is substantially overinclusive because of situations like these, and therefore, the statute is unconstitutional because it is not narrowly tailored. n128 The statute is substantially overinclusive because it could potentially apply to a young adult man showing an image of his girlfriend in a t-shirt and a thong to his buddies because the definition of "nude" includes the "buttocks" and showing the image to his friends would constitute "distributing, exhibiting, publishing, transmitting, or otherwise disseminating" a nude image in which his girlfriend had a reasonable expectation of privacy. n129 Moreover, statutes that include "reasonable expectations of privacy" language can be problematic. Terms such as this have the potential to create more ambiguity than they resolve because the term has long been associated with Fourth Amendment search [\*100] and seizure jurisprudence, and as such, carries Fourth Amendment doctrinal baggage with its use. n130 Further adding to the ambiguity and overinclusive nature of Delaware's statute is the inclusion of images depicting the buttocks and, as stated before, "the human body visible through less than opaque clothing." n131 State laws should not include such expansive definitions of nudity due to the risk of being deemed overinclusive. n132

#### This causes gendered violence

[V. Spike Peterson](http://80-muse.jhu.edu.proxy.library.emory.edu/journals/sais_review/v020/#authbio)Associate Professor of Political Science at the University of Arizona. *SAIS Review* 20.2 (2000) 11-29 Project Muse

This article explores how **the dichotomy of public and private** is structured and how it **influences international relations** (IR) theory/practice. I take as my first starting point the assertion that the binary of **public** and **private is a foundational dichotomy of Western thought**, [3](http://80-muse.jhu.edu.proxy.library.emory.edu/journals/sais_review/v020/#FOOT3) and **that** it **has profound significance** for political scientists and feminists. The former have constituted their field of study by reference to the public sphere of politics and power brokering. The latter have criticized the relegation of women and femininity to a depoliticized realm of "private life" and familial relations. Both communities struggle with the question of how economics fits into this binary framework. My second starting point is that **foundational dichotomies are both conceptually and politically problematic.** Conceptually, **the structure of dichotomies** (posing mutually exclusive, opposing, and **[End Page 11]** polarized terms) **promotes thinking that is static** (unable to acknowledge or address change), **reductionist** (unable to accommodate the complexities of social reality), **and stunted** (unable to envision more than two opposing alternatives). [4](http://80-muse.jhu.edu.proxy.library.emory.edu/journals/sais_review/v020/#FOOT4) **Because social life is dynamic, complex, and multi-faceted, thinking that relies on reductionist dichotomies encourages inadequate analyses**. Politically, foundational **dichotomies privilege the first term at the expense of the second,** and their deployment implicitly or explicitly valorizes the attributes of the first term. **Because foundational dichotomies**--culture-nature, reason-emotion, subject-object, mind-body, public-private--**are gendered, action that relies on dichotomies privileges that which is associated with masculinity over that which is associated with femininity**. [5](http://80-muse.jhu.edu.proxy.library.emory.edu/journals/sais_review/v020/#FOOT5)

#### GENDER POLARIZATION RISKS DESTRUCTION OF THE PLANET Bem 93

Sandra Lipsitz **Bem,** Professor of Psychology at Cornell, The Lenses of Gender 19**93**, p. 193   
In addition to the humanist and feminist arguments against gender polarization, **there is an overarching moral argument that fuses the antihumanist and antifeminist aspects of gender polarization. The essence of this moral argument is that by polarizing human values and human experiences into the masculine and feminine, gender polarization not only helps to keep culture in the grip of males themselves; it also keeps the culture in the grip of highly polarized masculine values to emphasize making war over keeping the peace, taking risks over giving care, and even mastering nature over harmonizing with nature that when allowed to dominate societal and even global decision making, they create the danger that humans will destroy not just each other in massive numbers but the planet.**

### XT: Not competitive/no link

#### Not Protected or the CP isn’t competitive

Kitchen, JD Candidate, 15

(Adrienne N., THE NEED TO CRIMINALIZE REVENGE PORN: HOW A LAW PROTECTING VICTIMS CAN AVOID RUNNING AFOUL OF THE FIRST AMENDMENT Chicago-Kent Law Review 2015 Chicago-Kent Law Review 90 Chi.-Kent L. Rev. 247)

Although First Amendment concerns loom over revenge porn legislation, the right to free speech is limited. n249 Free speech does not - and should not - protect the ability to defame others or invade their privacy by disseminating nude or sexually explicit images without consent: n250 Speech that is ""vulgar,' "offensive,' and "shocking' ... is not entitled to absolute constitutional protection under all circumstances." n251 Courts examine laws that infringe on speech, including images, using strict scrutiny unless the speech falls under an exception, like obscenity when courts use rational [\*277] basis review. n252 Revenge porn is not protected speech because it is obscene, and therefore falls under a categorical exception to the First Amendment. n253 Regardless, even if courts do not deem revenge porn obscene, a sufficiently clear law would avoid running afoul of the First Amendment. n254 First Amendment scholars say careful drafting could keep any law criminalizing revenge porn from running afoul of the First Amendment. n255 Indeed, one free speech defender says "a suitably clear and narrow statute banning nonconsensual posting of nude pictures of another, in a context where there's good reason to think that the subject did not consent to publication would be constitutional" because a narrow statute would avoid criminalizing too much speech. n256 Another argues a law regulating public exhibition of sexual acts "would be presumptively valid" because it is a legitimate governmental regulation that does "not significantly infringe any privacy rights." n257 A law with specific definitions would apply only in certain instances. Exceptions for lawful dissemination and voluntary exposure would similarly avoid criminalizing too much speech. Focusing on the time, place and manner of revenge porn would prevent a law from criminalizing the speech's content.

#### Revenge porn is Obscenity-not protected

Barmore, JD Candidate, 15

(Cynthia, Criminalization in Context: Involuntariness, Obscenity, and the First Amendment, The Board of Trustees of Leland Stanford Junior University Stanford Law Review February, 2015 Stanford Law Review 67 Stan. L. Rev. 447)

This Note provides the first in-depth analysis of how obscenity law can and should be used to criminalize revenge porn within the boundaries of the First Amendment. While no state legislature has characterized revenge porn as obscenity, this Note argues they should because the obscenity context provides the greatest insulation from a First Amendment challenge. If drafted to prohibit obscenity, such laws would enable states to robustly and constitutionally criminalize revenge porn, even when the photographer is the person objecting to distribution or the distributor acts without intent to cause serious emotional distress. The hope is this Note will guide legislatures to draft constitutionally responsible legislation to combat revenge porn.

### XT: law Fails

#### Legal ambiguity and standards make revenge porn laws ineffective

Driscoll, JD Candidate, 16

(Sarah E., Revenge Porn: Chivalry Prevails as Legislation Protects Damsels in Distress over Freedom of Speech Roger Williams University Law Review Winter, 2016 Roger Williams University Law Review 21 Roger Williams U. L. Rev. 75)

Although this version of the law includes images categorized as "selfies," the law is still unsatisfactory because it is ambiguous due to terminology such as "identifiable person" and "depicted or engaged in an act of sexual intercourse." The use of "identifiable person," as discussed in more detail in the next section, is problematic: arguably, "identifiable" can mean different things to different people - is it identifiable to those viewing the image? Is it identifiable to the subject of the image? Who must the subject of the image be able to be identified by? Secondly, requiring that there is an agreement or understanding that the image remain private can also pose problems. Unless there is an explicit agreement that the image remain private, this sort of understanding is incredibly subjective and up for interpretation. Even where there is an explicit agreement, this type of situation is ripe for the "he said, she said" debate. The law, therefore, creates just as many problems as it solves. Additionally, although California's law is very victim-friendly, revenge porn activists say the states are not doing enough. n144 It is argued that the burden to prove liability under California's revenge porn statute is too high and that it is unlikely for victims to be able to conclusively prove the images were distributed with the intent to cause severe emotional distress. n145 [\*104] It is evident that although states are attempting to provide remedies to victims of revenge porn, "many laws that have been passed suffer from overly burdensome requirements, narrow applicability, and/or constitutional infirmities." n146 In order for a law to benefit victims and protect First Amendment concerns, the law must be exactingly narrowly drawn. n147

#### Law fails to stop revenge porn- need societal conversation

Driscoll, JD Candidate, 16

(Sarah E., Revenge Porn: Chivalry Prevails as Legislation Protects Damsels in Distress over Freedom of Speech Roger Williams University Law Review Winter, 2016 Roger Williams University Law Review 21 Roger Williams U. L. Rev. 75)

The phenomenon of disgruntled ex-partners seeking revenge after a break-up is not a new occurrence. Long before these men and women flocked to the Internet to expose the sexual images of the people they once cared for, "slut shaming" was occurring on and off the Internet. n217 Victims harmed by the acts of these [\*116] malicious crusaders currently have different routes of redress - yet each possible route comes with different problems of its own. If a victim chooses to travel down the road of the tort claim of Intentional Infliction of Emotional Distress, he or she may find it almost impossible to prove the claims of the tort or that the defendant is insolvent. If, instead, the victim is able to proceed under an available criminal law, she may still experience a bumpy road on her healing journey. No matter which road a victim chooses to travel down, having these options is critical for revenge porn victims. The unsettling reality, however, is that these legal options are not acting as a deterrent to those hosting revenge pornography websites and those choosing to publish images of others to those sites. Whether a federal law criminalizing involuntary pornography distribution in order to seek revenge would act as a deterrent is yet to be seen. Because the current available remedies to victims fail as a deterrent, it is rationally presumed that a federal law will also fail. In order to remedy the expanding problem of revenge porn, it is advisable to tackle the problem before it starts - that being educating the public and addressing the grave consequences of revenge pornography through the use of the media so readily available to those partaking in the revenge porn phenomenon - the Internet, social media, and the press. Laws do not always change the conduct they seek to prevent and punish. Although it is admirable that the law tries to have this effect, it does not always succeed. Therefore, in this instance, the conduct of those causing the harm in revenge porn cases must be addressed and remedied at the societal level. When there is no outlet for these images, no audience for these images, and no desire to post these images, that is when the images will cease to cause harm to victims. n218 Until then, however, victims must [\*117] continue to give voice to their stories, to draw attention to the issue of revenge pornography, and hope for a solution that legally toes the line of affording protection to victims while taking into consideration the very real First Amendment implications of revenge porn.

### XT: Rollback

#### Litigation takes out solvency and ensures rollback

Patton, JD, 15

(Rachel Budde, TAKING THE STING OUT OF REVENGE PORN: USING CRIMINAL STATUTES TO SAFEGUARD SEXUAL AUTONOMY IN THE DIGITALAGE Copyright (c) 2015 The Georgetown University The Georgetown Journal of Gender and the Law Spring, 2015 The Georgetown Journal of Gender and the Law 16 Geo. J. Gender & L. 407)

While rebutting the presumption of invalidity may not be impossible, a First Amendment challenge would prove time consuming, hindering the applicability of the statute until the judiciary reaches a final determination as to the statute's constitutionality. n194 The resulting uncertainty may make prosecutors less likely to prosecute under the new statutes for fear that their convictions will be overturned if the law is deemed unconstitutional.

### XT: Law Fails/Tradeoff

#### Revenge porn laws backfire and tradeoff with more effective options

Remington, SW, 13

(Jess, 10-9, http://reason.com/blog/2013/10/09/should-government-ban-revenge-porn)

Even beyond the laws' specifics is the fact that – regardless of how it’s worded – the law criminalizes images, which cannot be inherently harmful. Society’s reaction to nude photos is what causes victims’ emotional and professional suffering. And since each generation becomes increasingly comfortable with nudity and sexuality, revenge porn laws may soon be another outdated and impossible-to-remove statute on the books. Revenge porn laws also run the risks characteristic of most criminal statutes: they are inflexible, they could create victims where there are none, they are susceptible to discriminatory police enforcement, and they add more inmates to a country with the highest per capita prison population in the world. This is in contrast to civil lawsuits, in which the amount of compensation awarded to plaintiffs is determined on a case-by-case basis, defendants are only brought to trial when victims feel seriously harmed, police have less room to discriminate, and offenders pay out-of-pocket rather than in a jail cell. In fact, numerous victims of revenge porn have successfully sued their exes in civil court. Most importantly, we can resolve the fundamental problems underlying revenge porn through cultural change that doesn’t involve the risks associated with legal bans. We inadequately shame those who share images of others’ nudity without their consent. We need to be sure to ostracize everyone who even considers posting revenge porn.

#### SQ laws are sufficient to solve revenge porn- CP causes overciminalization wrecking the entire legal system

Patton, JD, 15

(Rachel Budde, TAKING THE STING OUT OF REVENGE PORN: USING CRIMINAL STATUTES TO SAFEGUARD SEXUAL AUTONOMY IN THE DIGITALAGE Copyright (c) 2015 The Georgetown University The Georgetown Journal of Gender and the Law Spring, 2015 The Georgetown Journal of Gender and the Law 16 Geo. J. Gender & L. 407)

In addition to potential legal problems arising from new revenge porn statutes, targeted legislation also creates policy issues, primarily concerning overcriminalization. Overcriminalization, characterized in part by the increasing number of criminal laws, has become an important issue in modern-day criminal law, drawing the attention of scholars, n195 Justice Department [\*434] officials, n196 the House Judiciary Committee, n197 and the media. n198 Overcriminalization creates several problems for the average citizen. With the number of criminalized behaviors increasing almost daily, it becomes difficult for the average person to know what the law is in order for him to follow it, which, in turn, frustrates the deterrence-based purpose of the criminal law. n199 Further, even if individuals know the law and are able to follow it, overcriminalization decreases the power of the criminal law as a symbolic tool. n200 As John Coffee, Jr. stated, "[o]nce everything wrongful is made criminal, society's ability to reserve special condemnation for some forms of misconduct is . . . lost." n201 Overcriminalization also poses problems for legal actors and for the legal system. The expansion of the criminal code necessarily contributes to prosecutorial power. Because criminal codes are so broad, law enforcement officers and prosecutors cannot enforce the law as written; there would be too many offenders. n202 It follows, then, that prosecutors and law enforcement officers need to pick and choose which offenders to arrest and to charge. n203 To give prosecutors more statutes under which to charge offenders expands their options but does not guarantee that the ill sought to be remedied by the legislature will be cured or, indeed, that the new statute will be utilized. Additionally, the criminal law is subject to capture by interest groups who lobby for their positions and who use legislators' political roles to criminalize behavior that the interest group feels is deserving of criminal punishment. n204 Finally, where new laws punish conduct already outlawed by federal laws or by other state laws, the possibility for disproportionate punishment is great, which damages both individual defendants and the integrity of the criminal justice system as a whole. n205 While it is difficult to say definitively how many crimes currently exist, scholars agree that the criminal law has been expanding for at least the past thirty years and continues to do so. n206 The increase in the number of criminal laws is attributable, in part, to what some call "crime du jour" legislation. n207 This [\*435] legislation is "drafted in response to whatever crime is the focal point in the media--even if that offense is already defined and punished harshly and effectively under state law." n208 Scholars note that, although such legislation is well meaning, it "ends up undermining the criminal code rather than improving it." n209 The problems with crime du jour legislation are manifold, but chief among them is the distortion of grading schemes in relation to punishment, caused in part by the overlap of new and existing laws. For example, in 1982, the Pennsylvania legislature created the new crime of 'institutional vandalism,' which punished the desecration of a historic burial place. n210 This conduct, however, was already considered criminal under a different statute. n211 Although the new statute and the old statute originally proscribed the same grade level (second degree misdemeanor), the newer statute was later amended, shifting the grading of the offense up to a third degree felony. n212 No such change was made in the existing statute, creating inconsistent punishment for commission of the same crime. n213 Another related issue is legislators' tendency to assign higher criminal penalties than necessary to the new crime du jour law. n214 When emotions are high and media coverage is plentiful, it is natural for legislators, who are beholden to their constituents, to temporarily exaggerate the relative seriousness of a nominally new offense, even inadvertently. n215 What seems appropriate at the time may seem less so later when the heat dissipates and public concern moves on to the next crime du jour. n216 Not only does this exaggerated grading affect particular defendants who are charged with the crime, but it sets the bar for further crime du jour legislation. n217 The result is an overinflated code that serves neither the public nor the defendant. The current push towards drafting new revenge porn statutes exemplifies crime du jour legislation. The issue has received national media coverage, and numerous advocacy groups have sprung up to try to spur legislators into [\*436] action. n218 Some legislators are even soliciting help from these activist groups in drafting their bills. n219 As in other instances of crime du jour legislation, the media reaction and public outcry are driving the legal response. Of course revenge porn is a serious issue and offenders deserving of criminal punishment. However, bowing to pressures imposed by the media and the public to create new and unnecessary laws creates more problems than it solves: it furthers inconsistency in the grading of the criminal code and imposes on defendants a harsher sentence than is necessary. Instead, a better option is to punish revenge porn offenders using appropriate criminal statutes that are already part of our body of law. Not only can existing statutes provide a sufficient basis for mounting a revenge porn prosecution, but such an approach avoids the problems created by crime du jour legislation generally, as well as problems inherent in targeted revenge porn laws specifically.

## A2 Survivor-Control PIC

### 1AR – Survivor-Control PIC

#### 1. UKen just wants to suppress bad press about their handling of sexual assault, it’s not for survivors’ benefit – this card is fire. Hides 9/22

“U. Kentucky is suing its student newspaper, trying to block sexual assault reporting,” James Higdon, 9/22/16, Washington Post.

The University of Kentucky is suing the school’s independent student newspaper, the Kentucky Kernel, in an effort to block the release of records related to a sexual assault investigation on campus, a rare move that the university says is necessary to protect victims’ private and confidential information.¶ The lawsuit is unusual in a number of ways, in part because the university acknowledges it is reluctantly suing the student newspaper, which already has the documents it sought under an open records request — the paper already has used the documents in covering alleged cases of professor-on-student sexual assault and harassment. Because the school can’t go after the state’s Attorney General following an opinion that the school would have to release documents in the case, the university is targeting its own students in an effort to block the release of such records.¶ “For the university, this issue is about one thing — how to protect the privacy of victim survivors who courageously come forward to report an incident,” said Jay Blanton, a university spokesman. “We believe strongly that only a victim has the right and perspective to tell their story — not the media, not another student or member of the campus, not another perpetrator or stalker. A court of law is the only recourse we have for settling that question.” The Kernel staff strongly disagrees, and in editorials the paper has been blasting the university for its handling of the situation, arguing that the school is out to protect one thing: itself. Marjorie Kirk, the Kernel’s editor in chief, said she believes the university is “taking advantage of a broken system to protect the university’s image” and is putting up barriers to information as a way to limit the public’s ability to question its behavior.¶ “They cannot choose which laws to follow as it suits them and their image,” Kirk said. “In this case, the consequence is covering up sex crimes and hiding sex offenders in higher education. The consequence is also inhibiting First Amendment rights of the public.”

#### 2. The counterplan is unconstitutional, creates a chilling effect for reporting other crimes and puts too much faith in public officials. Arant 91

Morgan David Arant, Jr. [David Arant is a doctoral student in the School of Journalism and Mass Communication¶ at the University of North Carolina at Chapel Hill.] 1991 Vol. 68, No. ½

Under these procedures, in which the law enforcement and judicial¶ officials are responsible for shielding the identity of the rape victim,¶ potential civil liability for revealing the identity shifts to these officials.¶ Law enforcement officials were named defendants in the suits brought¶ by B J.E in Florida and by Hyde in Missouri. Such suits for inadvertent¶ or intentional release may proliferate if more states move to exempt¶ sexual assault victim identities from the public record. Placing the burden¶ on police may have a chill effect on communication between the¶ police beat reporter and law enforcement officers. Officials who provide¶ crime information to reporters may be cowed by the threat of suits and¶ may understandably refuse to reveal details of police reports in a timely¶ manner.¶ Conclusions¶ Legal avenues to prevent the identities of victims of sexual assault¶ from beii published have faced stiff constitutional challenges in the¶ courts and therefore have not proved effective in protecting the privacy¶ of rape victims. State criminal laws prohibiting publication of the identities¶ of rape victims are not enforced, and the U.S. Supreme Court has¶ rejected their use to bolster plaintiffs' arguments in civil privacy actions.¶ In Car and Florida Star the Court upheld the constitutional privilege of¶ the press to publish lawfully obtained, truthful information, wen when¶ that information reveals the identity of rape victims. Though the Court said that in some situations a state interest in protecting the privacy of¶ victims may prevail over the First Amendment guarantees of the press,¶ the Court has not upheld a public disclosure of private facts judgment¶ against the press for identifying rape victims.¶ Public records laws that exempt the identities of sexual assault victims¶ shii the burden to public officials to protect the victims of sexual¶ assault, and victims have had some success in suing these officials¶ when their names have been inadvertently released. Such a shi may¶ produce recalcitrant public officials unwilling to open police reports to¶ the medii and a chilling effect on the reporting of community crime, a¶ subject of vital public interest. Because the Court has placed strict limitations¶ on the use of restraining orders and court closures, their blanket¶ use to protect the identities of sexual assault victims will not pass constitutional¶ muster.¶ Because these legal avenues recommended by advocates of protection¶ of the identities of sexual assault victims face such constitutional¶ and practical obstacles, the decision to publish or not seems to be left to¶ the press as a matter of policy. ?he medii are free to pursue a policy¶ toward more openness about reporting rape, including the identity of¶ the victims, without the threat of successful privacy action by victims.¶ Questions that need to be answered are ones of policy and ethics, not of¶ law. Among questions for further discussion are: Should the press treat¶ the identification of rape victims lie that of victims of other violent¶ crimes? Should the press identify rape victims only when they give their¶ permission, as was the case at the Des Moines Register articles? Is the¶ medii practice of not identifying the accusers (the rape victims) fair to¶ those accused of rape, who usually are identified in the press?

#### 3. Disclosing names is important to end stigma of rape

Denno, JD Penn, 93

(Deborah, Law @Fordham, THE PRIVACY RIGHTS OF RAPE VICTIMS IN THE MEDIA AND THE LAW\* PERSPECTIVES ON DISCLOSING RAPE VICTIMS' NAMES, Fordham Law Review Volume 61 | Issue 5 Article 4)

According to Michael Gartner, president of NBC News, society's incorrect impressions and stereotypes about rape can be eliminated if the press more fully informs viewers and readers about the key facts in a rape case including, in most circumstances, the rape victim's name.8 6 Geneva Overholser, editor of The Des Moines Register, agrees, claiming that society contributes to rape's stigma by treating rape differently from other crimes." She compares, for example, the failure to disclose a rape victim's name to the failure to reveal that an individual's death resulted from AIDS.88 In both cases, the stigma is perpetuated because the information is considered to be devastating.89 Similarly, others have commented that maintaining anonymity is a "demeaning form of self-censorship," 90 that puts the rape victim in a category apart from other violent crime victims, thereby perpetuating sexist stereotypes.91 Such isolation also implies that being raped is disgraceful. 92 As Karen DeCrow, former president of the National Organization for Women has stated, "[n]ow is the time for us to understand that keeping the hunted under wraps merely establishes her as an outcast and implies that her chances for normal social relations are doomed forever more. Pull off the veil of shame. Print the name." 93 This perspective was reinforced when, in the spring of 1990, a year before the William Kennedy Smith incident, a story about a rape victim published in The Des Moines Register94 won the Pulitzer prize. The story described the ordeal of Nancy Ziegenmeyer, a twenty-nine year-old Iowa housewife and mother of three who was raped in her car by a stranger.95 Ziegenmeyer decided to go public with her story after reading an editorial by Overholser in The Des Moines Register, contending that rape victims should reveal their identities in order to eliminate the stigma of rape. 96

#### 4. Kills all reporting on sexual violence and newspaper policies solve their net benefit. Ticker 94

Ban the naming of rape victims? By: Ticker, Bruce S., Editor & Publisher, 0013094X, 8/13/94, Vol. 127, Issue 33 [Philadelphia journalist working on a book about sexual violence.]

The Philadelphia Inquirer is now willing to identify an accuser when unique if undefined circumstances warrant it, editor Maxwell E.P. King announced in an op-ed column earlier this year.¶ That decision was reached after an exhaustive study by editors and reporters of whether confidentiality should be uniformly denied as a way of removing "the stigma associated with rape," King explained.¶ The newspaper will in most cases continue to omit names of accusers but might not.¶ King writes, "The door is open, in certain cases, to naming a woman. The question won't be raised lightly or resolved quickly. We will consider it only when we think the length and breadth of the story merit such action. In all but the most exceptional cases, the woman's consent will be obtained before her name is published."¶ There might be cases which justify publishing the person's name, but just raising the possibility could scare off people who would lodge rape charges.¶ My concerns are legal and practical.¶ No citizen can take lightly the First Amendment's implications. Some journalists and lawyers might argue that a ban amounts to prior restraint. If lawmakers can prohibit the media from making one fact public, could this open the door to more official censorship?¶ Of course, law-enforcement authorities routinely withhold information in criminal cases already. They never identify juvenile suspects except in murders and other major crimes. When I covered a county courthouse in central Pennsylvania, the files on child sexual abuse were sealed because of the victims' ages.¶ Just as important are the specifics. Any reporter knows how rough it can be sometimes to pry even basic information from police and prosecutors. It would be no surprise if some authorities used a ban to deny reporters unrelated information, some of which even victim-rights advocates might want published to raise awareness about rape.¶ King, who opposes any official ban, wrote, "When release of a name is barred by law, the courts may seal the entire file. And without access to files, reporters would not be able to determine how many cases resulted in plea bargains, the length of sentences or allegations that some judges or lawyers acted insensitively. In short, legislation would create more problems than it would solve."¶ Those files also provide details that make for a more thorough story. If a legal ban applied to names and addresses, what of murkier areas? If authorities may go beyond identities and addresses, other areas could be opera to interpretation.¶ Awareness is important in cutting down on sexual violence. Holding information back from the media for no legitimate reason would only thwart efforts to inform the public about rape. With a ban in place, editors might find their news gathering abilities hampered. Bad laws are not easily repealed or amended.¶ And what about penalties for journalists, court officers or other violators? No question that politicians would enjoy the sight of reporters and editors being led off to prison.¶ The problems with this idea are obvious. Yet if this ban can help reduce sexual violence, why not take a closer look

#### 5. The CP destroys government accountability, destroys privacy laws, and hides sexual abuse. WKYT 1/24

Judge sides with University of Kentucky in Kernel lawsuit, WKYT, 1/24/17.

A judge has ruled against the University of Kentucky's student newspaper in a battle with the university over documents related to a sexual harassment case. The ruling from Fayette Circuit Court Judge Thomas Clark came down on Monday. The Kernel had requested documents related to a sexual assault investigation involving a former professor, but the university denied the request saying it would allow the victims to be identified. According to UK President Eli Capilouto, Judge Clark sided with the university.¶ The judge also sided with the university that the investigative documents are exempt from public disclosure under a federal student privacy law.¶ Capilouto sent a message to students and staff on Tuesday saying the university's primary goal was always about preserving the rights of victim survivors and their privacy.¶ Attorney General Andy Beshear released a statement saying, "The court made today’s decision based on the same confidential review of documents that University of Kentucky officials denied the Attorney General’s office. The statutory power of the Attorney General to confidentially review such documents is necessary to avoid turning Kentucky’s Open Records Act into a ‘trust me’ law. Without the review, there can be no government transparency, as a bad actor can easily cheat the system. In the context of a university, it would allow an institution to hide serious issues related to sexual assault, to ignore victims, and to tell parents and families that a given campus may be safer than it is. The Attorney General’s office will continue its portion of the suit to ensure government transparency for all Kentucky families.”

#### 6. Asymmetrical name-publishing endangers the civil liberties of the accused. Denno 93

Denno, JD Penn, 93

(Deborah, Law @Fordham, THE PRIVACY RIGHTS OF RAPE VICTIMS IN THE MEDIA AND THE LAW\* PERSPECTIVES ON DISCLOSING RAPE VICTIMS' NAMES, Fordham Law Review Volume 61 | Issue 5 Article 4)

According to Alan Dershowitz, a Harvard Law School professor, withholding the name not only further stigmatizes rape, 13 it also endangers the civil liberties of those who are accused for two reasons: (1) it implies that the unnamed person was indeed a victim and, therefore, (2) hinders the presumption that the defendant is innocent.1 31 "People who have gone to the police and publicly invoked the criminal process and accused somebody of a serious crime such as rape must be identified.... In this country there is no such thing and should not be such a thing as anonymous accusation. If your name is in court it is a logical extension that it should be printed in the media. How can you publish the name of the presumptively innocent accused but not the name of the accuser?" ' 139 Likewise, Gartner states that the alleged victim should be treated journalistically in the same way as the accused. For example, because William Kennedy Smith's reputation became a matter of debate and scrutiny, the accuser should be in a comparable position.4 °

## A2 Trigger Warnings PIC

### 1AR – Trigger Warnings PIC

#### 1. Perm do both – the CP isn’t competitive with the aff, newspapers aren’t mandated by universities to give trigger warnings – the only time universities do mandate such is inside of classrooms. The aff is the net benefit – *C/A Aff Advantage*

#### 2. CA Goodman – ANY restriction on speech allows university administrators to misapply codes. Means the PIC isn’t just limited to it’s plan text and instead functions like the status squo which the 1AC impact turns

#### 3. Trigger warnings are psychologically and pedagogically harmful

Lukianoff, JD/Stanford, and Haidt, PhD Psychology @Penn, 15

(Greg and Jonathan, http://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/)

However, there is a deeper problem with trigger warnings. According to the most-basic tenets of psychology, the very idea of helping people with anxiety disorders avoid the things they fear is misguided. A person who is trapped in an elevator during a power outage may panic and think she is going to die. That frightening experience can change neural connections in her amygdala, leading to an elevator phobia. If you want this woman to retain her fear for life, you should help her avoid elevators. But if you want to help her return to normalcy, you should take your cues from Ivan Pavlov and guide her through a process known as exposure therapy. You might start by asking the woman to merely look at an elevator from a distance—standing in a building lobby, perhaps—until her apprehension begins to subside. If nothing bad happens while she’s standing in the lobby—if the fear is not “reinforced”—then she will begin to learn a new association: elevators are not dangerous. (This reduction in fear during exposure is called habituation.) Then, on subsequent days, you might ask her to get closer, and on later days to push the call button, and eventually to step in and go up one floor. This is how the amygdala can get rewired again to associate a previously feared situation with safety or normalcy. Students who call for trigger warnings may be correct that some of their peers are harboring memories of trauma that could be reactivated by course readings. But they are wrong to try to prevent such reactivations. Students with PTSD should of course get treatment, but they should not try to avoid normal life, with its many opportunities for habituation. Classroom discussions are safe places to be exposed to incidental reminders of trauma (such as the word violate). A discussion of violence is unlikely to be followed by actual violence, so it is a good way to help students change the associations that are causing them discomfort. And they’d better get their habituation done in college, because the world beyond college will be far less willing to accommodate requests for trigger warnings and opt-outs. The expansive use of trigger warnings may also foster unhealthy mental habits in the vastly larger group of students who do not suffer from PTSD or other anxiety disorders. People acquire their fears not just from their own past experiences, but from social learning as well. If everyone around you acts as though something is dangerous—elevators, certain neighborhoods, novels depicting racism—then you are at risk of acquiring that fear too. The psychiatrist Sarah Roff pointed this out last year in an online article for The Chronicle of Higher Education. “One of my biggest concerns about trigger warnings,” Roff wrote, “is that they will apply not just to those who have experienced trauma, but to all students, creating an atmosphere in which they are encouraged to believe that there is something dangerous or damaging about discussing difficult aspects of our history.”In an article published last year by Inside Higher Ed, seven humanities professors wrote that the trigger-warning movement was “already having a chilling effect on [their] teaching and pedagogy.” They reported their colleagues’ receiving “phone calls from deans and other administrators investigating student complaints that they have included ‘triggering’ material in their courses, with or without warnings.” A trigger warning, they wrote, “serves as a guarantee that students will not experience unexpected discomfort and implies that if they do, a contract has been broken.” When students come to expect trigger warnings for any material that makes them uncomfortable, the easiest way for faculty to stay out of trouble is to avoid material that might upset the most sensitive student in the class.

#### 4. Their framing destroys educational spaces – creates a chilling effect that precludes dialogue necessary to foster democracy

Kipnis 15 – professor in the department of radio, television, and film at Northwestern University [Laura, “My Title IX Inquisition,” The Chronicle of Higher Education, May 29, 2015, ProQuest, Accessed 7/17/15]//schnall

\*Laura Kipnis has been cleared of wrongdoing in the two Title IX investigations discussed in this essay.

Things seemed less amusing when I received an email from my university's Title IX coordinator informing me that two students had filed Title IX complaints against me on the basis of the essay and "subsequent public statements" (which turned out to be a tweet), and that the university would retain an outside investigator to handle the complaints. I stared at the email, which was under-explanatory in the extreme. I was being charged with retaliation, it said, though it failed to explain how an essay that mentioned no one by name could be construed as retaliatory, or how a publication fell under the province of Title IX, which, as I understood it, dealt with sexual misconduct and gender discrimination. Why Colleges Are on the Hook for Sexual Assault When Congress passed a gender-equity law more than 40 years ago, no one expected it to make colleges responsible for responding to rapes. Title IX was enacted by Congress in 1972 to deal with gender discrimination in public education -- athletics programs were the initial culprits -- and all institutions receiving federal funds were required to be in compliance. Over time, court rulings established sexual harassment and assault as forms of discrimination, and in 2011 the U.S. Department of Education advised colleges to "take immediate and effective steps to end sexual harassment and sexual violence." Since then, colleges have been scrambling to show that they're doing everything they can to comply, but still, more than 100 of them are under federal investigation for violating Title IX policies. Anyone with a grudge, a political agenda, or a desire for attention can easily leverage the system. I should pause to explain that my essay included two paragraphs about a then-ongoing situation on my campus involving a professor who was himself the subject of two sexual-harassment investigations involving two students. This professor subsequently sued university officials and one of the students for defamation, among other things. The charges had occasioned a flurry of back-and-forth lawsuits, all part of the public record, which had been my source for the two paragraphs. My point in citing this legal morass was that students' expanding sense of vulnerability, and new campus policies that fostered it, was actually impeding their educations as well as their chances of faring well in postcollegiate life, where a certain amount of resilience is required of us all. The email from the Title IX coordinator provided a link to information about our university's Title IX policies, which brought me to a page containing more links. Clicking around, I found information about the rights of accusers and what to do if you've been harassed, though I couldn't find much that related to me. I did learn that Title IX protects individuals who've reported sexual misconduct from retaliation -- characterized as "intimidation, threats, coercion, or discrimination" -- but I failed to see how I could have retaliated against anyone when it wasn't me who'd been charged with sexual misconduct in the first place. I wrote back to the Title IX coordinator asking for clarification: When would I learn the specifics of these complaints, which, I pointed out, appeared to violate my academic freedom? And what about my rights -- was I entitled to a lawyer? I received a polite response with a link to another website. No, I could not have an attorney present during the investigation, unless I'd been charged with sexual violence. I was, however, allowed to have a "support person" from the university community there, though that person couldn't speak. I wouldn't be informed about the substance of the complaints until I met with the investigators. Apparently the idea was that they'd tell me the charges, and then, while I was collecting my wits, interrogate me about them. The term "kangaroo court" came to mind. I wrote to ask for the charges in writing. The coordinator wrote back thanking me for my thoughtful questions. What I very much wanted to know, though there was apparently no way of finding it out, was whether this was the first instance of Title IX charges filed over a publication. Was this a test case? From my vantage point, it seemed to pit a federally mandated program against my constitutional rights, though I admit my understanding of those rights was vague. A week later I heard from the investigators. For reasons I wasn't privy to, the university had hired an outside law firm, based in another Midwestern city an hour-and-a-half flight away, to conduct the investigation; a team of two lawyers had been appointed, and they wanted to schedule "an initial interview" the following week. They were available to fly in to meet in person -- the phrase "billable hours" came to mind -- or we could videoconference. The email contained more links to more Title IX websites, each of which contained more links. I had the feeling that clicking on any of them would propel me down an informational rabbit hole where I'd learn nothing yet not re-emerge for days. I replied that I wanted to know the charges before agreeing to a meeting. They told me, cordially, that they wanted to set up a meeting during which they would inform me of the charges and pose questions. I replied, in what I hoped was a cordial tone, that I wouldn't answer questions until I'd had time to consider the charges. We finally agreed to schedule a Skype session in which they would inform me of the charges and I would not answer questions. I felt the flush of victory, though it was short-lived. I said I wanted to record the session; they refused but said I could take notes. The reasons for these various interdictions were never explained. I'd plummeted into an underground world of secret tribunals and capricious, medieval rules, and I wasn't supposed to tell anyone about it. Because I strongly believe that the Title IX process should be far more transparent than it is, let me introduce some transparency by sharing the charges against me. Both complainants were graduate students. One turned out to have nothing whatsoever to do with the essay. She was bringing charges on behalf of the university community as well as on behalf of two students I'd mentioned -- not by name -- because the essay had a "chilling effect" on students' ability to report sexual misconduct. I'd also made deliberate mistakes, she charged (a few small errors that hadn't been caught in fact-checking were later corrected by the editors), and had violated the nonretaliation provision of the faculty handbook. The other complainant was someone I'd mentioned fleetingly (again, not by name) in connection with the professor's lawsuits. She charged that mentioning her was retaliatory and created a hostile environment (though I'd said nothing disparaging), and that I'd omitted information I should have included about her. This seemed paradoxical -- should I have written more? And is what I didn't write really the business of Title IX? She also charged that something I'd tweeted to someone else regarding the essay had actually referred to her. (It hadn't.) Please pause to note that a Title IX charge can now be brought against a professor over a tweet. Also that my tweets were apparently being monitored. Much of this remains puzzling to me, including how someone can bring charges in someone else's name, who is allowing intellectual disagreement to be redefined as retaliation, and why a professor can't write about a legal case that's been nationally reported, precisely because she's employed by the university where the events took place. Wouldn't this mean that academic freedom doesn't extend to academics discussing matters involving their own workplaces? Since the investigators had refused to provide the charges in writing, and I can often barely read my own handwriting, I'd typed notes during the Skype session, though I'd wondered if they'd object to that, too -- could they? The extent of their powers was mysterious to me. (I'd briefly considered furtively recording the session despite the ban but decided against it -- I'm a law-abiding type, I realized to my chagrin.) I made what sense I could of my wildly mistyped notes and emailed the investigators a summary, adding that I'd answer only questions related to the charges I'd been informed about. I wrote up a peevish statement asserting that the essay had been political speech, stemming from my belief, as a feminist, that women have spent the past century and a half demanding to be treated as consenting adults; now a cohort on campuses was demanding to relinquish those rights, which I believe is a disastrous move for feminism. I used the words "political" and "feminist" numerous times. Let me interject that I don't think my university necessarily wanted to be the venue for a First Amendment face-off -- indeed, the president himself had recently published an op-ed in defense of academic freedom. As I understand it, any Title IX charge that's filed has to be investigated, which effectively empowers anyone on campus to individually decide, and expand, what Title IX covers. Anyone with a grudge, a political agenda, or a desire for attention can quite easily leverage the system. And there are a lot of grudges these days. The reality is that the more colleges devote themselves to creating "safe spaces" -- that new watchword -- for students, the more dangerous those campuses become for professors. It's astounding how aggressive students' assertions of vulnerability have gotten in the past few years. Emotional discomfort is regarded as equivalent to material injury, and all injuries have to be remediated. Most academics I know -- this includes feminists, progressives, minorities, and those who identify as gay or queer -- now live in fear of some classroom incident spiraling into professional disaster. After the essay appeared, I was deluged with emails from professors applauding what I'd written because they were too frightened to say such things publicly themselves. My inbox became a clearinghouse for reports about student accusations and sensitivities, and the collective terror of sparking them, especially when it comes to the dreaded subject of trigger warnings, since pretty much anything might be a "trigger" to someone, given the new climate of emotional peril on campuses. I learned that professors around the country now routinely avoid discussing subjects in classes that might raise hackles. A well-known sociologist wrote that he no longer lectures on abortion. Someone who'd written a book about incest in her own family described being confronted in class by a student furious with her for discussing the book. A tenured professor on my campus wrote about lying awake at night worrying that some stray remark of hers might lead to student complaints, social-media campaigns, eventual job loss, and her being unable to support her child. I'd thought she was exaggerating, but that was before I learned about the Title IX complaints against me. My Midwestern Torquemadas were perfectly pleasant at our on-campus meeting -- they'd indeed flown to town to meet in person -- so pleasant that I relaxed and became overvoluble, stupidly gratified by their interest and attentions. There I was, expounding on my views about power and feminism; soon I was delivering a mini-seminar on the work of Michel Foucault. Later, replaying the two-and-a-half-hour session in my mind, I thought, "You chump," realizing that I'd probably dug a hundred new holes for myself. They'd asked endless questions about particular sentences in the essay, the sources for my ideas and claims, and what I'd meant in that fateful tweet. They didn't record any of it, nor was there a stenographer. One of the lawyers typed notes on her laptop; they'd send me a summary of my remarks, they said, which I could correct or add to, if I chose. I found these procedures utterly mystifying. What's being lost, along with job security, is the liberty to publish ideas that might go against the grain. Toward the end, I asked how the complainants could possibly know that my essay had created a "chilling effect" on campus. One of them, I was told, had provided the lawyers with the names of students and staff members who'd testify that the essay had chilled them. I, too, could supply names of witnesses to interview, if I liked. That was our only face-to-face meeting, though there were numerous phone calls, emails, and requests for further substantiation, including copies of emails and tweets. I tried to guess what all this was costing -- two lawyers flying back and forth to conduct interviews of the complainants, myself, and an expanding list of witnesses, review the sources for a 5,200-word article, adjudicate their findings, and compose a thorough report. I'm no expert on legal fees, but I was pretty sure the meter was ticking in $10,000 increments. I'd been asked to keep the charges confidential, but this became moot when, shortly before my campus meeting with the investigators, a graduate student published an article on a well-trafficked site excoriating me and the essay, and announcing that two students had filed Title IX retaliation complaints against me. She didn't identify her source for this information or specify her own relationship to the situation, though she seemed well versed on all the inside details; in fact, she knew more about the process than I did. It wasn't me alone on the chopping block. She also excoriated our university's president for his op-ed essay on academic freedom, which, she charged, was really a veiled commentary on the pending Title IX charges against me and thus subverted the process by issuing a covert advance verdict in my favor. (He'd obliquely mentioned the controversy over the essay, among other campus free-speech issues.) She didn't seem particularly concerned that she herself was subverting the process by charging that the process had been subverted, and by revealing the complaints in the first place. She was also surprisingly unconcerned about how effectively her article demolished its own premises about the asymmetry of institutional power. If a graduate student can publicly blast her own university's president, mock his ideas, and fear no repercussions, then clearly the retaliatory power that university employment confers on anyone -- from professors to presidents -- is nil. Nor had my own essay exactly had a chilling effect on anyone's freedom of expression. An academic friend and I disagreed about whether the graduate student's article would be seen as a good career move on her part (a courageous example of "punching up") or a self-wounding one ("collegiality" is still a factor considered by hiring committees; no one wants a high-drama potential colleague). He thought the former; I wasn't so sure, though we agreed that given the shifting political winds on campuses these days, it was impossible to call. At the end of the interrogation, the investigators asked if I wanted to file my own retaliation complaint against the student who'd revealed the charges. I said that I believed all parties involved were using the process for political purposes. I declined to press charges against anyone. They'd issue a report on their findings within 60 days, they said, though on what basis I had no idea. The standard that applied was "preponderance of evidence," they'd explained -- "more likely than not" as opposed to "beyond a reasonable doubt" -- but that seemed pretty vague. Note that I was never actually presented with any of this evidence. Given that the investigators doubled as judge and jury, and the extralegal nature of the proceedings, I wished I'd been more ingratiating. The Title IX bureaucracy is expanding by the minute. A recent emailed update from my university announced new policies, programs, hires, surveys, procedures, websites, and educational initiatives devoted to sexual misconduct. What wasn't quantified is how much intellectual real estate is being grabbed in the process. It's a truism that the mission of bureaucracies is, above all, to perpetuate themselves, but with the extension of Title IX from gender discrimination into sexual misconduct has come a broadening of not just its mandate but even what constitutes sexual assault and rape. Ambivalent sex becomes coerced sex, with charges brought months or even years after the events in question. Title IX officers now adjudicate an increasing range of murky situations involving mutual drunkenness, conflicting stories, and relationships gone wrong. They pronounce on the thorniest of philosophical and psychological issues: What is consent? What is power? Should power differentials between romantic partners be proscribed? Should eliminating power differences in relationships even be a social goal -- wouldn't that risk eliminating heterosexuality itself? Nothing I say here is meant to suggest that sexual assault on campuses isn't a problem. It is. My concern is that debatable and ultimately conservative notions about sex, gender, and power are becoming embedded in these procedures, without any public scrutiny or debate. But the climate on campuses is so accusatory and sanctimonious -- so "chilling," in fact -- that open conversations are practically impossible. It's only when Title IX charges lead to lawsuits and the usual veil of secrecy is lifted that any of these assumptions become open for discussion -- except that simply discussing one such lawsuit brought the sledgehammer of Title IX down on me, too. Many of the emails I received from people teaching at universities pointed out that I was in a position to take on the subjects I did in the earlier essay only because I have tenure. The idea is that once you've fought and clawed your way up the tenure ladder, the prize is academic freedom, the general premise being -- particularly at research universities, like the one I'm fortunate enough to be employed at -- that there's social value in fostering free intellectual inquiry. It's a value fast disappearing in the increasingly corporatized university landscape, where casual labor is the new reality. Adjuncts, instructors, part-timers -- now half the profession, according to the American Association of University Professors -- simply don't have the same freedoms, practically speaking. What's being lost, along with job security, is the liberty to publish ideas that might go against the grain or to take on risky subjects in the first place. With students increasingly regarded as customers and consumer satisfaction paramount, it's imperative to avoid creating potential classroom friction with unpopular ideas if you're on a renewable contract and wish to stay employed. Self-censorship naturally prevails. But even those with tenure fear getting caught up in some horrendous disciplinary process with ad hoc rules and outcomes; pretty much everyone now self-censors accordingly. When it comes to campus sexual politics, however, the group most constrained from speaking -- even those with tenure -- is men. No male academic in his right mind would write what I did. Men have been effectively muzzled, as any number of my male correspondents attested. I suspect that most Americans, if pushed, would go to the mat for the First Amendment, which is what academic freedom is modeled on. You can mock academic culture all you want, and I've done a fair amount of it myself, but I also believe that unconstrained intellectual debate -- once the ideal of university life, now on life support -- is essential to a functioning democratic society. And that should concern us all. I also find it beyond depressing to witness young women on campuses -- including aspiring intellectuals! -- trying to induce university powers to shield them from the umbrages of life and calling it feminism. As of this writing, I have yet to hear the verdict on my case, though it's well past the 60-day time frame. In the meantime, new Title IX complaints have been filed against the faculty-support person who accompanied me to the session with the investigators. As a member of the Faculty Senate, whose bylaws include the protection of academic freedom -- and believing the process he'd witnessed was a clear violation of academic freedom -- he'd spoken in general terms about the situation at a senate meeting. Shortly thereafter, as the attorneys investigating my case informed me by phone, retaliation complaints were filed against him for speaking publicly about the matter (even though the complaints against me had already been revealed in the graduate student's article), and he could no longer act as my support person. Another team of lawyers from the same firm has been appointed to conduct a new investigation. A week or so earlier, the investigators had phoned to let me know that a "mediated resolution" was possible in my case if I wished to pursue that option. I asked what that meant -- an image of me and the complainants in a conference room hugging came to mind. I didn't like the visual. The students were willing to drop their complaints in exchange for a public apology from me, the investigators said. I tried to stifle a laugh. I asked if that was all. No, they also wanted me to agree not to write about the case. I understand that by writing these sentences, I'm risking more retaliation complaints, though I'm unclear what penalties may be in store (I suspect it's buried somewhere in those links). But I refuse to believe that students get to dictate what professors can or can't write about, or what we're allowed to discuss at our Faculty Senate meetings. I don't believe discussing Title IX cases should be verboten in the first place -- the secrecy of the process invites McCarthyist abuses and overreach. For the record, my saying this isn't retaliation. It's intellectual disagreement. If more complaints are brought, I suppose I'll write another essay about them. To my mind, that's what freedom of expression means, and what's the good of having a freedom you're afraid to use?

#### 5. Trigger warnings cause material violence by fostering hypersensitive adults. Lindsay ‘12/27

Tom Lindsay - I am a former college professor of political science and political philosophy and former college administrator. During President George W. Bush’s second term, I was appointed Deputy Chairman of the National Endowment for the Humanities. I am Editor-in-Chief of the higher-education website, SeeThruEdu.com. Since 2011, I have served as director of the Center for Higher Education at the Texas Public Policy Foundation in Austin, Texas. “A Marxist Education in 'Hypersensitivity' As A Cause Of Violence on American Campuses.” Forbes. December 27, 2016. <http://www.forbes.com/sites/tomlindsay/2016/12/27/a-marxist-education-in-hypersensitivity-as-a-cause-of-violence-on-american-campuses/2/#36458357da9a> JJN

However, the public has yet to glean the psychological connection between the hypersensitivity studiously cultivated on campus and the inclination to commit violent acts. This point has been largely missed in the ongoing debate over whether many of the campus protesters come to college already hypersensitive or are made that way by faculty and administrators. An example of this debate is Judith Shulevitz’s “In College and Hiding from Scary Ideas,” which was responded to by Phoebe Maltz Bovy’s “Don’t Blame Students for Being Hypersensitive. Blame Colleges.” Both Shulevitz and Bovy are largely right. American culture already makes K-12 students hypersensitive (think of how a young person accustomed to receiving “participation trophies” is likely to react later in life when finally confronted with struggle and failure). But, once in college, the effect of safe spaces, censorship, etc., promises only to exacerbate any preexisting hypersensitivity. As Clay Routledge observes, “More and more colleges are creating “bias response teams” that students can contact if they feel they have been victimized by micro-aggressions. There is an increasing demand for safe spaces and trigger warnings to protect students not from physical danger, but from ideas, course material, and viewpoints they may find offensive.” In sum, think of these colleges and universities as finishing schools for those bent on spending their lives competing in the Sensitivity Sweepstakes. However, much of the commentary on campus censorship suggests that the only, or worst, effect of the new “therapeutic” education is the production of “little snowflakes,” that is, weak individuals. What has been missed is the role hypersensitivity can play as a cause of violence. This nexus is one of the themes of Roy Baumeister’s Evil: Inside Human Cruelty and Violence. He identifies a number of individual psychological factors on whose basis it is possible to “begin to predict who is likely to be dangerous or violent . . . Hypersensitive people, who often think their pride is being assaulted, are potentially dangerous.” He goes on to explain how “hypersensitivity to insults also makes it possible to understand what might otherwise appear to be senseless violence. . . . Many violent people believe that their actions were justified by the offensive acts of the person who became their victim.” The hypersensitive person can become so irrational that subjectivity becomes all: “Even when a neutral observer would conclude that no serious provocation had occurred, it is still important to recognize that, in the perpetrator’s own view, he or she was merely responding to an attack.”

#### 6. Trigger warning are an attempt to silence anything unpleasant, reinforcing suffering

Chait 2015 (Jonathan [commentator and writer for New York magazine. He was previously a senior editor at The New Republic]; How the language police are perverting liberalism; Jan 27; nymag.com/daily/intelligencer/2015/01/not-a-very-pc-thing-to-say.html; kdf)

At a growing number of campuses, professors now attach “trigger warnings” to texts that may upset students, and there is a campaign to eradicate “microaggressions,” or small social slights that might cause searing trauma. These newly fashionable terms merely repackage a central tenet of the first p.c. movement: that people should be expected to treat even faintly unpleasant ideas or behaviors as full-scale offenses. Stanford recently canceled a performance of Bloody Bloody Andrew Jackson after protests by Native American students. UCLA students staged a sit-in to protest microaggressions such as when a professor corrected a student’s decision to spell the word indigenous with an uppercase I — one example of many “perceived grammatical choices that in actuality reflect ideologies.” A theater group at Mount Holyoke College recently announced it would no longer put on The Vagina Monologues in part because the material excludes women without vaginas. These sorts of episodes now hardly even qualify as exceptional. Trigger warnings aren’t much help in actually overcoming trauma — an analysis by the Institute of Medicine has found that the best approach is controlled exposure to it, and experts say avoidance can reinforce suffering. Indeed, one professor at a prestigious university told me that, just in the last few years, she has noticed a dramatic upsurge in her students’ sensitivity toward even the mildest social or ideological slights; she and her fellow faculty members are terrified of facing accusations of triggering trauma — or, more consequentially, violating her school’s new sexual-harassment policy — merely by carrying out the traditional academic work of intellectual exploration. “This is an environment of fear, believe it or not,” she told me by way of explaining her request for anonymity. It reminds her of the previous outbreak of political correctness — “Every other day I say to my friends, ‘How did we get back to 1991?’ ” But it would be a mistake to categorize today’s p.c. culture as only an academic phenomenon. Political correctness is a style of politics in which the more radical members of the left attempt to regulate political discourse by defining opposing views as bigoted and illegitimate. Two decades ago, the only communities where the left could exert such hegemonic control lay within academia, which gave it an influence on intellectual life far out of proportion to its numeric size. Today’s political correctness flourishes most consequentially on social media, where it enjoys a frisson of cool and vast new cultural reach. And since social media is also now the milieu that hosts most political debate, the new p.c. has attained an influence over mainstream journalism and commentary beyond that of the old. It also makes money. Every media company knows that stories about race and gender bias draw huge audiences, making identity politics a reliable profit center in a media industry beset by insecurity. A year ago, for instance, a photographer compiled images of Fordham students displaying signs recounting “an instance of racial microaggression they have faced.” The stories ranged from uncomfortable (“No, where are you really from?”) to relatively innocuous (“ ‘Can you read this?’ He showed me a Japanese character on his phone”). BuzzFeed published part of her project, and it has since received more than 2 million views. This is not an anomaly. In a short period of time, the p.c. movement has assumed a towering presence in the psychic space of politically active people in general and the left in particular. “All over social media, there dwell armies of unpaid but widely read commentators, ready to launch hashtag campaigns and circulate Change.org petitions in response to the slightest of identity-politics missteps,” Rebecca Traister wrote recently in The New Republic. Two and a half years ago, Hanna Rosin, a liberal journalist and longtime friend, wrote a book called The End of Men, which argued that a confluence of social and economic changes left women in a better position going forward than men, who were struggling to adapt to a new postindustrial order. Rosin, a self-identified feminist, has found herself unexpectedly assailed by feminist critics, who found her message of long-term female empowerment complacent and insufficiently concerned with the continuing reality of sexism. One Twitter hashtag, “#RIPpatriarchy,” became a label for critics to lampoon her thesis. Every new continuing demonstration of gender discrimination — a survey showing Americans still prefer male bosses; a person noticing a man on the subway occupying a seat and a half — would be tweeted out along with a mocking #RIPpatriarchy. Her response since then has been to avoid committing a provocation, especially on Twitter. “If you tweet something straight­forwardly feminist, you immediately get a wave of love and favorites, but if you tweet something in a cranky feminist mode then the opposite happens,” she told me. “The price is too high; you feel like there might be banishment waiting for you.” Social media, where swarms of jeering critics can materialize in an instant, paradoxically creates this feeling of isolation. “You do immediately get the sense that it’s one against millions, even though it’s not.” Subjects of these massed attacks often describe an impulse to withdraw. Political correctness is a term whose meaning has been gradually diluted since it became a flashpoint 25 years ago. People use the phrase to describe politeness (perhaps to excess), or evasion of hard truths, or (as a term of abuse by conservatives) liberalism in general. The confusion has made it more attractive to liberals, who share the goal of combating race and gender bias. But political correctness is not a rigorous commitment to social equality so much as a system of left-wing ideological repression. Not only is it not a form of liberalism; it is antithetical to liberalism. Indeed, its most frequent victims turn out to be liberals themselves.

#### 7. Trigger warnings teach a bad form of politics and risk retaliation

Kipnis 15 – professor in the department of radio, television, and film at Northwestern University [Laura, “My Title IX Inquisition,” The Chronicle of Higher Education, May 29, 2015, ProQuest, Accessed 7/17/15]//schnall

\*Laura Kipnis has been cleared of wrongdoing in the two Title IX investigations discussed in this essay.

When I first heard that students at my university had staged a protest over an essay I'd written in The Chronicle Review about sexual politics on campus -- and that they were carrying mattresses and pillows -- I was a bit nonplussed. For one thing, mattresses had become a symbol of student-on-student sexual-assault allegations, and I'd been writing about the new consensual-relations codes governing professor-student dating. Also, I'd been writing as a feminist. And I hadn't sexually assaulted anyone. The whole thing seemed symbolically incoherent. According to our campus newspaper, the mattress-carriers were marching to the university president's office with a petition demanding "a swift, official condemnation" of my article. One student said she'd had a "very visceral reaction" to the essay; another called it "terrifying." I'd argued that the new codes infantilized students while vastly increasing the power of university administrators over all our lives, and here were students demanding to be protected by university higher-ups from the affront of someone's ideas, which seemed to prove my point. The president announced that he'd consider the petition. Still, I assumed that academic freedom would prevail. I also sensed the students weren't going to come off well in the court of public opinion, which proved to be the case; mocking tweets were soon pouring in. Marching against a published article wasn't a good optic -- it smacked of book burning, something Americans generally oppose. Indeed, I was getting a lot of love on social media from all ends of the political spectrum, though one of the anti-PC brigade did suggest that, as a leftist, I should realize these students were my own evil spawn. (Yes, I was spending a lot more time online than I should have.) Being protested had its gratifying side -- I soon realized that my writer friends were jealous that I'd gotten marched on and they hadn't. I found myself shamelessly dropping it into conversation whenever possible. "Oh, students are marching against this thing I wrote," I'd grimace, in response to anyone's "How are you?" I briefly fantasized about running for the board of PEN, the international writers' organization devoted to protecting free expression. Things seemed less amusing when I received an email from my university's Title IX coordinator informing me that two students had filed Title IX complaints against me on the basis of the essay and "subsequent public statements" (which turned out to be a tweet), and that the university would retain an outside investigator to handle the complaints. I stared at the email, which was under-explanatory in the extreme. I was being charged with retaliation, it said, though it failed to explain how an essay that mentioned no one by name could be construed as retaliatory, or how a publication fell under the province of Title IX, which, as I understood it, dealt with sexual misconduct and gender discrimination. Why Colleges Are on the Hook for Sexual Assault When Congress passed a gender-equity law more than 40 years ago, no one expected it to make colleges responsible for responding to rapes. Title IX was enacted by Congress in 1972 to deal with gender discrimination in public education -- athletics programs were the initial culprits -- and all institutions receiving federal funds were required to be in compliance. Over time, court rulings established sexual harassment and assault as forms of discrimination, and in 2011 the U.S. Department of Education advised colleges to "take immediate and effective steps to end sexual harassment and sexual violence." Since then, colleges have been scrambling to show that they're doing everything they can to comply, but still, more than 100 of them are under federal investigation for violating Title IX policies. Anyone with a grudge, a political agenda, or a desire for attention can easily leverage the system. I should pause to explain that my essay included two paragraphs about a then-ongoing situation on my campus involving a professor who was himself the subject of two sexual-harassment investigations involving two students. This professor subsequently sued university officials and one of the students for defamation, among other things. The charges had occasioned a flurry of back-and-forth lawsuits, all part of the public record, which had been my source for the two paragraphs. My point in citing this legal morass was that students' expanding sense of vulnerability, and new campus policies that fostered it, was actually impeding their educations as well as their chances of faring well in postcollegiate life, where a certain amount of resilience is required of us all.

#### 8. Trigger warnings justify other sorts of restrictions on free speech and never allow students to overcome their phobias. Haidt ‘15

Jonathan Haidt is the Thomas Cooley Professor of Ethical Leadership at New York University’s Stern School of Business. He received his B. A. from Yale University and his Ph.D. from the University of Pennsylvania. He did post-doctoral research at the University of Chicago and in Orissa, India. He was a professor at the University of Virginia then he later joined the Stern School of Business. Haidt is a social psychologist whose research focuses on morality. “Trigger Warnings Cause Non Sequiturs.” October 5, 2015. The Righteous Mind. <http://righteousmind.com/trigger-warnings-cause-non-sequiturs/> JJN

To the Editor: Re: “Why I use trigger warnings” (Opinion, Sept. 19): Kate Manne’s efforts to alert her philosophy students about potentially upsetting course content shows her to be a caring teacher. But her critique of our essay condemning trigger warnings begins with a non sequitur. She is surely right that “the evidence suggests” that some of her students “are likely to have suffered some sort of trauma.” But that does not logically imply that “the benefits of trigger warnings can be significant.” We have not found any empirical evidence that trigger warnings yield any psychological benefits, whereas there is empirical evidence suggesting that they might be harmful. So it is more logical to conclude that if trauma is common, then the harms caused by trigger warnings might be significant. Manne then offers an analogy: “Exposing students to triggering material without warning seems more akin to occasionally throwing a spider at an arachnophobe.” This is not a valid analogy. Asking students to read novels or Greek myths that include sexual assault is like saying the word spider in the presence of an arachnophobe, which anxiety experts tell us is a good way to reduce the long-term emotional power of spiders. If well-meaning teachers and friends work together to help an arachnophobe avoid exposure to the word spider, or to pictures of spiders, spider webs, and Spiderman, they will strengthen the arachnophobe’s conviction that mere reminders of spiders are dangerous. This is how a temporary and reversible phobia can be hardened into a lifelong and debilitating identity. Manne also asserts that “there seems to be very little reason not to give these warnings.” It’s simple courtesy, no? Trigger warnings are like “advisory notices given before films and TV shows.” But those warnings are given so that parents can keep their children safe from material for which they are not yet emotionally mature enough. This is why the American Association of University Professors has condemned the use of trigger warnings as being “at once infantilizing and anti-intellectual.” Furthermore, once a few professors start giving these warnings, students will begin to request them from their other professors, and this may lead to a cascade of caution among the rest of the faculty. Last year, seven humanities professors from seven colleges penned an Inside Higher Ed article stating that “this movement is already having a chilling effect on [their] teaching and pedagogy.” The professors reported receiving “phone calls from deans and other administrators investigating student complaints that they have included ‘triggering’ material in their courses, with or without warnings.” There is a more subtle harm caused to students when professors use trigger warnings. One of us (Haidt) teaches in New York City. Suppose Haidt took his students on field trips all over the city, but every time he took the class to the Bronx, Haidt took additional steps: he gave the class a warning, weeks in advance, and he hired a paramedic to ride with them in the bus. Just in case. What effect will this have on the students, and on their future willingness to visit The Bronx on their own? Do we really want to tell our students that some of their fellow students could end up in emergency care if they were to read certain novels without being properly steeled for the task? This message would reflect and strengthen the “culture of victimhood” that sociologists have identified as emerging on our most egalitarian college campuses. It could weaken students to the point where we might, someday, really need paramedics in our classrooms.

## A2 Trivial Stories Pic

### 1AR - Trivial Stories PIC

#### Trivial content is the spirit of student papers- k2 readership

Schuman, PhD, 12-8-16

(Rebecca, http://www.slate.com/articles/life/education/2016/12/student\_journalists\_are\_under\_threat.html)

Breaking important stories (like this one on admissions at George Washington University, or this one about a sexual assault case at Northwestern University) certainly makes a complete case for the institution of student media. But preserving the frivolities associated with student-run newspapers and magazines is just as vital. The inside-joke-filled features, the small-time edginess of risqué content, the irate-student-group-demands-a-retraction scandal that is a microcosm of the bigger world of reporting and opining on controversial issues: These are what breathe life into student publications and passion for a free press into budding professional journalists.

# Frontlines – Phil

## Comparative Worlds

Omitted

## XT – Generic

#### Free speech has intrinsic value in any moral framework

#### 1. Battleborn - Circulation of ideas is crucial to develop our faculties for moral reasoning- speech is the instrument of value, censorship destroys that value- the case is logically prior to the NC- That’s Eberle

#### 2. Epistemology - acting as or declaring oneself a rational agent requires communication, as does learning about duty or obligation. All moral values collapse into self-realization which is impossible without speech-That’s’ Eberle

#### 3. Value to life - our sense of self and value is articulated through language- restrictions on speech literally restrict our self expression and existence- this impact precludes the NC- morality is irrelevant without an existing moral subject- that’s Dwyer

#### 4. Metaphysical shackles - restrictions on speech prevent self-expression including moral decision making- one cannot fulfill their duty or behave reasonably without information to inform that decision –that’s Dwyer

#### 5. Decision making - the ballot presumes an ideal speech situation where the judge can decide who did the better debating- restrictions on speech taint the outcome of that decision- That’s Eberle

## 1AR v Util NC

omitted

## 1AR v Non-Conseq NC

### A2 No Consequences

Omitted

### A2 Epistemic Confidence

**Omitted**

### A2 FS irrelevant

#### Free speech has intrinsic value in any moral framework

#### 1. Battleborn - Circulation of ideas is crucial to develop our faculties for moral reasoning- speech is the instrument of value, censorship destroys that value- the case is logically prior to the NC- That’s Eberle

#### 2. Epistemology - acting as or declaring oneself a rational agent requires communication, as does learning about duty or obligation. All moral values collapse into self-realization which is impossible without speech-That’s’ Eberle

#### 3. Value to life - our sense of self and value is articulated through language- restrictions on speech literally restrict our self expression and existence- this impact precludes the NC- morality is irrelevant without an existing moral subject- that’s Dwyer

#### 4. Metaphysical shackles - restrictions on speech prevent self-expression including moral decision making- one cannot fulfill their duty or behave reasonably without information to inform that decision –that’s Dwyer

#### 5. Decision making - the ballot presumes an ideal speech situation where the judge can decide who did the better debating- restrictions on speech taint the outcome of that decision- That’s Eberle

## A2 Hobbes

### A2 Hobbes NC

Omitted

## A2 Contractarianism

Omitted

## A2 Sentimentalism

Omitted

## A2 Constitutivism

#### Omitted

## A2 Gauthier

Omitted

## A2 Contradictions

Omitted