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November/December 2018 LD Brief

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# Introduction

Friends of Premier Debate,

The topic is **“Resolved: In a democracy, the right to know ought to be valued above the right to privacy of candidates for public office.”**

**This brief includes 150+ cards** to give you a running start on researching this topic. On the AFF, we’ve provided evidence for many advantage areas, like informed voting and democracy, as well as cards for ACs such as a campaign finance law AFF and a presidential health evaluation AFF. For the neg, we’ve prepped case turns and cards for a variety of CPs, DAs, and Ks to get you started on your off-case positions. We’ve also covered some relevant theory arguments and both sides of many prominent philosophical positions, including, Kant, Communitarianism, Particularism and more.

We want to remind the readers about standard brief practice to get the most out of this file. Use this as a guide for further research. Find the articles and citations and cut them for your own personal knowledge. You’ll find even better cards that way. If you want to use the evidence in here in a pinch, you should at least re-tag and highlight the evidence yourself so you know exactly what it says and how you’re going to use it. Remember, briefs can be a tremendous resource but you need to familiarize yourself with the underlying material first.

We’re always looking for ways to make the briefs better, so please, let us know what you think! And, if you use these briefs please help us direct other debaters to premierdebate.com/briefs where we will continue uploading .doc versions of the briefs.

If you like what we’re doing and these cards have been helpful to you, **consider signing up for online coaching through Premier Debate.** Our coaches were elite competitors in their own right and have coached students to elimination rounds, earning TOC bids, and qualifying to state and national championships. See premierdebate.com/coaching for more details!

Finally, we’d like to thank Danny Li, Amy Santos, Jacob Fontana, and Blake Andrews for their help in assembling this brief. These are some of the best, round-ready cards you’ll see on the topic, and we couldn’t have done it without them! **Our briefs have always been free, and if you’d like to support our writers and this project, please consider donating at paypal.me/premierdebate**.

Good luck everyone. See you ‘round!

Bob Overing & John Scoggin

Directors | Premier Debate

# Affirmative

## Inherency

### General

#### There is no clear court precedent about whether privacy or disclosure should be valued over the other.

Harding 15. Harding, Sarah. (Lawyer w/ degree from Loyola University of Law) “Balancing Disclosure and Privacy Interests in Campaign Finance” Loyola of Los Angeles Law Review, vol. 48, no. 3, pp. 651-702, 7/1/15, <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2934&context=llr> [Premier]

The Court’s long history of varied and inconsistent disclosure doctrine holdings has left the doctrine in disarray. 222 The various decisions and holdings lack clear reconciliation and appear mainly ad hoc. 223 If the Court sees a principled balance between disclosure and privacy interests, it has not clearly articulated what that balance is. The Court in some cases has struck down laws in order to protect anonymous speech and in other cases has allowed the anonymity right to be curtailed.224 It has strongly upheld the anonymity right in a few cases, but only where threats of retaliation infringed upon the freedom of association.225 As the previous discussion has illustrated, the Court’s holdings over the past century have varied from supporting disclosure, to supporting privacy, to supporting disclosure again. These fluctuating holdings have resulted in three major problems: (1) a lack of balance between the interests of disclosure and the interests of privacy;226 (2) a lack of guidelines provided by the Court on how to balance these interests;227 and (3) a lack of clarity in the disclosure doctrine itself.228 Given these problems, citizens and corporations face continued uncertainty unless the Court finally seeks a more rational posture toward disclosure. 229 Within the electoral realm, the United States faces a future where important First Amendment rights are lost and unprotected, the Court continues to issue inconsistent holdings, and judges and lawmakers are left with laws that are difficult to interpret.230 The following discussion further explains each of these three problems and what they mean for the future of the disclosure doctrine. Because of these defects in the disclosure doctrine, the Court has much work ahead.

#### Internationally, there is no consensus on the issue – legal systems are all in flux.

Shackelford 12 Shackelford, Scott J [Professor of Law at Indiana University Bloomington School of Law]. "Fragile Merchandise: A Comparative Analysis of the Privacy Rights for Public Figures." American Business Law Journal. Volume 49, Issue 1, 125-208, Spring 2012. [Premier]

This comparative analysis has shown that a commonly held belief—that the civil law systems in France, Germany, Japan, and Switzerland protect the privacy of public figures, while the United Kingdom, the United States, and other common law systems place freedom of expression above the need to protect the privacy of public figures—is not entirely accurate.474 Each system is in flux and is grappling with how best to determine the privacy rights of public figures; the proper role of a free press in promoting democracy; and, above all, the proper definition of the public interest. None of these systems has gotten it entirely correct. Indeed, there is not just one correct answer; each culture requires a different balancing of privacy rights and freedom of expression. Why, though, is Europe con- verging toward a shared understanding of the public’s right to know, while the United States remains more of an outlier? I have argued that this is due in large part to the influence of ECHR jurisprudence, which does not have the same deep commitment to free speech as the United States. This, more than a lack of honor or dignity in one society or another, is driving the divergence—which, in turn, has been shown to be impacting both the business of newspapers and multinational companies like Google. Absent greater clarification regarding privacy rights across borders, companies could be forced to tailor services and potentially not to enter into certain markets.

#### Internationally, there is conflict between the public interest and individual privacy rights.

Shackelford 12 Shackelford, Scott J [Professor of Law at Indiana University Bloomington School of Law]. "Fragile Merchandise: A Comparative Analysis of the Privacy Rights for Public Figures." American Business Law Journal. Volume 49, Issue 1, 125-208, Spring 2012. [Premier]

Aside from an absolute preference for free speech, the second approach is that of English defamation law that weighs the competing interests against one another. Unlike the position of defamation in U.S. law, a premium is given in England to reputation over speech.284 What this means is that English courts, consistent with the Peck holding, increasingly are not treating freedom of expression as a trump card over other rights, as is more often the case in the United States. This discussion then concludes where it began, with the need to define the public interest so as to appropriately balance the competing rights of freedom of expression and privacy. The public interest is just as amorphous in Britain as it is in the United States. The common law nations of the United Kingdom and United States are not alone in this balancing act. The same weighing between freedom of expression and the right to individual privacy is being carried out in French and German civil law courts as well. In Britain, as in all of these countries, it remains to be seen how the conflict between these competing rights will be redressed, whether through statutory principles, in the mold of Switzerland, or through the adoption of general principles, as in Canada. Regardless, the nature and extent of an English right to privacy remains both uncertain and untenable at present, and the Human Rights Act and ECHR jurisprudence are increasingly influencing the progression of privacy protections for public figures in England toward a regime arguably more robust than the United States’ current approach to public figures. This, in turn, could require that businesses operating across these jurisdictions pursue varying journalistic and e-commerce standards. Eventually, it may even curtail British cybersecurity efforts, though this has not been the case to date.286 Whether British privacy rights will ever reach the level afforded to French citizens, however, is an entirely separate matter.

### Mental Health

#### There is no apparatus in place now for mental health testing for presidential candidates.

Hamblin 1-03 [JAMES HAMBLIN, MD, is a staff writer at The Atlantic, 1 – 03 – 2018, “Is Something Neurologically Wrong With Donald Trump?”, <https://www.theatlantic.com/health/archive/2018/01/trump-cog-decline/548759//> [Premier]

Though these moments could be inconsequential, they call attention to the alarming absence of a system to evaluate elected officials’ fitness for office—to reassure concerned citizens that the “leader of the free world” is not cognitively impaired, and on a path of continuous decline. Proposals for such a system have been made in the past, but never implemented. The job of the presidency is not what it used to be. For most of America’s history, it was not possible for the commander in chief to unilaterally destroy a continent, or the entire planet, with one quick decision. Today, even the country’s missileers—whose job is to sit in bunkers and await a signal—are tested three times per month on their ability to execute protocols. They are required to score at least 90 percent. Testing is not required for their commander in chief to be able to execute a protocol, much less testing to execute the sort of high-level decision that would set this process in motion.

### Tax Returns

#### Tax returns are not disclosed now; voluntary disclosure doesn’t solve

Simmons 12, Amanda Simmons, reporter, Reporters Committee for Freedom of the Press, “Public figures, private records” <https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-summer-2012/public-figures-private-reco> [Premier]

In particular, **information related to a political contender’s finances has always been of general public interest, but does not fall into the category of records that can be accessed under most transparency laws.** But as the upcoming 2012 election nears**, the secrecy that shrouds personal finances often draws attention to the still-unsolved quandary regarding the private records of public figures** — an issue that is of importance to journalists, the aspiring politicians they cover and the citizens they hope to serve. Recently, **government transparency advocates and political opponents have called on Republican presidential candidate Mitt Romney to disclose more of his past income tax returns, in order to shed light on his offshore bank accounts, family trusts and working relationship with Bain Capital**, a private equity firm that he founded. But by releasing his 2010 returns and 2011 estimated taxes, “Governor Romney has dutifully and according to law filed all of his financial disclosure requirements,” said Romney aid Kevin Madden to host Bob Schieffer on CBS’ “Face the Nation” in July. “He’s gone above the law.” Madden is right: **under current government ethics statutes and Federal Election Commission regulations, Romney and other presidential candidates are under no legal obligation to release information related to their private tax history. The Internal Revenue Service protects the privacy of all citizens — including U.S. presidents — and is barred from releasing any taxpayer information to the public. But since the wave of political scandal that broke out in the 1970s, candidates running for public office have traditionally chosen to release their tax returns in an effort to appear transparent**. A Vanity Fair article published in August that exposed Romney’s offshore accounts in Bermuda and the Cayman Islands reported that it was actually the presidential candidate’s father who introduced the voluntary transparency precedent. George Romney released 12 years’ worth of his income tax returns just before the 1968 presidential election. According to the article’s author, British journalist and financial researcher Nicholas Shaxson, **George Romney**, then the governor of Michigan, **said at the time that he released personal records that were up to a decade old because “one year could be a fluke, perhaps done for show.” Only after securing his re-election did former President Nixon follow suit, releasing in 1973 copies of his wife’s and his joint federal income tax returns from 1969 to 1972**, according to the Tax History Project, an organization that tracks the history of American taxation. The project’s online archive indicates that since then, **presidential candidates have fluctuated in their level of voluntary financial transparency. Former presidential candidate Rick Santorum released four years of tax returns while Newt Gingrich, his opponent of the same political party, disclosed only his 2010 returns**. “**I don’t think the public pays much attention to this stuff until there’s a controversy**,” Sloan said.

#### Loopholes exist – many required financial disclosures now can be kept confidential until after the election. Romney and Kerry prove,

Simmons 12, Amanda Simmons, reporter, Reporters Committee for Freedom of the Press, “Public figures, private records” <https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-summer-2012/public-figures-private-reco> [Premier]

Under the act, **individuals who declare their candidacy for president must also submit public financial disclosure reports to the Federal Election Commission, which shares them with the Office of Government Ethics. The ethics agency then in turn reviews the disclosures’ veracity** before posting the information online.

But **loopholes do exist**, according to Sloan’s watchdog organization, CREW, which sent a letter to the Office of Government Ethics in January, calling for an investigation into **alleged discrepancies between Mitt Romney’s tax returns that were released on his own accord and financial disclosures that he filed with the Federal Election Commission.** CREW requested that Romney be referred to the U.S. Department of Justice.

In an article published in April in The Washington Post, reporter Tom Hamburger noted that **recently, the Office of Government and Ethics has occasionally allowed presidential candidates to delay revealing certain assets in investment accounts until after being elected to office if they are legally bound by a confidentiality agreement.** According to The Post, **that standard was set during the 2004 presidential election, when Democratic candidate John Kerry withheld some aspects of his wife’s finances, and likely explains Romney’s reported discrepancies, because Bain, the private equity firm he founded, often arranges such confidentiality agreements.**

#### Trump’s refusal to disclose tax returns demonstrates the need for regulation rather than voluntary compliance

Lang 17, DANIELLE LANG, Danielle Lang is Senior Legal Counsel in the Voting Rights and Redistricting Program at the Campaign Legal Center. JD from YLS, clerked for Judge Richard A. Paez on the U.S. Court of Appeals for the Ninth Circuit. She served as a Skadden Fellow in the Employment Rights project of Bet Tzedek Legal Services in Los Angeles from 2013 to 2015. Admitted to CA and NY bars, “Candidate Disclosure and Ballot Access Bills: Novel Questions on Voting and Disclosure” 65 UCLA L. Rev. Disc. 46 (2017) <https://www.uclalawreview.org/candidate-disclosure-ballot-access-bills-novel-questions-voting-disclosure/> [Premier]

Yet, **despite repeated calls throughout the 2016 election cycle and since his election and inauguration, from advocates and ordinary citizens alike, and sustained public support for disclosure**,4 President Donald **Trump has not released his tax returns**.5 President **Trump’s refusal to comply with this well-established norm has exposed a gap in our regulation of presidential elections. Such an important norm at the highest level of our government—a norm that serves critical governmental interests in transparency and ethical governance—should arguably be codified rather than delegated to voluntary compliance**.

## Solvency

#### A right to know has positive effects on social and economic development.

Mayer 14 summarizes the argument: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

While the two previous justifications focus on the asserted positive effects of the public’s right to know with respect to the functioning of democratic governments, the broader utilitarian justification is that the public’s right to know also has positive effects on social and economic development. A study by Ana Bellver and Daniel Kaufmann at the World Bank highlights this approach.97 In their study they develop a country transparency index and then examine its relationship to various measures of development. Their index includes elements designed to measure the degree of accessibility and usefulness of information provided by public institutions and also elements designed to measure political transparency, such as the disclosure of political funding, the openness of the political system, and the extent of freedom of the press.98 They tentatively conclude that there is an apparent correlation between greater transparency, as they have measured it, and better socio-economic and human development indicators, and also with higher competitiveness and lower corruption.99

#### In the US, the right to know largely wins out.

Shackelford 12 Shackelford, Scott J [Professor of Law at Indiana University Bloomington School of Law]. "Fragile Merchandise: A Comparative Analysis of the Privacy Rights for Public Figures." American Business Law Journal. Volume 49, Issue 1, 125-208, Spring 2012. [Premier]

For voluntary public figures, then, privacy has largely disappeared as a value and as a fact in U.S. law.136 It is perhaps for this reason that the right of privacy never made much headway in its original sense.137 Courts have rejected the notion that people should fully respect the private domains of one another in part because U.S. society rejected it first in favor of an intrusive media. That is not to say that people do not still value privacy, but rather that social mores have changed and, with them, the law. The profusion of media in contemporary U.S. society makes possible a culture of gossip that is protected by the courts. This same culture of gossip exists in many European nations, but the legal protections are starkly differ- ent in that many European public figures enjoy privacy rights in spite of their celebrity. In the United States the media asserts the public’s right to know, a view to which courts have been sympathetic so as to avoid a chilling effect on public discourse. The issue often focuses on a person’s status. Shades of gray are primarily reserved for involuntary public figures, or people who— through no fault of their own—are thrust into the public eye.

## Advantage Areas

### Democracy

#### The right to know is essential to a citizen’s ability to self-rule in a democracy. Mokrosinska summarizes the argument.

Mokrosinska 18Mokrosinska, Dorota [University Lecturer at Leiden University]. “Why states have no right to privacy, but may be entitled to secrecy: a non-consequentialist defense of state secrecy.” Critical Review of International Social and Political Philosophy. (2018) DOI: 10.1080/13698230.2018.1482097. [Premier]

To many, secrecy and democratic authority seem antithetical. In a democracy, one argues, exercises of political power should be authorized by citizens, but how can citizens authorize what they are denied knowledge about? For example, as Christopher Kutz says, if I am denied knowledge of the state’s actions, ‘I cannot (…) understand myself either as in harmony or in dissonance with my polity’ (Kutz, 2009 Kutz, C. (2009). Secret law and the value of publicity. Ratio Juris, 22(2), 197–217. [Crossref], [Google Scholar] , p. 214). As such, I cannot consent to or dissent from the state’s actions nor can I articulate my will that is needed to authorize its rule. In other words, without knowing the content of state policies, citizens cannot authorize them and so secrecy ‘strike[s] at the foundation of government’s right to rule’ (Kutz, 2009 Kutz, C. (2009). Secret law and the value of publicity. Ratio Juris, 22(2), 197–217. [Crossref], [Google Scholar] , p. 199).

#### The right to know ignores the content-independent character of democracy.

Mokrosinska 18Mokrosinska, Dorota [University Lecturer at Leiden University]. “Why states have no right to privacy, but may be entitled to secrecy: a non-consequentialist defense of state secrecy.” Critical Review of International Social and Political Philosophy. (2018) DOI: 10.1080/13698230.2018.1482097. [Premier]

To sum up, in the light of the content-independent character of democratic authority, the link between citizens’ knowledge of state action and their authorization of state actions is less tight than commonly presupposed. It is not the case that secrecy, as Kutz claims, strikes at the foundation of a democratic government’s right to rule. Citizens can authorize policies knowing nothing about them except for their pedigree. To think otherwise is to fail to take proper account of the content-independent nature of political authority. If we have no problem with authorizing the content-independent power of democratic states, then we should have no problems with authorizing the policies and decisions that democratic states classify.

#### The right to know is essential for democratic authorization. Mokrosinska summarizes two arguments:

Mokrosinska 18Mokrosinska, Dorota [University Lecturer at Leiden University]. “Why states have no right to privacy, but may be entitled to secrecy: a non-consequentialist defense of state secrecy.” Critical Review of International Social and Political Philosophy. (2018) DOI: 10.1080/13698230.2018.1482097. [Premier]

Having set out my defense of secrecy in democratic governance, it is interesting to compare it with Dennis Thompson’s influential argument to this effect (Gutmann & Thompson, 1996 Gutmann, A., & Thompson, D. (1996). Democracy and disagreement. Harvard: Belknap Press Harvard University Press. [Google Scholar] , ch. 3; Thompson, 1999 Thompson, D. (1999). Democratic secrecy. Political Science Quarterly, 114(2), 181–193. [Crossref], [Web of Science ®], [Google Scholar] ). Thompson argues that secret policies generate a knowledge deficit that gives rise to two problems. First, it deprives secret policies of democratic authority: in a democracy, political decisions are legitimate only if they are authorized by citizens, but people cannot authorize what they are denied knowledge about. Second, it deprives them of democratic authority: the exercise of democratic authority requires that citizens be able to hold officials accountable, but people cannot hold state officials to account if they do not know what officials are doing and why (Thompson, 1999 Thompson, D. (1999). Democratic secrecy. Political Science Quarterly, 114(2), 181–193. [Crossref], [Web of Science ®], [Google Scholar] , p. 182). Thompson argues that secret policies can be nonetheless justified if the knowledge deficit pertaining to them can be overcome. This is the case, at least partly, if the fact of secrecy is itself public. The publicity about secrecy means that officials admit that they resort to secrecy even though they do not disclose the specific contents of secret policies; that they indicate, in terms of general policies, the reasons for resorting to secrecy; and that the processes by which secret policies are adopted and pursued are known. According to Thompson, such ‘second-order publicity about first-order secrecy’ (Thompson, 1999 Thompson, D. (1999). Democratic secrecy. Political Science Quarterly, 114(2), 181–193. [Crossref], [Web of Science ®], [Google Scholar] , p. 185), by enabling people to learn that the state classifies information in certain policy areas, pursuant to what processes and for what reasons, enables them to authorize secret policies. For example, knowing the anti-terrorism policy adopted by the government and the legal regulations concerning classification of intelligence information related to it makes the act of classification and, hence, the classified anti-terrorism intelligence program, a possible object of consent or dissent. It also circumvents the accountability problem. Even though the details of secret policies remain concealed, knowing that certain political decisions and programs are secret and being able to review the reasons provided by the officials for secrecy, citizens can call state officials to account.

#### Democratic self-governance implies a propriety public right to know.

Mayer 14 summarizes the argument: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

The proprietary justification rests on the argument that the public funds and ultimately controls the government and so is the indirect owner of everything the government owns or collects, including information.66 As the ultimate owner, the public therefore has a right of access to whatever the government directly owns. For real and tangible property such access is necessarily limited not only by security, individual privacy, and similar concerns, but also by the reality that government officials and other employees may not be able to use such property effectively for public purposes if the public has access to it, or at least unrestricted access. Similarly, such access may need to be limited because otherwise the level of attempted public access would be so high as to frustrate the effective use by any of the public (e.g., crowds and national parks67). For information, in contrast, members of the public may generally be granted access without reducing the ability of government officials or other members of the public to access and use the same information.

#### The right to know is key to civic participation in democratic governance.

Mayer 14 summarizes the argument: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

While the accountability justification focuses on the how disclosure affects government officials, the democracy justification focuses on how disclosure affects the public. The reasoning of the democracy justification is that access to information relating to the government is necessary to encourage participation by the public in government, to ensure that such participation is informed, and to establish the democratic legitimacy of the government through such participation. As many others have detailed, the heart of this justification is that democracy requires collective self-governance, and collective self-governance in turn requires a citizenry informed of the actions of its chosen governors.78 General support for this approach is found in the work of many well-known theorists, including Kant, Locke, and Mill,79 and more recently in the work of scholars such as Dahl, Meiklejohn, and Post, to name a few.80 The argument is that access to information about the government’s activities and officials both informs public opinion and encourages public participation and so ultimately furthers and indeed is necessary for the legitimacy of a democratic government.81 For example, Stiglitz states that “the most compelling argument for openness is . . . meaningful participation in democratic processes requires informed participants.”82 J. Skelly Wright asserts that “if our democratic form of government is to continue to operate successfully, there must be a free, totally unfettered flow of information.”83 The democracy justification, along with the accountability justification, is the basis for FOIA according to the Supreme Court and scholars who have studied that act.84

#### Disclosure maximizes information in democratic decision-making

McGeveran 03 summarizes, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

Perhaps **the single greatest motivation** for the regulatory framework **is** an enhanced conception of **the interests in information during an election.** The **proponents** of this view **see the election as a temporary civic moment of transparency, during which maximizing information increases the legitimacy of the voting process, and thereby the choices that result.** As Richard Briffault has framed it, **voters "set the course of government for the next political term. There is a collective interest in increasing the amount of relevant information available to the voters in the hope of improving the quality of collective decision-making."** 22 9 For Briffault, **this** interest **justifies judicial deference to legislatively-imposed** **disclosure requirements** because they **help voters make wise choices**.

#### Democracy is key to prevent the worst impacts of climate change—best data prove

Looney 16: Looney, Robert. “Democracy is the answer to Climate Change”. American University Library. June 1st, 2016. <https://foreignpolicy.com/2016/06/01/democracy-is-the-answer-to-climate-change/>. [Premier]

The [Paris agreement](http://www.nytimes.com/2015/12/13/world/europe/climate-change-accord-paris.html) of December 2015 raised new hopes that the worst effects of climate change might yet be averted. This agreement, whose signatories have agreed to substantially reduce greenhouse gas emissions on a voluntary basis, marks the first major international pact to combat climate change since the 1997 Kyoto Protocol. In contrast to Kyoto, however, whose signatories accounted for only about 14 percent of global emissions, the countries that signed the Paris deal account for a whopping 96 percent. Of course, the outstanding question is whether the agreement will actually be implemented. As its [critics](http://www.theguardian.com/environment/2015/dec/12/james-hansen-climate-change-paris-talks-fraud) are quick to point out, the Paris climate pact is a “[soft law](http://www.duqlawblogs.org/joule/the-pros-and-cons-of-international-environmental-soft-law/)” that lacks the legal clout to impose sanctions and penalties, but rather attempts to change behavior through norm-building and consensus. And past attempts by individual nations to control greenhouse gas emissions have produced [scant results](http://www.lrwc.org/canada-canadas-failure-to-reduce-greenhouse-gas-emissions-report/). Low-cost, effective ways of lowering emissions already exist. Low-cost, effective ways of lowering emissions already exist. A [universal carbon tax](http://www.nytimes.com/2015/06/07/opinion/the-case-for-a-carbon-tax.html?_r=0), which would raise the cost of producing emissions, could push countries toward this goal without major economic disruptions by making the development and adoption of green energy sources, such as wind and solar, as cheap or cheaper than fossil fuels. But as William Nordhaus, one of the world’s leading economic thinkers on climate change, has [argued](http://www.law.harvard.edu/students/orgs/elr/vol33_2/Hahn.pdf), most governments lack the political will to do so. In the United States, for example, lack of political will has forced policymakers to choose from a number of “[second best](http://www.economist.com/blogs/freeexchange/2007/08/making_the_second_best_of_it)” policies. Pressure from large domestic energy companies, anti-tax groups and climate change deniers — including many in Congress — has [forced](http://www.amazon.com/Handbook-Transitions-Routledge-International-Handbooks/dp/1857437454/ref=sr_1_2?ie=UTF8&qid=1464535234&sr=8-2&keywords=Robert+Looney+climate+change) the executive branch to tax carbon indirectly or to subsidize wind and solar power. Unfortunately, such measures do little to discourage the continued use of fossil fuels. Pointing to the susceptibility of democratic governments to interest groups that have an economic stake in maintaining the status quo, environmental ethicist Dale Jamieson [questions](http://www.amazon.com/Reason-Dark-Time-Struggle-Against/dp/0199337667/ref=sr_1_1?ie=UTF8&qid=1460823453&sr=8-1&keywords=Reason+in+a+Dark+Time%3A+Why+the+Struggle+Against+Climate+Change+Failed%E2%80%94and+What+It+Means+for+Our+Future) whether democracy is up to the challenge of climate change at all. Dale Jamieson [questions](http://www.amazon.com/Reason-Dark-Time-Struggle-Against/dp/0199337667/ref=sr_1_1?ie=UTF8&qid=1460823453&sr=8-1&keywords=Reason+in+a+Dark+Time%3A+Why+the+Struggle+Against+Climate+Change+Failed%E2%80%94and+What+It+Means+for+Our+Future)whether democracy is up to the challenge of climate change at all. Scientist James Lovelock is similarly [pessimistic](https://www.theguardian.com/science/2010/mar/29/james-lovelock-climate-change), noting that human inertia is so great that, barring a catastrophic event, the best democratic governments can do is to adapt to climate change — i.e., building sea walls around vulnerable cities. Lovelock argues that, to make the hard decisions needed to deal effectively with climate change, it may be eventually be necessary to put democracy on hold, opting instead for some kind of [environmental authoritarianism](https://www.researchgate.net/publication/254232695_Authoritarian_environmentalism_and_China's_response_to_climate_change_Environ_Polit). But is it really necessary to choose between democracy and saving the planet? A comprehensive review of various countries’ progress towards environmental sustainability suggests otherwise. In fact, the case against democracy as a vehicle for environmental sustainability may be grossly overstated, based less on the actions of the world’s democracies as a whole than on the failures of a conspicuous few. Two data sets can help us identify the impact of democracy on climate change: The Economist Intelligence Unit’s (EIU) [Democracy Index 2015](http://www.yabiladi.com/img/content/EIU-Democracy-Index-2015.pdf) and the World Energy Council’s [Energy Trilemma Index](https://www.worldenergy.org/data/trilemma-index/). The Democracy Index divides 167 countries into four main groups: full democracies, flawed democracies, hybrid regimes, and authoritarian regimes. The countries are ranked best (Norway) to worst (North Korea). The Energy Trilemma Index ranks 130 countries in terms of their progress in three key energy performance measures: energy security (the availability of reliable supplies of energy), energy equity (the domestic price of energy) and environmental sustainability (the effect of the country’s energy sources on greenhouse gas emissions). Based on these measures, countries are ranked from best (Switzerland) to worst (South Africa). In 2015, the twenty countries grouped by the EIU as democracies had an average ranking of 34.2 on the energy sustainability index, while the 27 authoritarian regimes for which climate data existed scored much worse, with an average ranking of 85.6. In the two intermediate regime types, environmental sustainability fell off with democracy, with flawed democracies having an average ranking of 62.9 compared to hybrid countries at 67.5. The bad reputation of democracies in combatting climate change likely reflects the extremely low environmental sustainability scores of several of the more prominent members of this group, namely Canada (71), the United States (95), and Australia (110). As the name “Energy Trilemma” suggests, countries are forced to make trade-offs between energy security, energy equity, and environmental sustainability when determining their energy policies. For instance, a country that prioritizes energy equity might opt to import cheap fossil fuels at the expense of energy security and environmental sustainability until it can develop low-cost green domestic energy sources. Thus, the Energy Trilemma Index can provide insights not just into a country’s performance, but also into its priorities. As it turns out, countries that prioritized environmental sustainability ranked considerably higher on democracy than those that didn’t (75.4 vs. 103.5). These countries also had somewhat lower average per capita income ($25,015 vs. $37,095), demonstrating that taking action against climate change is far from a luxury that only the richest nations can afford. As these patterns clearly show, democracies are much more likely than authoritarian regimes to give environmental sustainability priority over either energy security or affordable energy supplies. This fact appears counter-intuitive, given that an often-cited flaw of democracy is that politicians are forced to make short-run decisions based on the election cycle. However, the effects of climate change, in the form of more severe storms, damaging droughts, falling agricultural yields, and increased flooding of coastal areas, are already being felt. And voters whose lives and livelihoods are increasingly impacted by climate change are beginning to demand immediate action, effectively forcing politicians to take a longer-run view. As a result, democratic governments become more likely to comply with global agreements that set specific targets for carbon reduction. Nevertheless, as noted above, several of the more prominent democracies — in particular, Canada, the United States, and Australia — have failed to adopt a national strategy for combatting climate change. The governments of these countries have not only come under pressure from their domestic fossil fuel industries, but from other constituencies that oppose changing the status quo, due in particular to the perception that environmentalism comes at the expense of jobs and low energy prices. In the U.S., a long-term campaign of [disinformation](http://www.ucsusa.org/press/2016/new-evidence-reveals-fossil-fuel-industry-funded-cutting-edge-climate-science-research) funded by the fossil fuel sector has given rise to a large group of climate-change naysayers, although their numbers may be [shrinking](http://ncse.com/news/2016/03/latest-climate-poll-from-gallup-0016974). Even in these countries, however, democracy is at work subtly prodding the government toward greater environmental responsibility. For now, this work is taking place at the provincial, state, and municipal levels. [British Columbia](http://www.economist.com/blogs/americasview/2014/07/british-columbias-carbon-tax) has imposed a carbon tax, [California](http://www.wsj.com/articles/how-cap-and-trade-is-working-in-california-1411937795) has initiated a cap-and-trade carbon plan, and [Melbourne](https://www.melbourne.vic.gov.au/SiteCollectionDocuments/zero-net-emissions-update-2014.pdf) has set a goal of zero net emissions by 2020. In most cases where local action has taken place, the effects of climate change have already begun to affect people’s lives. Once the consequences of climate change begin to be felt in other parts of these countries, it is reasonable to expect movements of this sort to gain momentum. Public concerns about the effects of climate change are unlikely to have the same force in authoritarian regimes as in democracies for two basic reasons. Authoritarian regimes almost invariably prioritize energy security and equity over environmental sustainability, since rising fuel prices risk social unrest. This overarching concern with [keeping energy prices low](https://www.researchgate.net/publication/240515305_Subsidies_for_fossil_fuels_and_climate_change_A_comparative_perspective) encourages increased usage of fossil fuels and a bias against green technologies. At the same time, authoritarian governments control information through state dominance of the media and access to official data. For example, China recently reported a sizable drop in coal consumption to placate citizens’ concerns about the country’s choking air pollution. According to the New York Times, however, Chinese coal consumption during the period of supposed reduction actually [rose](http://www.nytimes.com/2015/11/04/world/asia/china-burns-much-more-coal-than-reported-complicating-climate-talks.html) by 600 million tons, an increase equal to 70 percent of annual coal usage in the United States. Even as Chinese greenhouse gas emissions from coal grew, a [Pew Research report](http://www.theguardian.com/environment/2015/nov/05/climate-change-concerns-chinese-citizens-plummets) noted the number of Chinese who expressed serious concern about global warming fell from 41 percent in 2010 to just 18 percent in 2015. The only explanation for the drop the report’s author could suggest was a relative lack of public discussion of climate change. Fortunately, one of democracy’s greatest advantages is the ability of a free press to facilitate the dissemination of information and knowledge. Journalists have already begun to press home the direct link between human-induced climate change and weather-driven events, such as [California’s record drought](http://www.nytimes.com/2015/08/21/science/climate-change-intensifies-california-drought-scientists-say.html?_r=0) and the increased number and intensity of [Australian bushfires](http://www.theguardian.com/environment/2016/mar/20/australia-climate-council-urgent-action-temperature-records-summer-march). As voters become better informed, so too will democratic governments adopt better policies to promote climate stability

#### Lockean democracy means citizens are self-governing and need as much knowledge about government as possible

Packer 09, Cathy, prof @ UNC, The Politics of Power: A Social Architecture Analysis of the 2005-2008 Federal Shield Law Debate in Congress, 31 Hastings Comm. & Ent. L.J. 395 (2009) [Premier]

**The Framers were heavily influenced by the writings of John Locke**, a seventeenth century Enlightenment philosopher.32 In his book Second Treatise of Government, **Locke proposed a government based on the consent of the governed.**33 Locke said citizens would enter into **a social contract to create a government that would allow them to live safe, enjoyable lives and to protect their property**.34 **The basic terms of the contract were that the government would act with the consent of the majority, and, if the government failed to act with the consent of the majority, citizens were not obligated to obey**.35 In other words, **Locke proposed a social architecture in which power ultimately belonged to citizens, not those who governed them**. Although Locke did not explicitly say so, **historians expect that Locke would have believed that the government should be judged by citizens through the free exchange of ideas**,36 **including the exchange of ideas in the free press**. 37 **Locke would have believed citizens needed as much knowledge about government as possible.**38

### Government Accountability

#### The right to know is key to government accountability.

Mayer 14 summarizes the argument: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

Another common justification is that access to government-controlled information is necessary if the public is to be able to hold public officials accountable for their actions.71 As Roy Peled and Yoram Rabin note, this justification is based on the assumption that such “transparency is vital to administrative oversight” of government by the public.72 The goals of such oversight are two-fold: to deter bad faith decision making—i.e., corruption; and to improve good faith decision making by public officials. The focus of such justifications is therefore on how disclosure affects actions of government officials—preventing bad faith, corrupt decision making on one hand and improving good faith decision making on the other hand. The assumption that disclosure will reduce corruption among government officials is intuitively appealing, bringing to mind the much-cited Justice Brandeis quote that “[s]unlight is said to be the best of disinfectants; electric light the most efficient policeman.”73 Moreover, there is a general acceptance among commentators that greater public disclosure relating to government actions and government officials reduces both actual corruption and the public’s perception of corruption within government, at least when combined with an active press and civil society sectors.74 It is less certain, however, whether such disclosure improves good faith government decision making, in part because of the difficulty in many instances of determining what would be a “better” good faith decision and in part because disclosure can have negative effects on such decision making by discouraging candor and appropriate risk taking by government officials.75 The accountability justification is therefore at its strongest when it relies primarily on the apparent linkages between disclosure and reducing corruption and the public’s perception of corruption, as opposed to when it focuses instead on improving good faith decision making by government officials.

### Informed Voting

#### The right to vote implies that voters have the right to be informed about candidates they vote on.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

On any plausible conception of democratic governance, citizens have the right to vote, and it is therefore morally problematic if voters do not have access to important facts about matters they vote on.2 For example, it would be problematic if citizens were unable to learn about candidates’ views on important policy matters before they choose between them. There are numerous democratic principles that underwrite the right to vote: that those who govern should do so with the consent of the governed; that the government should represent the people; and that the people should be able to hold the government accountable. In turn, these principles underwrite ancillary rights: the right to physical access to the polls; the right to information about candidates’ voting records; and the right to information about campaign financing. The moral importance of access to candidates’ health information arises out of one of these democratic principles, that those who govern do so with the consent of the governed. The right to vote secures the consent of the governed in two ways. First, it involves citizens in their governance in a way that makes them willing to submit to the rule of law and that justifies that willingness. More importantly though, electing government officials by vote is itself a way in which the community as a whole gives consent to be governed by those elected.

#### Soft news fosters interest in politics by making political news more accessible.

Boukes and Boomgaarden 14 Mark Boukes [Postdoctoral Researcher at University of Amsterdam] and Hajo G. Boomgaarden “Soft News With Hard Consequences? Introducing a Nuanced Measure of Soft Versus Hard News Exposure and Its Relationship With Political Cynicism” Communication Research. Vol 42, Issue 5, pp. 701 - 731 First Published June 18, 2014. [Premier]

Thus, opposing expectations have been voiced about television’s contribution to a healthy democracy. Similarly, contradicting views exist on the soft news phenomenon. Some scholars assumed that soft news would make citizens pay more attention to public affairs, as it would be more attractive than hard news (Baum, 2003b; Zaller, 2003). For example, people who did not closely follow the hard news media were more likely to be attentive to and to develop opinions about international crises if they watched soft news (Baum, 2002), but not about less sensational issues as domestic politics. Moreover, and following Baum’s (2003b) gateway-hypothesis, watching soft news with the intention of being entertained may at the same time unintentionally foster an interest in political issues or current affairs that are “piggybacked” in such shows and subsequently motivate the consumption of hard news to keep track of such topics (see, for example, Feldman & Young, 2008). Soft news can also be a democratizing factor (Barnett, 1998), because dramatized and personalized news coverage make politics more comprehensible for broader audiences and political engagement more pleasurable (Bird, 2009; Van Zoonen, 2005; Zaller, 2003).

#### It is not up to the state to determine what information is politically relevant for citizens.

Volokh 2k Volokh, Eugene [Gary T. Schwartz Professor of Law at the UCLA School of Law]. "Freedom of Speech, Information Privacy, and the Troubling Implications of a Right to Stop People from Speaking About You." Stanford Law Review, Volume 52. 2000. [Premier]

Now I agree with the court’s factual conclusion; people’s gender identity strikes me as irrelevant to their fitness for office. But other voters take a different view. Transsexuality, in their opinion, may say various things about politicians (even student body politicians): It may say that they lack attachment to traditional values, that they are morally corrupt, or even just that they have undergone an un- natural procedure and therefore are somehow tainted by it. All these views may be wrong and even immoral, but surely it is not for a government agency— whether judge or jury—to dictate the relevant criteria for people’s political choices, and to use the coercive force of law to keep others from informing them of some things that they may consider relevant to those choices.145 I may disagree with what you base your vote on, but I must defend your right to base your vote on it, and the right of others to tell you about it.

#### Personal coverage of politicians may serve as important indicators of decision-making ability – necessary information for informed voting.

Yaniv and Tenenboim-Weinblatt 16 Yaniv, Naama Weiss and Tenenboim-Weinblatt, Keren [Hebrew University of Jerusalem, Israel Journalism Department] “Politically Relevant Intimacy: A Conceptual and Empirical Investigation,” International Journal of Communication 10(2016), 5186-5205. [Premier]

However, this line of argument relies on two questionable assumptions. The first one has to do with the very act of delineating stories about issues as containing “good knowledge” while regarding stories about image or persona as containing “inadequate knowledge.” Although often regarded as insubstantial, personal characteristics can serve as important shortcuts in the process of evaluating candidates (Dalton & Wattenberg, 1993; Miller, Wattenberg, & Malanchuk, 1986), especially given the complexity of the political decision making process in the contemporary information environment (Adam & Maier, 2010), and particularly when these personal aspects might be relevant to effective performance (Shabad & Anderson, 1979). Moreover, sometimes an issue-based evaluation may turn out to be inadequate compared to an image-based evaluation. A candidate could be an enthusiastic advocate of a certain policy, but it does not mean that he or she has the competence to implement this policy once elected. Therefore, in some cases it may be more rational to rely on information about personality (Popkin, 1991).

#### Information about a politician’s private life teaches us about their character.

Cillizza 14 Chris Cillizza. [Journalist for CNN and Washington Post] "Why you should care about the personal lives of politicians." Washington Post, September 18, 2014. [Premier]

That said, I think that the focus on the personal -- even the over-focus on it -- is better than where political journalism was before Gary Hart. Why? Because the intense focus on understanding who these people really are -- and comparing that to the image they and their campaign are putting out -- matters when tasked with educating the public about the critically important choice of who will lead the country. Do the foibles that are uncovered get more coverage than the successes? Yes. But, that's been true for a very long time. Leo Tolstoy, way back in 1877, wrote “all happy families are alike; each unhappy family is unhappy in its own way" as his opening lines of Anna Karenina. It was true then, it's true now. Human nature makes us care more about the stumbles than the successes. And, I would argue, we learn more about ourselves and those we would choose to lead us by how they handled stumbles and/or how they handled themselves when no one was looking (or they thought no one was looking) than we do from their/our public successes. Again, not to make this all about me, but here's the third paragraph (out of three) of my Wikipedia page: "Cillizza and Dana Milbank appeared in a series of humor videos called 'Mouthpiece Theater', which appeared on the website of The Washington Post. An outcry followed a video in which, during a discussion of the White House Beer Summit they chose new brands for a number of people, including 'Mad Bitch Beer' for Hillary Rodham Clinton. Both men apologized for the video and the series was canceled." Do I wish that wasn't in there? Sure. But I did it -- and I learned from it. And I would hope that when people look at the full breadth of what I've written and said, they think I am a someone worthy of reading and trusting on politics. Same goes for our politicians. Focusing on their good and their bad is about understanding them as people -- and humanizing them for voters. I believe that's a tremendously valuable job for political reporters to keep doing.

#### The meaningfulness of consent of the governed relies of availability of information to voters.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Although it is difficult to state precisely the way in which voting (or democracy more generally) secures the consent of the governed, or indeed the sense of “consent” in which those in a democracy do consent to be governed, the idea that voting is essential to government by consent is a familiar one. It is also a commonplace that the meaningfulness of any sort of consent depends on the availability of information to the decision maker. This can be construed in at least two mutually compatible ways. First, the meaningfulness of consent depends on the decision maker’s having access to valued information. It is worth noting that people often want information that turns out not to impact their final decision. For example, many patients want to know whether they are being used for the training of medical students, even when they have no objections to being so used. Similarly, information about possible outcomes of a decision can be meaningful even if those outcomes do not occur. So even if the patient ends up surviving, consent is not fully informed if she would have avoided the procedure had she been informed of its risk of death. Thus, information can be relevant to the meaningfulness of consent even if it does not impact one’s final decision and even if the outcomes for which the information is relevant do not occur.

### Agency Corruption

#### Forced disclosure of campaign finance is key to check executive agency policies that may be tainted by corruption,

O'Reilly 99, James T., law prof @ Cincinnati, (1999) "Money Talks and Policy Walks: The Influence of the Campaign Funding Process Upon Administrative Agency Decisions," Journal of Civil Rights and Economic Development: Vol. 14: Iss. 1, Article 3 [Premier]

This article examines and challenges the effects of presidential fundraising upon Executive branch agencies. Furthermore, **this article proposes a system of focused disclosure as a solution to Executive Branch influence by presidential campaign donors.** Under this system, **there would be more media commentary concerning donations, resulting in both public and legal consequences for the donors.**19 **The federal appellate courts that oversee agency policymaking would be expected to hear claims that tighter scrutiny of the "tainted" agency decision is necessary**. 20 **Advocates armed with facts about donor influence will be able to assert that deference should not be accorded to certain administrative agency policy outcomes, especially where rulemaking and permit decisions have been "sold" to donors by the President's political aides.**

Furthermore, **the forced disclosure system would shed light into the administrative agencies that act by processes that are less than fully transparent, such as rulemaking**. Even though, in notice-and-comment rulemaking, 21 all commentators are ostensibly equal, **political contributors who have the personal attention of the President's staff are perhaps more equal than others**.

#### Courts now defer to agency rule-making, which may be motivated by corrupt political donor influence, but courts can stop it:

O'Reilly 99, James T., law prof @ Cincinnati, (1999) "Money Talks and Policy Walks: The Influence of the Campaign Funding Process Upon Administrative Agency Decisions," Journal of Civil Rights and Economic Development: Vol. 14: Iss. 1, Article 3 [Premier]

Federal appellate **courts need to reexamine the deference accorded to political choices made in major rulemaking proceedings.** Moreover, the District of Columbia Circuit ("D.C. Circuit") should revisit its decision in Sierra Club v. Costle.22 In this case, **the D.C. Circuit encouraged agency managers to act with "openness,** accessibility and amenability... to the needs and ideas of the public from which their ultimate authority derives, and upon whom their commands must fall."2 3 **This noble ideal, unfortunately, has been tainted and manipulated by excessive responsiveness to political campaign donors**. 24

However, **since it is the courts that can invalidate agencies' rules, it is the courts that can keep agencies "honest" about the motivation underlying their rules.** 25 **If donors "capture" and kill an agency rulemaking project, judicial review could determine whether donor influence led to the policy choice**. If the contributions-for-access system becomes more transparent, **courts could apply a harsher scrutiny of agencies' rationales, especially where factual assertions of political donor influence are presented in challenges to an agency rule or policy.** Ultimately, **the courts will need to re-evaluate the impact of the creeping phenomenon of campaign fundraising on officials promising more responsive or friendlier administrative decisions towards those who gave large campaign contributions**.

#### Courts now do not probe the relationship between agency regulation and political contributions, which leaves wide discretion for elected representatives serving their donors in corrupt fashion,

O'Reilly 99, James T., law prof @ Cincinnati, (1999) "Money Talks and Policy Walks: The Influence of the Campaign Funding Process Upon Administrative Agency Decisions," Journal of Civil Rights and Economic Development: Vol. 14: Iss. 1, Article 3 [Premier]

**The strong perception of undue donor influence upon administrative policy outcomes in the administrative state is a valid concern**.28 Presently, **once data supporting a final agency rule is assembled by the agency in the administrative record, the courts do not wish to probe further. If disclosure of major donor impacts on major rules were accessible, advocates could urge courts to examine whether the executive branch discretion was tainted, not by valid constituency representation, but by donor pressure**. **Scholars** of Congress **have already examined the negative effect of elected representatives serving their donors**, and not their broader constituency. 29 **Disclosure backed by appellate court scrutiny of discretionary choices will deter inappropriate action**. 30 Reaching this goal, with only minimal paperwork burdens for the agencies, is the challenge this article confronts.

### 1st Amendment

#### Political information is at least as valuable as other forms of expression like art – restrictions would set a dangerous precedence.

Volokh 2k Volokh, Eugene [Gary T. Schwartz Professor of Law at the UCLA School of Law]. "Freedom of Speech, Information Privacy, and the Troubling Implications of a Right to Stop People from Speaking About You." Stanford Law Review, Volume 52. 2000. [Premier]

On the other side of the comparison, as Part V argued, a good deal of speech that reveals information about people, including speech that some describe as of merely “private concern,” is actually of eminently legitimate interest. Some of it is directly relevant to the formation of general social and political opinions; most of it is of interest to people deciding how to behave in their daily lives, whether daily business or daily personal lives—whom to approach to do business, whom to trust with their money, and the like. True, this speech isn’t a candidates’ debate, or an editorial regarding a ballot measure; allowing restrictions on this speech will only minimally jeopardize such intensely political advocacy. But the speech I describe is at least as relevant to people’s lives as is much speech that is today constitutionally protected, be it art, product reviews, or humor; restricting it on “compelling interest” grounds will indeed set a precedent for restricting those other kinds of speech, too.

### Medical information

#### Candidates should be required to reveal their financial dealings and health information pertinent to their ability to serve their term. Under the plan, they would be evaluated by a panel of doctors who determines their fitness for office to maintain privacy.

Milligan 16. “Clinton's Pneumonia Flap and the Public Fight Over Privacy” US News and World Report. Sept. 12, 2016. <https://www.usnews.com/news/articles/2016-09-12/hillary-clinton-pneumonia-flap-highlights-the-public-fight-over-privacy> [Premier]

So what should candidates have to reveal? "Everybody deserves some modicum of privacy, even president and would-be presidents," says Steve Rabinowitz, who worked in Bill Clinton's White House and is now a media consultant and founder of Bluelight Strategies. But "it doesn't extend to their financial dealings and it doesn't extend to their health and fitness to serve out their term in office." That means the public should know about people's income, charitable giving, debt and business dealings, along with pertinent health information relevant to their ability to serve four years. "That's where it ends," Rabinowitz underscores, saying that people do not have the right to know about such intensely personal conditions as hemorrhoids or erectile dysfunction. Robert Streiffer, an associate professor of bioethics and philosophy at the University of Wisconsin, says there should be a uniform standard under which a blue-ribbon panel of doctors reviews each candidate's medical information, and evaluates them for fitness for office. "While I very much oppose opening up the [complete] medical records to everybody – that's a recipe for disaster – you do need to have a filter that looks at objective, evidence-based" assessments, he says. For this campaign, though, it may be too late. "It's become so polarized, because of the Trump attacks" on Clinton's health, says Rabinowitz, a Clinton supporter. "Even though she's been more forthcoming about her health than he has, it still fuels the conspiracy theories and then piles upon itself."

#### The test to determine whether a candidate has a moral requirement to disclose information is a case-by-case analysis about medical conditions that are impede fulfillment of core functions of the office.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Rather, to determine whether a candidate is under a moral requirement to disclose information, what is needed is a principled distinction that strikes an apt balance between voters’ informational rights, candidates’ privacy, and other democratic goals and values. To be clear, where we say “moral requirement,” we mean an undefeated moral duty, such that an agent ought, all things considered, to comply with that duty. So, what information is a candidate morally required to disclose? We propose that candidates are morally required to disclose information about any medical conditions that are likely to seriously undermine the candidate’s ability to fulfill what we will call the core functions of the office. “Likely” and “seriously” are of course vague, but any plausible view will have to be qualified in some such way, since any plausible view will take as relevant the severity and likelihood that the medical condition will impact the candidate’s abilities.6 The factors that are relevant to deciding in particular cases whether a certain piece of medical information must be disclosed will vary in degree, and apart from the extreme cases, it will be vague where the precise balance lies, thus necessitating the exercise of judgment on a case-by-case basis. We explicate our use of these terms below, and provide some guiding examples in Section III.

#### Candidates are morally obligated to waive their right to medical privacy in the case of circumstances that would undermine their ability to fulfill the core functions of office of the presidency.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

We argue that while presidential candidates have the right to medical privacy, the public nature and importance of the presidency generates a moral requirement that candidates waive those rights in certain circumstances. Specifically, candidates are required to disclose information about medical conditions that are likely to seriously undermine their ability to fulfill what we call the “core functions” of the office of the presidency. This requirement exists because (1) people have the right to be governed only with their consent, (2) people's consent is meaningful only when they have access to information necessary for making informed voting decisions, (3) such information is necessary for making informed voting decisions, and (4) there are no countervailing reasons sufficiently strong to override this right. We also investigate alternative mechanisms for legally encouraging or requiring disclosure. Protecting the public’s right to this information is of particular importance because of the documented history of deception and secrecy regarding the health of presidents and presidential candidates.

#### The availability of relevant information to voters is vital to the quality of consent of the governed – historical examples prove lack of medial information is problematic.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Second, the moral force of consent increases as more relevant information becomes available to a decision maker. So for our purposes, where voters desire relevant information about a decision, but where that information is unavailable (either because it is undocumented or because it is documented but undisclosed), the quality of that consent decreases. While meaningfulness of consent admits of degrees, we can say that consent is only valid where that consent is properly informed, leaving open for the moment just what information is necessary for consent to count as informed.3 But if voters have a right that their valid consent be obtained, and if consent is not valid unless it is informed, it follows that voters have a right to the information necessary to make an informed voting decision. A fortiori, if certain kinds of medical information are necessary for making informed voting decisions, voters have a right to that medical information. This explains why the historical examples we mentioned above are problematic. The Wilson case is clearest in this regard: his illness resulted in the effective disenfranchisement of the entire American people who had no idea that their vote for Wilson would give the power to make presidential decisions to his wife.

#### Candidates should only be required to disclose private health information to the public if there is a possibility of them dying in office.

Lamotte 15. Lamotte, Sandee. “Do voters have the right to know presidential candidates' health histories?” CNN, December 15, 2015. <https://www.cnn.com/2015/12/14/health/presidential-candidate-health-disclosure/index.html> [Premier]

(CNN) On Monday, Donald Trump released a statement by his personal physician that said he'd lost 15 pounds in the last year, takes aspirin daily and a low dose of statin and has "astonishingly excellent" lab test results and blood pressure. "If elected," Dr. Harold Bornstein wrote, "Mr. Trump, I can state unequivocally, will be the healthiest individual ever elected to the presidency." With the release, Trump joins Hillary Clinton, Jeb Bush, and Chris Christie, who have recently assured the American people they are healthy and fit to lead. Excellent or not, what right does the public have to know the intimate details of a candidate's medical history? After all, they are shielded by the same federal privacy laws that protect each of us from undue scrutiny. "It's a controversial issue because some illness can be blown out of proportion and with modern medicine a person can do well," said Jerrold Post, author of "When Illness Strikes the Leader." "But if a person is suffering from early Alzheimer's or another serious disease, it's quite another story." History shows that most presidential candidates have kept their medical information private. Only recently have candidates opted to release letters from personal physicians. Few go as far as Sen. John McCain, who released thousands of carefully selected medical records to the press for a few hours during his bid for the 2000 and 2008 nominations. "It's a very touchy subject," said Dr. Connie Mariano, who served as White House physician for George W. Bush and Bill Clinton. "Having been at the White House for nine years, my opinion is only as it impacts their ability to perform their job in office, which is to make decisions and communicate." Opinion: Is Trump in the most 'astonishingly excellent' health of any candidate ever? "The public has a right to know if the candidate has a reason to believe he might die in office. Short of that, I think the president has a right to keep his medical and mental health information private," said George Annas, chairman of the department of health law, bioethics and human rights at Boston University School of Public Health.

#### Private information like a politician’s medical records are relevant to public decision-making.

Streiffer and Fagan 6. Streiffer, Robert [PhD, University of Wisconsin] Fagan, Julie R. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose”, Journal of Medicine and Philosophy, 31:4 (2006). [Premier]

Our view has several specific implications regarding the kinds of conditions that candidates must disclose, including the following: known medical conditions that would give the candidate a life expectancy of five years or less; medical conditions that would significantly impair the candidate’s judgment or behavior while in office; history of past illness likely to recur or cause complications later in life; and mental illness likely to result in significant cognitive impairment while in office. The examples that follow serve to illustrate how to apply our standard. A. Known Medical Conditions As noted, Tsongas concealed his relapse of non-Hodgkin’s lymphoma from voters and campaigned in the 1992 Democratic primary. He died before the end of what would have been his first term. In our view he would have been required to disclose his condition, not merely because it turned out to be fatal, but because it was known at the time to have a high probability of being fatal for anyone who had it. More generally, our view requires candidates to reveal any medical condition that gives them a life expectancy of five years or less. This is because voters consent to be governed one term at a time, and five years is roughly one term, plus the time it takes to campaign for the office. One might object that prognostication is inexact, and that therefore this standard is unworkable. George Annas, for example, says that “physicians cannot predict with any certainty how a candidate’s medical condition will affect his or her ability to perform politically” (Annas, 1995, p. 947). But there are in fact a number of conditions for which life expectancy can be predicted with fair precision and certainty. For example, metastatic cancer, cardiomyopathy, and advanced AIDS all carry defined five-year survival rates (Solomon et al., 2001). In our view, candidates are not required to disclose only conditions that are fatal, for there are many non-fatal medical conditions that are likely to affect a candidate’s judgment or behavior so substantially as to compromise their ability to fulfill the core functions of office. For example, candidates would also have to disclose uncontrolled epilepsy, a history of undiagnosed syncope, significant ventricular arrhythmias, and chemotherapy (given its potential toxicity). Despite the fact that many conditions meet our standard, most medical conditions would not require disclosure. Rudy Giuliani’s early prostate carcinoma, Bill Bradley’s atrial fibrillation, and John McCain’s early-stage Medical Disclosures of Presidential Candidates 425 melanoma were unlikely to alter their longevity or cognition. Although these politicians voluntarily revealed their conditions (Purnick, 2000), our view would not have required disclosure. More directly related to our topic, though, is Vice President Dick Cheney’s heart condition. Cheney has had several heart attacks and has received various cardiac treatments in recent years. Cheney did not release his full medical records during the 2000 campaign, and the issue did not attract much attention during the 2004 campaign (Prothero, 2000; Schmitt, 2001).9 The question arises whether our view would have required disclosure. There are a couple of reasons to think that it would not. First, Cheney was only aspiring to the vice presidency, and the likelihood of vice presidential incapacitation precipitating the sort of disruption that grounds the disclosure obligation is much smaller than the likelihood of presidential incapacitation doing so. Moreover, his heart condition does not rise to the level of a high likelihood of death within 5 years, given the many technological advances in treating heart disease. In addition to the historical cases we have discussed, the popular television drama The West Wing illustrates that this is a concern to the public. In this show, President Bartlett concealed his previously diagnosed mild multiple sclerosis during his campaign. When he suffered a relapse during office, the characters in the show hotly debated whether Bartlett should have informed the public of his condition during his campaign; Aaron Sorkin, the primary writer for the show, decided to have Congress issue a censure of him (Sorkin, 2001). Because mild multiple sclerosis is unlikely to affect fiveyear longevity, cognition, or competence, our view would not require disclosure. The show raises other interesting issues—Bartlett must work to regain the trust of his advisers and staff, Bartlett’s wife, who happens to be a physician, colludes in the cover-up—but these alone do not suffice to meet our standard for required disclosure. So even some important medical conditions would not, in our view, require disclosure.

#### The strength of consent depends on the amount of information available about politicians.

Streiffer and Fagan 6. Streiffer, Robert [PhD, University of Wisconsin] Fagan, Julie R. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose”, Journal of Medicine and Philosophy, 31:4 (2006). [Premier]

First, the meaningfulness of consent depends on the decision maker’s having access to valued information. It is worth noting that people often want information that turns out not to impact their final decision. For example, many patients want to know whether they are being used for the training of medical students, even when they have no objections to being so used. Similarly, information about possible outcomes of a decision can be meaningful even if those outcomes do not occur. So even if the patient ends up surviving, consent is not fully informed if she would have avoided the procedure had she been informed of its risk of death. Thus, information can be relevant to the meaningfulness of consent even if it does not impact one’s final decision and even if the outcomes for which the information is relevant do not occur. Second, the moral force of consent increases as more relevant information becomes available to a decision maker. So for our purposes, where voters desire relevant information about a decision, but where that information is unavailable (either because it is undocumented or because it is documented but undisclosed), the quality of that consent decreases. While meaningfulness of consent admits of degrees, we can say that consent is only valid where that consent is properly informed, leaving open for the moment just what information is necessary for consent to count as informed.3 But if voters have a right that their valid consent be obtained, and if consent is not valid unless it is informed, it follows that voters have a right to the information necessary to make an informed voting decision. A fortiori, if certain kinds of medical information are necessary for making informed voting decisions, voters have a right to that medical information. This explains why the historical examples we mentioned above are problematic. The Wilson case is clearest in this regard: his illness resulted in the effective disenfranchisement of the entire American people who had no idea that their vote for Wilson would give the power to make presidential decisions to his wife.

#### “Core functions of office” are functions that any reasonable person regardless of party affiliation would agree on.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

By “core functions of office” we mean those functions that, on any reasonable view, are necessary to perform the job of the presidency. So while citizens have vastly different views of the particular functions of the presidency, an adherent of any of these views would agree on what the core functions of office are. To take some extreme examples: on any reasonable view of the president’s job, the president must be alive and conscious to perform it. Similarly, on any reasonable view, serious mental illness will likely impair the president’s ability to perform the functions of office. So it seems very plausible to say that a president must be alive, conscious, and competent in order to perform the core functions of the office. By contrast, although on some reasonable views, intemperance might impair the president’s ability to perform the functions of office, on other reasonable views, intemperance is unlikely to do so. Thus, being temperate is not required to fulfill the core functions of the office. The requirement we propose is quite strict, adhering only to these uncontroversial claims about the abilities the president needs. It is limited to a narrow class of information (i.e., what is likely to affect a candidate’s ability to fulfill the core functions of office) and sets a high relevance threshold (i.e., what is likely to have a serious effect).

#### Limiting required disclosure to only relevant information to core functions of office avoids unnecessary disclosures which could harm candidates’ chances and information overload for voters.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Such a strict requirement has several advantages over more expansive disclosure requirements.7 First, by limiting disclosure to information relevant only to the core functions of office, our view does not require candidates to disclose information that is irrelevant or only controversially relevant to their ability to perform as president. Thus, while our view would have required Tsongas to disclose that his cancer had relapsed, it would not require Mary Smith to disclose information about having been raped. Thus, while requiring disclosure of potentially damaging but uncontroversially relevant information, our view avoids requiring disclosure of potentially damaging but at best controversially relevant information. Second, by limiting disclosure to information about conditions that are likely to have serious effects, our view does not require disclosure of all medical conditions that might have some bearing, no matter how small, on the candidate’s ability to perform the core functions of the office. Just as a patient’s right to informed consent does not require the doctor to disclose absolutely every risk and benefit of a treatment, no matter how minor or remote, the fact that a candidate has sensitive skin or minor asthma could conceivably affect his ability to fulfill the functions of office, but would not need to be disclosed under the standard we propose. This ensures that information about important risks and benefits is not lost amid a sea of mostly useless information, and it provides a procedural safeguard against a slippery slope towards disclosing inappropriate medical information. In addition to the advantages already mentioned, limiting disclosure in both of these ways protects candidates’ important privacy interests and protects the political process against those who might hijack political deliberation with specious arguments about relatively trivial medical matters. And, as we will discuss in more detail in Section IV, it does so while giving due weight to the rights and interests of voters, unlike a view that permits complete confidentiality.

#### Candidates should be required to disclose known medical conditions that give the candidate a life expectancy of 5 years or less, severely impair the candidate’s judgement or behavior, history of past illnesses likely to reoccur, and mental illnesses likely to cause significant cognitive impairment.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Our view has several specific implications regarding the kinds of conditions that candidates must disclose, include[e]ing the following: known medical conditions that would give the candidate a life expectancy of five years or less; medical conditions that would significantly impair the candidate’s judgment or behavior while in office; history of past illness likely to recur or cause complications later in life; and mental illness likely to result in significant cognitive impairment while in office. The examples that follow serve to illustrate how to apply our standard.

#### Inappropriately relevant information should not be disclosed since its effect on candidates ability to perform core functions depends on it being disclosed – it’s effect and whether it will actually be disclosed are unpredictable, and it’s an undue invasion of privacy

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Although information about certain medical conditions is necessary for making informed voting decisions, other kinds of information, though considered relevant by some, need not be disclosed since they do not bear on a candidate’s ability to carry out the core duties of office. Examples include information about sexual preference, past drug use, and extramarital affairs. Disclosure of such stigmatizing information severely compromises a candidate’s privacy without justification and in our view would not be required. This parallels the case of private employers, who cannot require disclosure of medical information that is irrelevant to how well an applicant can perform a job.10 It might be objected that disclosing such information would be required in our view, at least in situations in which the public or Congress were likely to discover the information and react so vehemently that the president would no longer be able to do anything other than spend his time on damage control. Such information might be called “inappropriately relevant information,” since it is information that is in itself irrelevant to the candidate’s job performance, but can come to be relevant when mistakenly perceived to be so by others. This phenomenon is exemplified by the Clinton/ Lewinsky scandal. There are several reasons why disclosure of such information would not be required in our view, even though it is, in a way, relevant. First, these are conditions whose effects upon a candidate’s ability to perform the core functions of office depend upon their being disclosed, and the likelihood of accidental disclosure is not amenable to prediction in the same way as, say, the effects of non-Hodgkin’s lymphoma. Second, even when these conditions are accidentally disclosed, the impact of disclosure is also not as predictable as the strictly medical conditions discussed above. Moreover, even if disclosure does come to consume Congress and the public’s attention, it is still not clear that it is likely to seriously undermine the president’s ability to fulfill the core functions of the office. Scandals of all sorts seem to roll off candidates like water off a duck’s back to sitting presidents (c.f. Reagan and the Iran/Contra affair, and the Clinton/Lewinsky scandal). Finally, even in the unlikely case where such information is likely to be disclosed and would seriously undermine a candidate’s ability to perform the core functions of office, it would still be inappropriate to require disclosure. Consider that in any other context, it would be unjustified to require disclosure of a person’s private information merely on the grounds that the reactions of others will hinder that person’s ability to perform his or her job. For example, suppose that an employer wants to collect information about potential employees’ sexual orientation. The employer might argue that this information really is relevant to job performance because, were the employer to find out that an employee was homosexual, the employee would then be unable to work due to the resulting hostile work environment. But preemptive questions that contemplate an employee’s ability to function only given people’s attitudes are of a different kind than questions that would affect that person’s ability to function regardless of anyone’s perceptions.11 That kind of specious reasoning clearly does not justify an invasion of the employee’s privacy. Thus, the general requirement to disclose information about any condition likely to seriously undermine a candidate’s ability to perform the core functions of office must be qualified to exclude inappropriately relevant information.

#### A moral obligation to provide medical information is consistent with the right to medical privacy – privacy refers to information other people disclose about you, not what you’re required to disclose about yourself as a condition of running for office.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

During his 1992 candidacy, Bill Clinton initially refused to disclose any specific medical information out of a desire to protect his privacy, thus expressing the widely shared concern that disclosure requirements somehow violate candidates’ medical privacy (Altman, 1992). There are two such arguments that are worth considering. First, it might be argued that a moral requirement to disclose is inconsistent with the right to medical privacy. After all, what is the right to medical privacy but a moral permission to withhold private medical information (except in extreme circumstances such as public health emergencies), and if candidates have permission to withhold such information, how can they be required to disclose it? But the existence of a moral requirement to provide medical information is perfectly consistent with the right to medical privacy. This is because the right to medical privacy is a right against others not to disclose private medical information without consent, and the fact that others have a duty not to disclose a candidate’s medical information is consistent with the candidates themselves being required to disclose that information. As is often noted, to say that someone has a right to do something is not to say that it is right for them to do that thing.14 A candidate’s right to privacy would be compromised if healthcare providers were legally required or legally permitted to disclose information without the candidate’s consent. But even if one were tempted to try to legally institute mandatory disclosure requirements, such requirements would not legally compel or authorize anyone to disclose information without the consent of the candidates; rather, they would make consent a condition of candidacy. This is something we think is unproblematic in other contexts. For example, while employers may not access an employee’s medical record without consent, they may require the employee to make relevant medical information available as a condition of employment. In sum, the right to medical privacy is not a good reason for thinking that there is no moral requirement to disclose, nor is it a good reason for thinking that there should not be a legal requirement to disclose.

#### Privacy interests are outweighed by voters’ interests in making informed decisions.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Second, it might be argued that even if requiring disclosure of relevant information does not violate a candidate’s right to medical privacy, there still remain important privacy interests that ought to be weighed in the balance while deciding whether someone is morally required to forego confidentiality. Someone with AIDS, for example, might not only be concerned about unconsented disclosure, they might also be interested in minimizing disclosure, period, with or without consent. People with chronic back problems have an interest in not foregoing confidentiality if their employers can use that information to avoid paying worker’s compensation claims. And most people do not want others to know even innocuous medical information about them, since it isn’t any of their business. All of these are important privacy interests that are independent of whether disclosure of the information occurs with or without consent. Although these are important interests, they are justifiably compromised in many cases. An employer’s interests in making an informed hiring decision about a potential employee overrides the potential employee’s interests in privacy, and thus employers may require disclosure of medical information relevant to potential employees’ expected job performance. Airline pilots, for example, are required to pass stringent medical and psychological examinations administered by FAA-approved physicians, every six months (Bureau of Labor Statistics, 2004). The same holds for presidential candidates: The voters’ interests in making informed voting decisions override the candidate’s interests in keeping private any information that meets our standard of relevance.

### Campaign Finance

#### Campaign finance laws should be amended to require candidates to disclose any substantial payments they have made or that have been made on their behalf within six months of the election – solves ambiguity of current campaign finance laws in the age of Trump.

Bauer 18. Bauer, Bob. [Bob Bauer is a professor of practice and distinguished scholar in residence at New York University School of Law and a former White House counsel to Barack Obama.] “Trump Exposes the Holes in Campaign-Finance Laws” The Atlantic, 7/26/18, <https://www.theatlantic.com/ideas/archive/2018/07/did-trump-break-campaign-finance-laws/566180/> [Premier]

The release of a taped telephone conversation between Michael Cohen and Donald Trump has given rise to renewed questions about whether President Trump committed federal campaign-finance violations in hiding extramarital affairs. He had denied knowing of payments to Stormy Daniels and of American Media’s financial arrangements with Karen McDougal. In both instances, in an unusual turn of events, his own lawyers—Rudy Giuliani and Cohen—revealed that he knew more than he had admitted. Whether the campaign-finance laws apply depends on the motive for the original concealment: Was it driven by personal or political considerations, or both? But it is also likely that months or years from now, when more or all of the facts have been collected and a full assessment is possible, the campaign-finance laws will not be the story. The tape may play a very different role in Trump’s legal travails and eventual downfall. To this point, the campaign-finance case has been more or less circumstantial: It was based on various factors such as the timing of the Daniels and McDougal payments on the eve of the election. Now that we have statements from the candidate himself, on tape, recorded by his own lawyer, the quality of the evidence on this point has been upgraded. The president and Cohen discuss what the current polling shows, and then turn to a possible payment to American Media, or AMI, to buy the rights to the McDougal story, to ensure that it cannot see the light of day. The Cohen tape is not helpful to the president, but because of the structure of campaign-finance rules, it may not be conclusive. The question for legal purposes is whether Trump would have made this payment even if he had not been a candidate. Trump would argue that even if he had powerful political reasons to hide the McDougal relationship, he also had personal ones. He does not have to deny that politics played some part in his and Cohen’s plotting to bury the McDougal story. After all, he may contend, a revelation in the heat of the political season would be even more intensely covered and add considerably to whatever marital or family reaction he would have to deal with. And he could have both objectives in mind—to spare himself political as well as personal trouble. Under the rules, a dual motive is enough to muddy the legal waters. So the short and not entirely intelligible recording does not clearly settle this motive issue. On the other hand, Cohen has his own story to relate, with perhaps more telling details about motive, at which point it’s a duel between competing narratives offered by two individuals with dismal reputations for truth-telling. One conclusion invited by this episode is that a rule triggered by the presence of a certain "purpose”—an election-related purpose—is not well-designed to address this and similar cases. But that is not to say that the public did not have a legitimate interest in knowing that Trump was making these arrangements. The rules as currently written simply do not serve that interest. At some time in the future, when the discussion of reform will be possible, there might be effective fixes to the law worth considering. For example, rather than stumbling over the vagaries of “purpose,” the law could be changed to provide that candidates for president would have to disclose any substantial payments that they made, or that third parties paid on their behalf, within six months of the election. Any unusual financial activity during a candidacy for the presidency seems fair game for public disclosure. Candidates, including nonincumbents, are already required to file personal financial-disclosure statements pursuant to the Ethics in Government Act. An amendment to this act to capture exceptional financial transactions in the election period would force the disclosure of both the kind of activity at issue in the Trump-McDougal case, and perhaps other spending by or for the benefit of a potential president that the public would have reason to be concerned about.

#### In the United States, the public’s right to know sources of campaign contributions ought to be valued above the right to privacy of candidates for public office.

Fischer 17, Howard Fischer, Arizona Daily Sun reporter, “Goddard pushing initiative to require campaign 'dark money' transparency” <https://azdailysun.com/news/local/goddard-pushing-initiative-to-require-campaign-dark-money-transparency/article_1677db88-1c06-5a1c-86d6-cba0403120f2.html> [Premier]

PHOENIX -- A former state attorney general wants Arizonans to vote to constitutionally ban anonymous donations from political campaigns. Terry Goddard is crafting **a "right to know'' initiative** that **would guarantee** in the state constitution that **voters are entitled to know who is trying to sway their votes** on who to elect for everything from statewide offices to school board members. The measure which Goddard hopes to put to voters a year from now, also would impose the same requirements on those pushing future ballot measures. Campaign consultant Bob Grossfeld said the effort starts with redefining for voters exactly what it is they are trying to curb. And that comes down to using new terminology. "We're done with this whole **'dark money'** nonsense,'' Grossfeld said, the term that has become synonymous in political rhetoric with **dollars coming from unknown sources**. But he said that's technically neither a legal term nor even one with an actual formal definition. "We look at this as 'dirty money,' '' he said. "This **is no different than criminal syndicates who are laundering money**,'' Grossfeld said. "It's for the same purposes: to hide the people behind it.'' And he rejected claims by some interests who fought similar measures in the past that such disclosure mandates would impact the free speech rights of individuals. "Folks can get out there,'' Grossfeld said. "They can say whatever they want, run commercials, run ads, whatever, even if they're unsavory,'' he continued."What this is doing is establishing in the Arizona Constitution our right to know who's paying for it." Goddard, a Democrat who was elected as attorney general in 2002 and won a second term four years later, already formed a campaign committee this past week which allows him to begin raising money for the task of getting the measure on the 2018 ballot. Grossfeld said the final language is still being tweaked. But he said **the bottom line is designed to expose anyone who puts at least $10,000 into any campaign**, whether for public office or a ballot measure. Arizona law already requires anyone who spends money to influence a campaign to file reports. But there's an exception: Groups that are organized under the Internal Revenue Code as "social welfare'' organizations contend they are not required to disclose their donors. So the only thing the public knows is that some group, often with a name that may have no link to the sponsors, has dumped cash into a campaign. That has become an increasing problem for voters interested in finding out who is behind commercials, mailers and other campaign materials. In the 2014 gubernatorial race, for example, the $5 million spent on the general election directly by Republican Doug Ducey and Democrat Fed DuVal was eclipsed by the $9 million others spent trying to influence the race. Most of that cash flowed in Ducey's benefit. And two Republicans got elected to the Arizona Corporation Commission with more than $3 million spent by outside groups. Arizona Public Service, the state's largest utility that is regulated by the commission, has consistently refused to confirm or deny whether it was the source of any of that cash. **A related issue goes to what might be called "chain'' donations, where individual A gives money to organization B, which then funnels it to a third organization that does the ultimate spending** on the race. Grossfeld said the language of the initiative would force disclosure of all major sources of funding. And he said it is worded in a way so that it pierces the multi-step donations, requiring that **the ultimate sources of the dollars be disclosed**, not only in reports filed with the Secretary of State's Office but also in advertising, mailers and other campaign materials. "**It creates** a right for citizens, in the constitution,'' Grossfeld said. "And that's **a right to know**, specifically, **the source of campaign funds**.'' None of this would help voters when choosing presidential or congressional candidates. Grossfeld said **states have no say over federal campaign finance laws**. This isn't the first time Goddard has attempted to force public disclosure. In 2016 he paired with former Phoenix Mayor Paul Johnson who was pushing his own ballot measure for open primaries. But both collapsed when funding ran out. Grossfeld said several things are different this time. The first is that the campaign spending measure against what he calls "dirty money'' will stand on its own and not be linked to other ballot issues. And Grossfeld said he and Goddard believe they can gather the 225,963 valid signatures needed by July 5 to qualify for the ballot solely with volunteers, minimizing the need for up-front cash. He said they have the backing of members of Save Our Schools Arizona, the group that managed to gather enough signatures to force a referendum on legislation to vastly expand the system of vouchers that allows parents to use public dollars to send their children to private and parochial schools. Spokeswoman Dawn Penich-Thacker said her organization has not taken an official position. But she confirmed that key members of the group are working on the issue because they have common interests. More to the point, they have a common foe, if you will: the Koch brothers. Americans for Prosperity, a group financed by the billionaires, already is involved in a lawsuit designed to keep the referendum from ever making the ballot. Separately, the brothers are financing the Libre Initiative which is is targeting Hispanic households nationwide in an effort to get support for vouchers -- and oppose ballot proposals like Save Our Schools -- with what Penich-Thacker contends is misinformation about who benefits from funneling state dollars into private schools. Any change, however, would provide only limited help to groups like hers. Under current laws, the only information that voters would get if and when the referendum is on the ballot next year is that the Libre Initiative put a certain number of dollars into defeating it, with no requirement to tell voters which individuals and groups provided financing, and in what amounts. Goddard's political career also includes six years as mayor of Phoenix in the 1980s and two unsuccessful bids for governor, losing to Republicans Fife Symington in 1990 and Jan Brewer two decades later.

#### Candidates should have to reveal financial and medical information pertinent to the job.

Milligan 16 quotes Rabinowitz who supports and describes the plan.Susan Milligan [Senior Writer at U.S. News] "Clinton's Pneumonnia Flap and the Public Fight Over Privacy." U.S. News September 12, 2016. <https://www.usnews.com/news/articles/2016-09-12/hillary-clinton-pneumonia-flap-highlights-the-public-fight-over-privacy>. [Premier]

"Everybody deserves some modicum of privacy, even president and would-be presidents," says Steve Rabinowitz, who worked in Bill Clinton's White House and is now a media consultant and founder of Bluelight Strategies. But "it doesn't extend to their financial dealings and it doesn't extend to their health and fitness to serve out their term in office." That means the public should know about people's income, charitable giving, debt and business dealings, along with pertinent health information relevant to their ability to serve four years. "That's where it ends," Rabinowitz underscores, saying that people do not have the right to know about such intensely personal conditions as hemorrhoids or erectile dysfunction.

#### Polls indicate that the majority of Americans believe campaign contributions buy results.

Salter 14. Salter, Malcom. Senior Faculty Associate at Edmond J. Safra Center for Ethics. “Crony Capitalism, American Style: What Are We Talking About Here?” <https://www.hbs.edu/faculty/Publication%20Files/15-025_c6fbbbf7-1519-4c94-8c02-4f971cf8a054.pdf> [Premier].

He acknowledges the lack of consensus among political scientists that a strong connection exists between contributions to political campaigns and legislative voting patterns, and the many denials of politicians that campaign cash could ever influence their judgment. But he pushes back by noting that we are all essentially hard-wired to value and practice reciprocity of all kinds—and that reciprocity guides our subconscious as much as conscious thoughts. “We reciprocate without thinking,” and then often deny it. In other words, reciprocity is our normal condition. Lessig not only cites behavioral research supporting this claim, but also cites alarming anecdotal evidence—interviews with retired members of Congress about the influence of money in politics—showing that reciprocity deniers are simply not credible.43 Polls show that Lessig does not stand alone with his reciprocity argument. About 75 percent of Americans believe that campaign contributions buy results in Congress—a view confirmed by many former members.44

#### Campaign contributions can’t be policed by the public when hidden from scrutiny

Birkenstock 12 Joseph M. Birkenstock, lawyer and lecturer @ Virginia Law, “Three Can Keep a Secret, If Two of Them Are Dead: A Thought Experiment Around Compelled Public Disclosure of “Anonymous” Political Expenditures” <http://www.capdale.com/files/7257_4%20JLP%2027.4%20-%20Birkenstock%20FINAL.pdf> [Premier]

Outside the context of concern over the influence of money on public policy, all these communications provide unobjectionable and even admirable examples of democratic accountability in action. Nevertheless, **powerful opportunities for undue influence and outright corruption arise when the funded political expression is not only an end in itself, but when it is also or instead used as a “carrot” or ”stick” in a lobbying context.**

**Political expression that remains strictly anonymous**, however, presents no such danger of corruption or undue influence.31 While the practice of **lavishing campaign contributions on lawmakers** in order **to gain access or influence** is hardly a new phenomenon, the electorate is able to closely monitor publicly reported contributions to federal candidates on websites such as OpenSecrets.org and the like. Currently, however, **the electorate is unable to play its role in policing these opportunities for undue influence and corruption when donor identities remain unknown to the electorate**.

### Campaign Finance - Big Donors

#### The public has a right to know about big campaign contributions – limits privacy concerns since it’s a smaller group

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

**We can**, however, **make strides toward privacy-sensitive disclosure rules without such a dramatic paradigm shift**. First, as noted repeatedly in this Article, **relatively large contributions present a stronger case for the government's corruption and information interests. Disclosure policy that concentrated on these contributions would do more to advance those interests, while protecting the privacy of most individual contributors.** 2 5 6 Reformers who are serious about privacy should get to work producing the empirical evidence needed to determine at what level benefits outweigh costs. 257 In lieu of such evidence, the current regime relies on unexamined **assumptions about the value of sunlight**, even for small contributions. These assumptions **may turn out to be true**, on further consideration, **in the (relatively rare) case of large individual contributions.**

### Trump Mental Health

#### Trump needs to be evaluated --- he shows a consistent pattern of behavior suggesting his potential for violence --- the impact is nuclear war

Lee 1-06 [Bandy Lee, faculty member of Yale School of Medicine and an internationally recognised expert on violence, 01 - 06 - 2018, “Trump is now dangerous – that makes his mental health a matter of public interest”, <https://www.theguardian.com/commentisfree/2018/jan/07/donald-trump-dangerous-psychiatrist//> [Premier]

Eight months ago, a group of us put our concerns into a book, The Dangerous Case of Donald Trump: 27 Psychiatrists and Mental Health Experts Assess a President. It became an instant bestseller, depleting bookstores within days. We thus discovered that our endeavours resonated with the public. While we keep within the letter of the Goldwater rule – which prohibits psychiatrists from diagnosing public figures without a personal examination and without consent – there is still a lot that mental health professionals can tell before the public reaches awareness. These come from observations of a person’s patterns of responses, of media appearances over time, and from reports of those close to him. Indeed, we know far more about Trump in this regard than many, if not most, of our patients. Nevertheless, the personal health of a public figure is her private affair – until, that is, it becomes a threat to public health. To make a diagnosis one needs all the relevant information – including, I believe, a personal interview. But to assess dangerousness, one only needs enough information to raise alarms. It is about the situation rather than the person. The same person may not be a danger in a different situation, while a diagnosis stays with the person. It is Trump in the office of the presidency that poses a danger. Why? Past violence is the best predictor of future violence, and he has shown: verbal aggressiveness, boasting about sexual assaults, inciting violence in others, an attraction to violence and powerful weapons and the continual taunting of a hostile nation with nuclear power. Specific traits that are highly associated with violence include: impulsivity, recklessness, paranoia, a loose grip on reality with a poor understanding of consequences, rage reactions, a lack of empathy, belligerence towards others and a constant need to demonstrate power. There is another pattern by which he is dangerous. His cognitive function, or his ability to process knowledge and thoughts, has begun to be widely questioned. Many have noted a distinct decline in his outward ability to form complete sentences, to stay with a thought, to use complex words and not to make loose associations. This is dangerous because of the critical importance of decision-making capacity in the office that he holds. Cognitive decline can result from any number of causes – psychiatric, neurological, medical, or medication-induced – and therefore needs to be investigated. Likewise, we do not know whether psychiatric symptoms are due to a mental disorder, medication, or a physical condition, which only a thorough examination can reveal. A diagnosis in itself, as much as it helps define the course, prognosis, and treatment, is Trump’s private business, but what is our affair is whether the president and commander-in-chief has the capacity to function in his office. Mental illness, or even physical disability, does not necessarily impair a president from performing his function. Rather, questions about this capacity mobilised us to speak out about our concerns, with the intent to warn and to educate the public, so that we can help protect its own safety and wellbeing. At no other time has a group of mental health professionals been so concerned about a sitting president’s dangerousness Indeed, at no other time in US history has a group of mental health professionals been so collectively concerned about a sitting president’s dangerousness. This is not because he is an unusual person – many of his symptoms are very common – but it is highly unusual to find a person with such signs of danger in the office of presidency. For the US, it may be unprecedented; for parts of the world where this has happened before, the outcome has been uniformly devastating. Pathology does not feel right to the healthy. It repels, but it also exhausts and confuses. There is a reason why staying in close quarters with a person suffering from mental illness usually induces what is called a “shared psychosis”. Vulnerable or weakened individuals are more likely to succumb, and when their own mental health is compromised, they may develop an irresistible attraction to pathology. No matter the attraction, unlike healthy decisions that are life-affirming, choices that arise out of pathology lead to damage, destruction, and death. This is the definition of disease, and how we tell it apart from health. Politics require that we allow everyone an equal chance; medicine requires that we treat everyone equally in protecting them from disease. That is why a liberal health professional would not ignore signs of appendicitis in a patient just because he is a Republican. Similarly, health professionals would not call pancreatic cancer something else because it is afflicting the president. When signs of illness become apparent, it is natural for the physician to recommend an examination. But when the disorder goes so far as to affect an individual’s ability to perform her function, and in some cases risks harm to the public as a result, then the health professional has a duty to sound the alarm. The progress of the special counsel Robert Mueller’s investigations was worrisome to us for the effects it would have on the president’s stability. We predicted that Trump, who has shown marked signs of psychological fragility under ordinary circumstances, barely able to cope with basic criticism or unflattering news, would begin to unravel with the encroaching indictments. And if his mental stability suffered, then so would public safety and international security. Indeed, that is what began to unfold: Trump became more paranoid, espousing once again conspiracy theories that he had let go of for a while. He seemed further to lose his grip on reality by denying his own voice on the Access Hollywood tapes. Also, the sheer frequency of his tweets seemed to reflect an agitated state of mind, and his retweeting some violent anti-Muslim videos showed his tendency to resort to violence when under pressure. Trump views violence as a solution when he is stressed and desires to re-establish his power. Paranoia and overwhelming feelings of weakness and inadequacy make violence very attractive, and powerful weapons very tempting to use – all the more so for their power. His contest with the North Korean leader about the size of their nuclear buttons is an example of that and points to the possibility of great danger by virtue of the power of his position. It does not take a mental health professional to see that a person of Trump’s impairments, in the office of the presidency, is a danger to us all. What mental health experts can offer is affirmation that these signs are real, that they may be worse than the untrained person suspects, and that there are more productive ways of handling them than deflection or denial. Screening for risk of harm is a routine part of mental health practice, and there are steps that we follow when someone poses a risk of danger: containment, removal from access to weapons and an urgent evaluation. When danger is involved, it is an emergency, where an established patient-provider relationship is not necessary, nor is consent; our ethical code mandates that we treat the person as our patient. In medicine, mental impairment is considered as serious as physical impairment: it is just as debilitating, just as objectively observable and established just as reliably through standardised assessments. Mental health experts routinely perform capacity or fitness for duty examinations for courts and other legal bodies, and offer their recommendations. This is what we are calling for, urgently, in doing our part as medical professionals. The rest of the decision is up to the courts or, in this case, up to the body politic.

#### Mental Health testing of presidential candidates should be required --- trump’s previous actions prove a risk of link --- he’s itching far war

Zimbardo 2017 [Philip Zimbardo, Ph.D., Professor Emeritus at Stanford University, 2017, The Dangerous Case of Donald Trump, Chapter 1, pg. 50-52//[Premier]

In presenting our case that Donald Trump is mentally unfit to be president of the United States, we would be remiss if we did not consider one more factor: the possibility of a neurological disorder such as dementia or Alzheimer’s disease, which the president’s father, Fred Trump, suffered from. Again, we are not trying to speculate diagnoses from afar, but comparing video interviews of Trump from the 1980s, 1990s, and early 2000s to current video, we find that the differences (significant reduction in the use of essential words; an increase in the use of adjectives such as very, huge, and tremendous; and incomplete, run-on sentences that don’t make sense and that could indicate a loss of train of thought or memory) are conspicuously apparent. Perhaps this is why Trump insists on being surrounded by family members who love and understand him rather than seasoned political advisers, who may note, and then leak, his alarming behavior. Whether or not Donald Trump suffers from a neurological disorder—or narcissistic personality disorder, or any other mental health issue, for that matter—will, undeniably, remain conjecture unless he submits to tests, which is highly unlikely given his personality. However, the lack of such tests cannot erase the well-documented behaviors he has displayed for decades and the dangers they pose when embodied in the president of the United States. In line with the principles of Tarasoff v. Regents of the University of California 17 Cal. 3d 425 (1976), known as the “Tarasoff doctrine,” it is the responsibility of mental health professionals to warn the citizens of the United States and the people of the world of the potentially devastating effects of such an extreme present-hedonistic world leader, one with enormous power at his disposal. On the whole, mental health professionals have failed in their duty to warn, in a timely manner, not only the public but also government officials about the dangers of President Donald Trump. Articles and interviews intent on cautioning the masses prior to the election fell on deaf ears, perhaps in part because the media did not afford the concerned mental health professionals appropriate coverage, perhaps because some citizens discount the value of mental health and have thrown a thick blanket of stigma over the profession, or perhaps because we as mental health professionals did not stand united. Whatever the reason, it’s not too late to follow through. When an individual is psychologically unbalanced, everything can teeter and fall apart if change does not occur. We wonder how far-reaching, in our society over time, the effects of our unbalanced president’s actions will be and how they will continue to affect us as individuals, communities, a nation, and a planet. We believe that Donald Trump is the most dangerous man in the world, a powerful leader of a powerful nation who can order missiles fired at another nation because of his (or a family member’s) personal distress at seeing sad scenes of people having been gassed to death. We shudder to imagine what actions might be taken in broader lethal confrontations with his personal and political enemies. We are gravely concerned about Trump’s abrupt, capricious 180-degree shifts and how these displays of instability have the potential to be unconscionably dangerous to the point of causing catastrophe, and not only for the citizens of the United States. There are two particularly troubling examples: (1) his repeatedly lavishing praise on FBI director James Comey’s handling of an investigation into Hillary Clinton’s emails and then, in early May 2017, abruptly and abusively firing Comey for the very investigation that garnered such praise, but in this case actually because of Comey’s investigation into the Trump campaign’s ties to Russia; and (2) his stating during the campaign that NATO was obsolete and then, later, unexpectedly stating that NATO was necessary and acceptable. As is the case with extreme present hedonists, Trump is “chumming” for war, possibly for the most selfish of reasons: to deflect attention away from the Russia investigation. If another unbalanced world leader takes the bait, Trump will need the formerly “obsolete” and now-essential NATO to back him up. We as individuals don’t have to follow our nation’s leader down a path headed in the wrong direction—off a cliff and into a pit of past mistakes. We can stand where we are at this moment in history and face forward, into a brighter future that we create. We can start by looking for the good in one another and for the common ground we share. In the midst of the terrorist attacks on places of worship and cemeteries mentioned earlier, something wonderful emerged from the ashes: a spirit of overwhelming goodness in humanity. In the wake of the attacks, Jews and Muslims united: they held fund-raisers to help each other repair and rebuild; they shared their places of worship so that those burned out of theirs could hold gatherings and services; and they offered loving support to those who’d faced hatred. By observing ordinary people engaging in acts of everyday heroism and compassion, we have been able to witness the best aspects of humanity. That’s us! That’s the United States of America! A final suggestion for our governmental leaders: corporations and companies vet their prospective employees. This vetting process frequently includes psychological testing in the form of exams or quizzes to help the employer make more informed hiring decisions and determine if the prospective employee is honest and/or would be a good fit for the company. These tests are used for positions ranging from department store sales clerk to high-level executive. Isn’t it time that the same be required for candidates for the most important job in the world?

#### The panel would be independent and staffed by non-partisan psychologists and CIA behavioral experts

Malkin 2017 [Craig Malkin, Ph.D. clinical psychologist and Lecturer for Harvard Medical School, 2017, The Dangerous Case of Donald Trump, Chapter 2, pg. 68-69//[Premier]

Currently, it’s up to you to decide if the evidence cited points to functional impairments in Trump or any other politician. That’s not something mental health professionals in the United States are allowed to do—not yet. Nevertheless, we have in our midst people already trained to provide functional and risk assessments based entirely on observation—forensic psychiatrists and psychologists as well as “profilers” groomed by the CIA, the FBI, and various law enforcement agencies. They spend their whole lives learning to predict how people behave. We could, if we wish, assemble a panel of politically independent specialists within government to provide these assessments. That means suspending the Goldwater rule—or at least allowing risk assessment (to the country, to the world) to take precedence over the sanctity of current ethics. If pathological narcissists, in their reality-warping efforts to feed their addiction, bring themselves to the precipice of disaster, why should we, as nations, allow them to pull us into the abyss with them? It’s this urgent existential question that faces democracies throughout the world today.

#### Trump’s lack of trust causes him to destroy civic and military institutions, wreck alliances, and pollute the public discourse

Sheehy 2017 [Gail Sheehy, Ph.D., author, journalist, and popular lecturer, 2017, The Dangerous Case of Donald Trump, Chapter 4, pg 78-84//[Premier]

The narcissism and paranoia are issues, but the biggest concern is that Donald Trump trusts no one. This will be his downfall—or maybe ours. In a world spinning radically out of control, can we trust President Trump to rely on his famous “instincts” as he alienates U.S. allies and plays brinksmanship with our enemies? Writing from the perspective of his first one hundred days, and from a year and a half of reporting on the president-elect, I can’t help worrying how much closer the day of reckoning has to come on charges of collusion with Russia before he needs a war to provide the ultimate distraction? The fundamental bedrock of human development is the formation of a capacity to trust, absorbed by children between birth and eighteen months. Donald Trump has boasted of his total lack of trust: “People are too trusting. I’m a very untrusting guy” (1990). “Hire the best people, and don’t trust them” (2007). “The world is a vicious and brutal place. Even your friends are out to get you: they want your job, your money, your wife” (2007). His biographers have recorded his worldview as saturated with a sense of danger and his need to project total toughness. As we know, his father trained him to be a “killer,” the only alternative to being a “loser.” Trump has never forgotten the primary lesson he learned from his father and at the military school to which he was sent to be toughened up still further. In Trump’s own words, “Man is the most vicious of all animals, and life is a series of battles ending in victory or defeat.” In the biography Never Enough, Trump describes to Michael D’Antonio his father’s “dragging him” around tough neighborhoods in Brooklyn when he collected the rents for the apartments he owned. Fred Trump always told the boy to stand to one side of the door. Donald asked why. “Because sometimes they shoot right through the door,” his father told him. Today, this man lives mostly alone in the White House, without a wife or any friends in whom to confide, which he would never do anyway, because that would require admitting vulnerability. Leon Panetta, former CIA director and defense chief under Clinton, stated on Fox Business channel in February 2017, “The coin of the realm for any president is trust—trust of the American people in the credibility of that president.” In the nearly two years that Donald Trump has been in our face almost daily, he has sown mistrust in all his Republican rivals, alienated much of the conservative Republican bloc he needs in the House for legislative success, ignored congressional Democrats, and viciously insulted Democratic leaders, calling them liars, clowns, stupid, and incompetent, and condemning Barack Obama as “sick” and Hillary Clinton as “the devil.” When he represents the American people abroad, his belligerent behavior and disrespect for leaders of our closest allies rips apart the comity and peacekeeping pledges built over decades. Yet, he never hesitates to congratulate despots, such as Turkey’s Erdogan, Egypt’s General Sisi, and, most lavishly of all, Russia’s Putin. As president, Trump is systematically shredding trust in the institutions he now commands. Having discredited the entire seventeen-agency intelligence community as acting like Nazis, he also dismissed the judiciary because of one judge’s Hispanic background and another’s opposition to his travel [née Muslim] ban. Even his Supreme Court justice, Neil Gorsuch, said it was “disheartening” and “demoralizing” to hear Trump disparage the judiciary. Not content to smear the media on a daily basis, Trump borrowed a phrase used by Lenin and Stalin to brand the American media as an “enemy of the people.” By his own words, Trump operates on the assumption that everyone is out to get him. The nonmedical definition of paranoia is the tendency toward excessive or irrational suspiciousness and distrustfulness of others. For a man who proclaims his distrust of everyone, it is not surprising that Trump drew closest to him two legendary conspiracy theorists: Stephen Bannon and Gen. Michael Flynn. And even after he was forced to fire his choice for top national security adviser after Flynn blatantly lied, Trump’s White House desperately stonewalled congressional investigators to keep them from getting their hands on documents that could prove Flynn’s paid collusion with Russia on Trump’s behalf. The closer that case comes to a criminal referral to the Justice Department, the closer Trump’s survival instincts will propel him to a wagthe- dog war. A leader who does not trust his subordinates cannot inspire trust. Though Trump boasts of fierce personal loyalty, he himself is loyal only until he isn’t. Among his anxious aides, only Jared Kushner, it seems, may be safe, deputized as Trump’s de facto secretary of state. Where Trump succeeds in inspiring trust is by giving his subordinates the license to lie. In fact, this virus of licentiousness has spread from the White House to congressional Republicans, to wit the stunt that exposed Rep. Devin Nunes as unfit to lead the House Intelligence Committee probe into Trump operatives’ possible collusion with Russia. As the chaos of the White House rolled with a crisis-aday fever into the month of May, a hide-and-seek commander in chief began sending out his most trusted national security advisers to defend him (Gen. James “Mad Dog” Mattis, Gen. H. R. McMaster, and the muted secretary of state, Rex Tillerson) and then cut the legs out from under them with his own blurted half-truths. We hear repeatedly that Trump as a manager likes chaos. I asked a deputy White House counsel under Obama, a decorated former officer in Iraq and former White House counsel to President Obama, how such a management style impacts trust. “Trump explicitly or implicitly manages the situation so it’s never possible for his advisers to know where they stand,” he said. “It’s the opposite of what you want in a high-functioning organization.” Trump’s anxious aides must know just how easy it is to fail his loyalty test, or to be the fall guy if a scapegoat is needed. While publicly they may defend him, it is clear to reporters that White House staffers are leaking information constantly. The leaks can only exacerbate Trump’s mistrust, perpetuating a vicious circle. His failure to trust or to inspire trust is even more dangerous on a global scale. He sees alliances such as NATO as suspect (until he changes his mind); he sees trade agreements such as NAFTA as ripping off America (until he changes his mind three or four times in the same week). “This is because Trump’s worldview is that we live in a snake pit where everybody is out for themselves,” observes the former White House counsel. He and his coconspiracy theorist adviser Bannon take everything that the left-behind white working class hates about globalization and they turn it into personalized enemies: Muslims, Mexicans, and refugees whom they believe are taking away their jobs. “Those people aren’t like us,” is the alt-right message; “they’re polluting our culture.” In the course of his first one hundred days, Trump appeared to be increasingly out of touch with the reality in which the majority of us live. His pathological propensity to lie is not the worst of it—his monomaniacal attachment to his lies is, such as the transparent one in his March 4 twitterstorm accusing President Obama of putting a tap on his phone. It raises the question: Is this president floating in his own alternate reality? When I attended Dr. Bandy Lee’s Yale town hall meeting to write about it for The Daily Beast, I cited insights delivered there by two of the authors in this book. Dr. Robert Jay Lifton, the eminent former professor of psychiatry at Yale University and today at Columbia University, elaborated in a follow-up interview, “Trump creates his own extreme manipulation of reality. He insists that his spokesmen defend his false reality as normal. He then expects the rest of society to accept it—despite the lack of any evidence.” This leads to what Lifton calls “malignant normality”—in other words, the gradual acceptance by a public inundated with toxic untruths of those untruths until they pass for normal.

#### Trump’s narcissism causes him to lash out at perceived threats foreign and domestic --- the impact is war

Sheehy 2017 [Gail Sheehy, Ph.D., author, journalist, and popular lecturer, 2017, The Dangerous Case of Donald Trump, Chapter 4, pg 78-84//[Premier]

Dr. James F. Gilligan is a psychiatrist and author who has studied the motivations behind violent behavior over his twenty-five years of work in the American prison systems. “If we psychiatrists who have experience in assessing dangerousness, if we give passive permission to our president to proceed in his delusions, we are shirking our responsibility,” Gilligan said. Today a senior clinical professor of psychiatry at NYU School of Medicine, Gilligan told Dr. Lee’s town hall attendees, “I don’t say Trump is Hitler or Mussolini, but he’s no more normal than Hitler.” We don’t have to rely on psychiatrists to see that this president is not consistent in his thinking or reliably attached to reality. We have had vastly more exposure to Donald Trump’s observable behavior, his writing and speaking, than any psychiatrist would have after listening to him for years. It is therefore up to us, the American public, to call him on it. And some of the most experienced hands in and around the White House are doing so. Presidential historian Douglas Brinkley believes that Donald Trump represents a very different subculture from any commander in chief. “He represents the New York building business—where you don’t let your right hand know what your left hand is doing,” says Brinkley. “In Trump’s world, he must win at all costs. It’s not about character or public service or looking out for your band of brothers.” The president to whom Trump is most often compared is Richard Nixon. John Dean, the famous White House counsel who testified against his fellow conservative Republican, compared Trump to that notably paranoid president. “Nixon was two personae—in public and with his top aides, he was trusted. But in private, his deeply paranoid and vengeful dark side came out.” Asked for the best example, Dean snapped, “He had zero empathy!” Just like Trump. “Nixon let twenty-two thousand more Americans die in Vietnam [after he sabotaged the 1968 Paris peace talks], plus who knows how many Cambodians and Laotians and Vietnamese, all to ensure his election.” It took forty years before Nixon’s worst crime was revealed: treason. That was when then-presidential candidate Nixon was heard on tape (from recordings ordered by President Johnson) scuttling the Vietnam peace talks to derail the reelection campaign of the Democratic candidate. Nixon sent a message to the South Vietnamese negotiators that they should withdraw from the peace talks and wait for him to be elected, at which point he would give them a much better deal. Sound familiar? Fifty years later, Donald Trump’s go-between with Russian officials, General Flynn, hinted to Putin’s ambassador that Russia could get a much better deal if it didn’t retaliate against Obama’s sanctions and instead sat tight until Trump was elected. Also, Trump frequently tweeted about his eagerness to lift those sanctions—that is, until his fantasy bromance with Putin looked like it could arouse a federal investigation. Trump’s appetite for vengeance is also matched by Nixon’s with his long “Enemies List.” No two modern presidents have had a more serious case of “political hemophilia,” in the phrase of the latest Nixon biographer, John Farrell, by which he means: “Once wounded, these men never stop bleeding.” To the dismay of even conservative observers, Trump appears totally indifferent to the truth. Time magazine gave Trump an opportunity to clarify his refusal to correct his long string of falsehoods. What the March 23 interview produced instead was an astonishing revelation of his thinking: He states what he wants to be true. If his statement is proven false, he is unfazed, and confidently predicts that the facts will catch up with his belief: “I’m a very instinctual person, but my instinct turns out to be right.” Even when the top sleuth in the country, FBI director James Comey, condemned Trump as a fabulist, Trump ignored the public rebuke and bragged about his ability to persuade millions of his paranoid version of Obama as “sick” and surreptitiously spying on him. “Narcissistic people like Trump want more than anything to love themselves, but desperately want others to love them, too,” wrote professor and chair of the Psychology Department at Northwestern University, Dan P. McAdams, in The Atlantic. “The fundamental goal in life for a narcissist is to promote the greatness of the self, for all to see.” Yet, what is an extreme narcissistic personality such as Trump to do when he fails to win glorification? “Trump, from his own writings, has shown massive hypersensitivity to shame or humiliation,” says Dr. Gilligan. Yet, how does he dodge the humiliation when he is exposed as sacrificing the nation’s security on the altar of his infantile need to impress Russian officials by giving away sensitive foreign intelligence? Beneath the grandiose behavior of every narcissist lies the pit of fragile self-esteem. What if, deep down, the person whom Trump trusts least is himself? The humiliation of being widely exposed as a “loser,” unable to bully through the actions he promised during the campaign, could drive him to prove he is, after all, a “killer.” In only the first four months of his presidency, he teed up for starting a war in three places, Syria, Afghanistan, and North Korea. It is up to Congress, backed up by the public, to restrain him.

#### Those wars go nuclear --- it outweighs on magnitude --- err aff because we lack a frame a reference to truly contemplate the impact

Tansey 2017 [Michael J. Tansey, Ph.D. a Chicago-based clinical psychologist, author, and teacher, 2017, The Dangerous Case of Donald Trump, Chapter 6, pgs 121-122//[Premier]

DT’s penchant for brutality alone would be disconcerting. Yet, given the evidence of delusional disorder, we must ask why the distinction of “crazy like a fox” versus “crazy like a crazy” even matters. Although there are several areas in which DT’s particular version of personality disorder is vital to understand, none is more compelling or terrifying than his control of the nuclear codes. Surpassing the devastation of climate, health care, education, diplomacy, social services, freedom of speech, and liberty and justice for all, nothing is more incomprehensible than the now-plausible prospect of all-out nuclear war. For all but the few remaining survivors who witnessed the atomic bombing of Japan and its aftermath, we simply have nothing in our own experiences to imagine instantaneous annihilation. Quite literally, we are here one second and vaporized the next, along with everyone and everything. Because of this very real existential threat, it is absolutely urgent that we comprehend the titanic differences between a president who is merely “crazy like a fox” (shrewd, calculating, and convinced that the truth is spoken only when it happens to coincide with his purposes) versus what I have termed “crazy like a crazy” (possessing well-hidden, core grandiose and paranoid delusions that are disconnected from factual reality). To illustrate the differences, let’s look at two actual episodes from recent American history and consider how DT might act faced with similar circumstances.

#### Trump isn’t a mastermind that makes shrewd calculation masked by irrationality --- his actions legitimately reflect his underlying psyche

Tansey 2017 [Michael J. Tansey, Ph.D. a Chicago-based clinical psychologist, author, and teacher, 2017, The Dangerous Case of Donald Trump, Chapter 6, pgs 123-124//[Premier]

The “crazy like a fox” characterization of DT needs little explanation. The phrase describes someone who may appear “crazy” (e.g., erratic, irrational, impulsive) on the surface, but whose seemingly crazy external behavior is a cleverly designed strategy to mislead, distract, and deceive others into responding in precisely the manner that is secretly desired. This is indeed one aspect of DT’s behavior. Someone who is “crazy like a fox,” during that given moment, is actually the exact opposite of crazy. When insisting that the Fake Media created the feud between him and the intelligence community, such a person would fail a reliable lie detector test because he would know he was lying. The most jarring evidence yet of DT’s “crazy like a crazy” delusional disorder came with his early morning tweets (subsequently deleted) in March that his Trump Tower phones had been wiretapped by a “bad (or sick!) Obama”; the tweets included insane comparisons to Watergate and McCarthyism. DT’s actions immediately generated bipartisan criticism, and there was a complete lack of evidence from anyone, anywhere, that he had been targeted for surveillance. The suspicion that one is being wiretapped is an absolutely classic expression of paranoid delusions. When insisting that the Fake Media created the feud between him and the intelligence community, DT would unequivocally have passed a lie detector test because he believed the delusion was actually true. “Crazy like a fox” defines a person whose apparent external irrationality masks underlying rational thinking. “Crazy like a crazy” characterizes a person whose apparent external rationality masks underlying irrational thinking. Returning to our historical examples of nuclear emergencies, is there anyone who could possibly believe DT would have shown Brzezinski’s grace under pressure had he himself received that 3:00 a.m. call? If, indeed, Trump harbors grandiose and paranoid delusions (for which there is mounting evidence), he would have launched missiles faster than he fires off paranoid tweets on a Saturday morning. Given the thirteen days of excruciating tension during the very real nuclear threat of the Cuban Missile Crisis, is there anyone who possibly believes that DT could have demonstrated JFK’s composure, wisdom, and judgment, especially in the face of unanimous pressure from his military advisers? If DT were indeed merely “crazy like a fox,” it would still be a huge stretch—but, increasingly, that appears not to be the case.

#### Presidential candidates should undergo evaluation by an independent panel (this card has a bunch of specifics)

Gartrell and Mosbacher 2017 [Nanette Gartrell, M.D., is a psychiatrist, researcher, and writer who was formerly on the faculties of Harvard Medical School and the University of California, San Francisco, and Dee Mosbacher, M.D., Ph.D., is a psychiatrist and Academy Award– nominated documentary filmmaker who was formerly on the faculty of the University of California, San Francisco, 2017, The Dangerous Case of Donald Trump, “HE’S GOT THE WORLD IN HIS HANDS AND HIS FINGER ON THE TRIGGER The Twenty-Fifth Amendment Solution”, pgs 328-224//[Premier]

In 1994, President Jimmy Carter lamented the fact that we have no way of ensuring that the person entrusted with the nuclear arsenal is mentally and physically capable of fulfilling that responsibility (Carter 1994). Throughout U.S. history, presidents have suffered from serious psychiatric or medical conditions, most of which were unknown to the public. A review of U.S. presidential office holders from 1776 to 1974 revealed that 49 percent of the thirty-seven presidents met criteria that suggested psychiatric disorders (Davidson, Connor, and Swartz 2006). For example, Presidents Pierce and Lincoln had symptoms of depression (Davidson, Connor, and Swartz 2006); Nixon and Johnson, paranoia (Glaister 2008; Goodwin 1988), and Reagan, dementia (Berisha et al. 2015). President Wilson experienced a massive stroke that resulted in severely impaired cognitive functioning (Weinstein 1981). Although military personnel who are responsible for relaying nuclear orders must undergo rigorous mental health and medical evaluations that assess psychological, financial, and medical fitness for duty (Osnos 2017; Colón- Francia and Fortner 2014), there is no such requirement for their commander in chief. Over the course of the U.S. 2016 presidential campaign, it became increasingly apparent that Donald Trump’s inability or unwillingness to distinguish fact from fiction (Barbaro 2016), wanton disregard for the rule of law (Kendall 2016), intolerance of perspectives different from his own (DelReal and Gearan 2016), rageful responses to criticism (Sebastian 2016), lack of impulse control (“Transcript” 2016), and sweeping condemnations of entire populations (Reilly 2016) rendered him temperamentally unsuitable to be in command of the nuclear arsenal. When Mr. Trump became the president-elect, we, as psychiatrists, had grave concerns about his mental stability and fitness for office. Despite the claim by gastroenterologist Dr. Harold Bornstein that Mr. Trump “will be the healthiest individual ever elected to the presidency” (Schecter, Francescani, and Connor 2016), there is no evidence that Mr. Trump has ever received psychological testing or a neuropsychiatric examination. In fact, there is no evidence that any prior president completed such an evaluation before assuming the duties of office. On November 10, 2016, we received a call from our psychiatrist friend and colleague Judith Herman, M.D., who shared our concerns about Mr. Trump’s grandiose, belligerent, and unpredictable behavior. She proposed that we send a private letter to President Obama outlining our observations, and recommending an impartial psychiatric evaluation of the president-elect. We agreed that such an assessment was warranted as a matter of national security. Dr. Herman offered to draft the letter. Each of us took responsibility for contacting colleagues who might be interested in cosigning. The three of us have been allies since the early 1980s. As members of the Harvard Medical School faculty, Dr. Herman collaborated with Dr. Gartrell on national studies of sexually abusive physicians, and on mental health projects for the American Psychiatric Association. We knew that we could count on one another to be efficient and ethical. At the end of November, the letter was sent to President Obama, stating that Mr. Trump’s “widely reported symptoms of mental instability—including grandiosity, impulsivity, hypersensitivity to slights or criticism, and an apparent inability to distinguish fantasy from reality—lead us to question his fitness for the immense responsibilities of the office” (Greene 2016). We also strongly recommended that the president-elect receive a “full medical and neuropsychiatric evaluation by an impartial team of investigators.” We heard nothing from the White House. On December 16, Drs. Gartrell and Mosbacher were contacted by a journalist asking if we knew of any mental health professionals who would be willing to comment on Mr. Trump’s psychiatric conditions. The three of us decided that we were willing to take the step of sharing our letter, in the interest of placing our recommendation in the public discourse. The journalist asked our permission to circulate the letter, and the next thing we knew, it was published in the Huffington Post (Greene 2016). It went viral (Pasha-Robinson 2016). The coverage seemed to reflect a sense of foreboding that Mr. Trump’s erratic behavior represented a danger to the world order (Pasha-Robinson 2016; “Grave Concerns” 2016). We declined all requests for further comment, since most journalists wanted us to specify psychiatric diagnoses for the presidentelect, even though we had not personally evaluated him. Gloria Steinem posted the Huffington Post article on her Facebook page, and contacted JH to brainstorm about who in the government could implement our recommendation. Robin Morgan suggested that we convey our letter to Gen. Joseph Dunford, chairman of the Joint Chiefs of Staff, and reminded us of the series of events that transpired during the final days of the Nixon administration. Because President Nixon was drinking heavily and threatening war (Davidson, Connor, and Swartz 2006), the secretary of defense, James Schlesinger, instructed the military not to act on orders from the White House to deploy nuclear weapons unless authorized by Schlesinger or the secretary of state, Henry Kissinger (McFadden 2014). Robin Morgan thought that it would be useful for Chairman Dunford and the Joint Chiefs to be apprised of this history, because of Mr. Trump’s imminent access to the nuclear arsenal. Drs. Gartrell and Mosbacher contacted colleagues to obtain Chairman Dunford’s official e-mail address. On January 3, we sent our letter to Chairman Dunford, with the subject line: “An urgent matter of national security.” A week later, Dr. Gartrell met a woman who worked in government intelligence. Dr. Gartrell inquired if she would be willing to convey our recommendation to other professionals at the agency. The woman agreed to distribute our letter among key individuals who shared our views about Mr. Trump’s mental instability. As Inauguration Day grew closer, Dr. Gartrell, Dr. Mosbacher, Dr. Herman, Gloria Steinem, and Robin Morgan decided to send our letter to members of Congress whom we know personally or to whom we had access. We also agreed to publicize our recommendation whenever there was an opportunity. Dr. Mosbacher called House Minority Leader Nancy Pelosi and sent our letter to her. Gloria Steinem conveyed our letter to Senator Chuck Schumer, and Dr. Mosbacher discussed our recommendation with Senator Elizabeth Warren. At the Women’s March on Washington, Gloria Steinem quoted our recommendation during her speech (“Voices of the Women’s March” 2017). Robin Morgan read our letter during her Women’s Media Center Live radio show (Morgan 2017a), and quoted it in her blog (Morgan 2017b). Since being sworn in, Mr. Trump’s impulsive, belligerent, careless, and irresponsible behavior has become even more apparent: • He has angry outbursts when facts conflict with his fantasies (Wagner 2017). The day after the inauguration, he lashed out at the media for contradicting his claim that there were “a million, a million and a half people” on the Mall listening to his speech (Zaru 2017). • His opposition to the press borders on paranoia (Page 2017). He screams at the television when his ties to Russia are mentioned (Pasha-Robinson 2017). He calls the media “the enemy of the people” (Siddiqui 2017). • He deflects the blame for failed operations, such as the air strike he authorized in Yemen that killed thirty civilians and a U.S. Navy SEAL (Schmitt and Sanger 2017; Ware 2017). • He makes false and unsubstantiated claims that are easily disputed, asserting, for instance, that the Yemen action yielded significant intelligence (McFadden et al. 2017), and accusing President Obama of spying on Trump Tower (Stefansky 2017). • He discredits other branches of the government. After issuing an executive order banning immigration from seven Muslim-majority countries, Mr. Trump sought to delegitimize the decisions of federal courts that imposed a halt to the ban, and used demeaning language to dishonor the judiciary (e.g., referring to James Robart as a “so-called judge”) (Forster and Dearden 2017). • He praises authoritarian leaders of other countries. Mr. Trump admires despots Vladimir Putin, Kim Jong-un, and Rodrigo Duterte (New York Times Editorial Board 2017; Pengelly 2017), and invited Abdel Fatah al-Sissi and Recep Tayyip Erdogan to the White House (Nakamura 2017; DeYoung 2017). • He deflects attention from Russia’s interference in the 2016 election. After firing the director of the FBI during its criminal investigation into collaboration between Russian intelligence and the Trump campaign, Mr. Trump met with Putin’s senior diplomat and revealed highly classified intelligence (Miller and Jaffe 2017). • He is indifferent to the limits of presidential powers and fails to understand the duties of the office. He could not answer the simple question “What are the top three functions of the United States government?” (Brown 2016). • He provokes North Korea with casual references to impending military actions. Mr. Trump claimed that an “armada” was steaming toward North Korea as a “show of force,” resulting in a defensive response from Kim Jongun, whose state news agency called Mr. Trump’s bluff “a reckless act of aggression to aggravate tension in the region” (Sampathkumar 2017). All in all, Mr. Trump’s hostile, impulsive, provocative, suspicious, and erratic conduct poses a grave threat to our national security. The Twenty-Fifth Amendment to the U.S. Constitution addresses presidential disability and succession (Cornell University Law School, 2017). Section 4 of this amendment has never been invoked to evaluate whether a standing president is fit to serve. We (Drs. Gartrell and Mosbacher) call on Congress to act now within these provisions to create an independent, impartial panel of investigators to evaluate Mr. Trump’s fitness to fulfill the duties of the presidency. We urge Congress to pass legislation to ensure that future presidential and vice-presidential candidates are evaluated by this professional panel before the general election, and that the sitting president and vice president be assessed on an annual basis. We also recommend that panel members receive all medical and mental health reports on the president and vice president, with the authorization to request any additional evaluations that the panel deems necessary. Our specific recommendations are as follows: • Under Section 4 of the Twenty-Fifth Amendment to the U.S. Constitution, Congress should immediately constitute an independent, nonpartisan panel of mental health and medical experts to evaluate Mr. Trump’s capability to fulfill the responsibilities of the presidency. • The panel should consist of three neuropsychiatrists (one clinical, one academic, and one military), one clinical psychologist, one neurologist, and two internists. • Panel members should be nominated by the nonpartisan, nongovernmental National Academy of Medicine (Abrams 1999). • The experts should serve six-year terms, with a provision that one member per year be rotated off and replaced (Abrams 1999). • Congress should enact legislation to authorize this panel to perform comprehensive mental health and medical evaluations of the president and vice president on an annual basis. This legislation should require the panel to evaluate all future presidential and vice-presidential candidates. The panel should also be empowered to conduct emergency evaluations should there be an acute change in the mental or physical health of the president or vice president. • The evaluations should be strictly confidential unless the panel determines that the mental health or medical condition of the president or vice president renders her/him incapable of fulfilling the duties of office. Congress must act immediately. The nuclear arsenal rests in the hands of a president who shows symptoms of serious mental instability. This is an urgent matter of national security. We call on our elected officials to heed the warnings of thousands of mental health professionals who have requested an independent, impartial neuropsychiatric evaluation of Mr. Trump. The world as we know it could cease to exist with a 3:00 a.m. nuclear tweet.

#### Trump’s instability spills over --- leads to widespread anxiety and ptsd --- experts all concur

Teng 2017 [BETTY P. TENG, M.F.A., L.M.S.W and a trauma therapist in the Office of Victims Services of a major hospital in Lower Manhattan, 2017, The Dangerous Case of Donald Trump, “TRAUMA, TIME, TRUTH, AND TRUMP How a President Freezes Healing and Promotes Crisis”, pg. 211-224//[Premier]

In the days following the November 8, 2016, election of Donald Trump as president of the United States—the most powerful leadership position in the world—many individuals, particularly those targeted by Trump’s rageful expressions of xenophobia, racism, sexism, and Islamophobia, experienced the event as traumatic, without quite knowing why. “I feel like I did after 9/11,” said one colleague. “I am in shock,” reported a patient. “I don’t know what to think.” Throughout the next weeks, patients and colleagues alike told me that the very idea of a President Trump left them feeling exposed, vulnerable, and helpless. “I have four out of six identity markers Trump will target: Arab, gay, immigrant, and woman,” commented one patient. “I don’t feel safe walking around anymore.” One woman who was conflicted about whether to report her rape decided she would not. “How could it matter anymore?” she asked. “No one would believe me now.” Another survivor was more blunt: “We elected a rapist to the presidency,” referring to the accusations of sexual assault (Crockett and Nelson 2017) that several women brought against him, to no consequence. A colleague who treated New Yorkers in the months following the 9/11 terrorist attacks on the World Trade Center said the reactions he has seen in his patients to Trump’s election and presidency are far worse. “The difference is, the attacks of 9/11 were finite and enacted by an outside source,” he observed. “Trump was elected by those among us, and his aggression feels incessant and never ending.” These reactions were also my own. I, too, was in shock; sitting with patients, I struggled to focus. I was prone to spontaneous tears. When asked, I found it difficult to summon the words to explain my distress. I recognized these responses as symptoms of traumatic shock, the possible harbingers of PTSD—posttraumatic stress disorder—which is commonly experienced by traumatized patients. I am a psychotherapist—specifically, a trauma therapist who treats at a major hospital in New York City adult survivors of sexual assault, domestic violence, and childhood sexual abuse. My job is to have some clinical understanding of trauma and how it impacts individuals and knowing how to treat its subjugating effects. Yet, I was baffled. How could a nonviolent event such as the peaceful election of a president generate a trauma response? Whatever one’s political leanings, one could not equate Trump’s win with an actual physical attack or a natural catastrophe. Or could one? The American Psychological Association defines trauma as “an emotional response to a terrible event like an accident, rape, or natural disaster.” And for many people—especially, but not confined to, those in groups that Trump targeted during his campaign—his election and now his presidency are truly terrible, even disastrous, events. Indeed, in the months since November, psychotherapists nationwide have reported an unprecedented focus on politics in their sessions, and a surge in new patients (Gold 2017) seeking help with the high anxiety and stress they feel in reaction to Trump’s steady stream of extreme tweets and impulsive actions. Indeed, from the confusion and worry caused by his disastrous immigration travel ban; his irrational accusations that President Obama wiretapped Trump Tower; and his sudden military actions against Syria and North Korea, President Trump appears more concerned with drawing attention to his power through creating crises rather than resolving them. It is inevitable that such destabilizing behavior in one who holds the most powerful leadership position in the world will heighten anxiety and fear in not only the previously traumatized, but the untraumatized as well. Media pundits and clinicians have coined terms such as post-election stress disorder (Gold 2017), post-Trump stress disorder (Pierre 2016), and headline stress disorder (Stosny 2017) to draw parallels between the anxiety reactions suffered by increasing numbers of concerned Americans and the symptoms of PTSD. If what we read about is true—and I will return to this, as Trump and his top advisers have also shaken our notions of truth and fact—PTSD-like symptoms of insomnia, lack of focus, hypervigilance, irritability, and volatility now afflict not only combat veterans, first responders, and survivors of rape, violent crime, natural disaster, torture, and abuse, but many of the rest of us as well. Again, as a trauma therapist, I puzzle over this correlation of symptoms in greater numbers of the general American populace to PTSD, where the source of trauma is not a physical attack or a natural catastrophe, but the incessant barrage of aggressive words and daily reports of the erratic conduct of a powerful, narcissistic, and attention-seeking world leader. There is much debate over whether post-Trump stress disorder is “real” or just another example of how “snowflake liberals,” goaded on by a “hysterical” left-leaning media, overinflate their suffering. There are questions about whether this trivializes the suffering of “true” trauma survivors, who have experienced “real” attacks and harm. From a clinical perspective, however, such debates at best distract and at worst shame us away from a more thorough consideration of the root causes of this unique phenomenon: how the election and actions of a president such as Donald Trump could cause a large swath of American citizens to feel traumatized or retraumatized. It is important to remember that Trump’s ascendance to the White House is unprecedented and incongruous. We are in uncharted territory. How a New York City real estate magnate and reality television celebrity who had no previous legal, legislative, government, or foreign policy experience could become president of the United States is a circumstance many still find difficult to comprehend. If we agree that the skills of a U.S. president are as crucial as that of a heart surgeon—whose professional judgment and expertise can mean life or death for his patients— then it is terrifying to see that the American body politic has, in Donald Trump, a cardiac surgeon who has never set foot inside an operating room. He is a doctor who has no knowledge of, and arguably no interest in, the inner workings of the American government’s heart. It therefore makes sense that his lack of qualifications and his insensitivity to the complexities and impact of his role would inspire great anxiety, if not even panic, in those of us whose lives depend on his care—regardless of political affiliation or trauma history. For those previously traumatized, however, Trump is even more triggering. Such individuals may experience his volatile, retaliatory, and unilateral behavior as mirroring that of the abusive parent, the wanton bully, the authoritarian teacher, or the sexually aggressive boss who subjugated them in the past. Because a trauma survivor’s brain often exists in a heightened state of hyperarousal, Trump’s daily outrages deliver unnecessary neurobiological overstimulation, narrowing a survivor’s “window of tolerance,” or cognitive space for calm, linear thinking. Such individuals are thus more likely to feel more anxious or even to fall out of their “window of tolerance” into panic attacks, flashbacks, and dissociation. And when we consider who is particularly vulnerable to such heightened anxiety, the numbers of Americans who hold one form of trauma or another are greater than we may think. According to Harvard trauma expert Dr. Bessel van der Kolk (2014): Research by the Centers for Disease Control and Prevention has shown that one in five Americans was sexually molested as a child; one in four was beat by a parent to the point of a mark being left on their body; and one in three couples engages in physical violence. A quarter of us grew up with alcoholic relatives, and one out of eight witnessed their mother being beaten or hit. When we consider how many Americans experience, personally or intergenerationally, the traumas of slavery, immigration, war, natural disaster, and genocide, we start to understand on another level how it is that Donald Trump, a wholly unqualified president who neglects history, highlights divisions, and makes impulsive decisions, would foment unrest in us all. Trauma, Time, Truth, and Trump Thus, President Trump is a destabilizing force that stirs some of us to the point where we experience him as a psycho-socio-political tornado. In fact, the debate over whether post-Trump stress disorder is “real,” and if it is as serious as PTSD, is itself a kind of trauma response. Queries voiced among Americans in response to Trump’s election and after his first one hundred days in office—“Is this real?”; “This is not serious, or is it?”; and “I don’t know what happened, but I can’t move on”—mirror those asked by many of my patients after they begin treatment. They grapple with experiences that are paradoxically too upsetting to consider and too overwhelming to deny. When a U.S. president inspires such internal confusion among the citizens he has been elected to serve, this bears serious consideration. Is Donald Trump causing a trauma epidemic? From my perspective as a trauma therapist, I highlight two key components of trauma (time and truth) to illuminate how Trump impacts so many of us in a traumatogenic way. In so doing, I aim not only to validate the trauma responses many have had to this president, but also to point out how we can minimize Trump’s effect on us. If we know how trauma is constructed, we can do something with its component parts to lessen its effect. In this way, we can prevent ourselves from becoming overwhelmed and immobilized by anger or anxiety in the face of Trump’s erratic and vindictive behavior. Time and Trauma Media ecologist and cultural studies professor Jade E. Davis (2014) considers how online digital media reflects and shapes our perceptions of historical or current events. In her breakdown of the phenomenon, Davis states that “trauma can exist only in the post-tense,” after survivors have been able to find words to describe the horrific event. This is to say, our ability to consider trauma is always contingent on time. Davis’s assertion that trauma is “located in the narrative and accessible through testimony and witnessing” reflects a cornerstone of our work in trauma therapy. A main objective of treatment is to provide the traumatized individual with a sense of safety so she can relate her story, trusting in the fact that her therapist has the tolerance and compassion to bear witness to the survivor’s pain, fear, and shame. This relieves the deep isolation that plagues the traumatized. Van der Kolk (2014) agrees: This is one of the most profound experiences we can have, and such resonance, in which hitherto unspoken words can be discovered, uttered, and received, is fundamental to healing the isolation of trauma. Communicating fully is the opposite of being traumatized. In trauma therapy as in daily life, “communicating fully,” be it with oneself or another, takes skill, care, and time. Mental reflection relies on our having the space and time to take an experience in and to sift through its various parts, in order to engage in dialogue with oneself and others. This is how we orient ourselves to our experiences, our opinions, and our values; this is how we verify our realities. This is how we think. When we are traumatized, our capacity to think and communicate can become so compromised that we need extra support. Neurobiologically, traumatic experiences silence the speech centers of the brain (van der Kolk 2014), rendering us literally speechless. When a survivor has no time or ability to find the words to tell her side of the story in a traumatic situation, Davis defines this as crisis. She describes crisis as a closed and sealed circle representing a situation inaccessible to time and witnessing—that is, a circumstance that lacks space for perspective, one that is subsequently isolated from exchange, change, and growth (Davis 2014). The following diagram (Davis 2014) illustrates the difference between trauma and crisis: SOCIETY AT LARGE Illustration courtesy of Jade E. Davis Trauma refers to a response to a disastrous event that exists in language and time. In Davis’s illustration, it has a porous, dashed-line boundary because a traumatic narrative is a testimony that allows others to bear witness and enter the experience of the traumatized. It is open, not closed. By listening, a witness helps contain the trauma, as represented by the outer dashed-line circle. In the exchange between a traumatized patient and her witness, shifts in the traumatic narrative naturally occur, and growth results. This narrative eventually moves to a fully mourned space, freeing the patient from being controlled by heightened anxiety and triggers that prompt flashbacks and panic attacks. By contrast, “Crises are histories that exist in closed circles … there are no testimonies and no witnesses … People in crisis become bounded, out of place and out of time” (Davis 2014). In Davis’s diagram, crisis is illustrated by a sealed circle. It shows that within its nonporous boundary, events are cut off from time and language, and therefore inaccessible. Without the crucial perspective that time and language afford, a disastrous experience can neither be thought about nor shared, nor mourned. Possible witnesses can only be helpless bystanders, unable to hear or respond to those imprisoned within. Individuals in crisis remain stuck in place; there can be no growth or letting go. Their internal chaos remains the same because there are no words to make sense of it. Without language, there is only mindless action and reaction, a cycle driven by fear, panic, and dissociation. This is the state that President Trump keeps us in. He does so by flooding media outlets, both old and new, with myriad vindictive tweets, defensive press conferences, and sudden firings. Context is key; if Trump were not president of the United States, his ravings would simply be those of an arrogant, unmindful, loudmouthed reality TV celebrity who compulsively seeks attention by cultivating shock and outrage on both ends of the political spectrum. The “no press is bad press” boorishness of his actions would find traction only on reality TV and in tabloid and gossip pages that, before the 2015–2016 election cycle, were the main sites trafficking in Trump’s baldly self-promotional broadcasts. While it is beyond the scope of this essay to delve into the social, economic, political, and demographic circumstances that allowed Trump to morph from entertainment persona to leader of the free world, it is important to note aspects of our current technological climate, which combine with Trump’s now-central role as U.S. president and his narcissistically compulsive personality, to keep the American public fixated on his toxic behavior and stuck in a state of chaotic, meaningless crisis. Our ever-increasing use of the Internet demands that we process new information at the speed of the supercomputers that drive it. As Brown University digital media scholar Wendy Chun (2016) observes, “[T]here is an unrelenting stream of updates that demand response, from ever-updating Twitter.com feeds to exploding inboxes. The lack of time to respond, brought about by the inhumanly clocked time of our computers that renders the new old, coupled with the demand for response, makes the Internet compelling.” “I think, therefore I am,” Descartes’s Enlightenment-era definition of human existence, has become, in the twenty-first century, “I post, therefore I am.” Compelling as this is, there is a falseness to this promise. This is marked by the exhaustion we experience when we spend too much time online. For the insomnia-stricken among my trauma patients, I recommend removal of screen time at least an hour before bedtime; Web-surfing scatters attention and overstimulates the brain. Moreover, backlit screens have been proven to block the brain’s production of melatonin, a natural sleep-promoting hormone. For the traumatized, whose neurobiological systems are already in a state of hyperarousal, heightened anxiety and sleep disturbance narrow their “windows of tolerance.” This makes finding calm even more challenging and hinders healing significantly. We are not machines; feeding our quest for knowledge and defining our existences online delivers a synthetic fulfillment that is fleeting and unsustainable. Seeking such satisfaction via the Internet is like trying to quench thirst by sipping water from a fire hose. By drinking from the Internet’s fire hose, we not only end up still thirsty, but we may get seriously hurt in the process. Because this onslaught of information disallows us from taking the time to truly consider any of it, we open ourselves to believing dangerous and unchecked falsehoods. Both Chun and Stanford University election law scholar Nathaniel Persily (2017) warn of the alarming political consequences of our collective inability to think or verify the truth of what is broadcast online. As Chun (2016) observes, “The Internet … has been formulated as the exact opposite of Barlow’s dream (of an unregulated space for a free marketplace of ideas): a nationalist machine that spreads rumors and lies.” While Chun points to the Internet’s potential for fostering the seeds of nationalist propaganda, Persily asks, “Can Democracy survive the Internet?” in the very title of his recent paper. By analyzing the 2016 digital campaign for U.S. president, he orients us to what today’s Internet amplifies: social media retweets, false news shares, bot-driven articles, and troll-inspired critiques that reflect and stir reactivity rather than disseminate the truth: “What the Internet uniquely privileges above all else is the type of campaign message that appeals to outrage or otherwise grabs attention. The politics of never-ending spectacles cannot be healthy for a democracy. Nor can a porousness to outside influences that undercuts the sovereignty of a nation’s elections. Democracy depends on both the ability and the will of voters to base their political judgments on facts.” Persily highlights the maladaptive match between Trump, a spectacledriven reality TV persona, and our current technological age. The pairing of online media sites that rely on page views to maximize advertising dollars with Trump’s factually thin but impossible-to-ignore shock effect ravings has resulted in his effortlessly infecting media outlets primed to spread his viralready broadcasts. His success at capitalizing on the mass market use and influence of social media is something that social and political scientists, digital media scholars, campaign experts, journalists, and government officials are scrambling to understand. As Persily observes, “For Trump, his assets included his fame, following, and skill in navigating the new media landscape. He also figured out that incendiary language could command media attention or shift the narrative. These combined strategies allowed him to garner roughly $2 billion worth of free media during the primaries, and probably a comparable amount during the general-election campaign.” Trump’s immense talent for grabbing attention and turning it into material wealth and power, makes him, first and foremost, a master of marketing. What Chun and Persily point out is that in the Internet era, the filterless, open, and interactive nature of online media channels promotes the spread of rumors and spectacle because information traffics too quickly to favor the nuances and subtleties of truth. In a climate where the “new” becomes “old” (Chun 2016) in a matter of moments, where the mobile devices of dissemination are literally in our hands at all times, it is too easy and compelling to immediately spread what feels alarming or outrageous to our audiences of social media “friends,” who are just a click away. Trauma and Truth Looking through the lens of trauma treatment, it is of particular concern that we find ourselves in a perfect storm where we have, as our U.S. president, a narcissist fixed on broadcasting his own unilateral and inconsistent versions of reality in a climate driven by Internet media channels that produce information so quickly that they privilege falsehoods over truth. It is a tenet of trauma therapy to validate our patients’ truths—that is, their experiences of their subjugation. Without it, the work of healing cannot progress. Being believed and not having one’s experience denied are crucial to anyone who has seen unspeakable horrors or who has been subjugated by another through torture, rape, or physical or sexual abuse. Such events turn one’s world upside down, and a cornerstone of our work is to help a patient stabilize herself by affirming the truth of what her experience was. Only then can we build, with words, a narrative of the event so that the patient can make sense of and communicate to herself and others what happened. She is thus able to move out of her isolation and shame to recruit witnesses to help her bear such a painful burden. This allows the patient to move her experience from crisis, or wordless reactivity; to trauma, a narrative of pain; to history, a story about the past. With time to validate truths and make meaning out of chaos, a patient can reduce her panic attacks, flashbacks, and dissociation. Rather than being caught in a cycle of meaningless crisis, she can regain stability, increase her sense of calm, and move on with her life. Again, as trauma expert van der Kolk (2014) put it, “Communicating fully is the opposite of being traumatized.” Thus, it is traumatizing to have, in the White House, a president and an administration intent on confounding “full communication” by manipulating the truth to serve their own ends. As Columbia University psychoanalyst Joel Whitebook points out (2017), according to Trump and his team, there is only one reality—Donald Trump’s: Armed with the weaponized resources of social media, Trump has radicalized this strategy in a way that aims to subvert our relation to reality in general. To assert that there are “alternative facts,” as his adviser Kellyanne Conway did, is to assert that there is an alternative, delusional, reality in which those “facts” and opinions most convenient in supporting Trump’s policies and worldview hold sway. Whether we accept the reality that Trump and his supporters seek to impose on us, or reject it, it is an important and ever-present source of the specific confusion and anxiety that Trumpism evokes. When a world leader as powerful as the president of the United States insists on there being “alternative facts” derived from a reality only he knows, this is alarming and destabilizing for us all. Democracy and the rule of law are threatened without an agreement between government and its citizens on the objectivity of truth and reality. A breakdown in this agreement puts the definition of truth and reality into the hands of those with the most social, political, and/or economic power. In history, this has supported the severe wrongdoings of institutions intent more on preserving their power than on protecting individual rights. The sexual molestation of children by priests in the Catholic Church represents a stark and long-standing example of an institution that insisted on its own truth and reality rather than those of abused innocents. To hold on to power, Catholic Church leaders permitted the ongoing sexual abuse of society’s most vulnerable, the very individuals they had a holy mandate to protect. In trauma therapy, we see the corrosive long-term effects upon the human spirit when an individual’s truth and reality are denied, particularly when those individuals grapple with traumas that take away their sense of subjectivity and self-efficacy. In his constant attempts to redefine the truth against the wrongdoings he has enacted, Donald Trump behaves like an aggressive perpetrator who fundamentally has no respect for the rights and subjectivities of those in American society who disagree with him. He shows this through his insistence on overpowering and shaming individuals who will not bend to his opinion or his will. From my stance as a trauma therapist, it is heartbreaking to see the damage Donald Trump is wreaking upon American society. It is a perpetration, creating deep wounds from which, I fear, it will already take us years to heal. Conclusion When the U.S. presidency, a position that already occupies the focus of global attention, is held by an extreme individual such as Donald Trump, his dramatic and inconsistent behavior captures all media attention. This constant coverage becomes a compulsive fixation for us all. For those of us who have been previously subjugated, this kind of exposure is particularly overstimulating and blocks us from recruiting the tools so necessary for healing from trauma. We are prevented from taking time to use language to validate truths and create meaning through narratives of those experiences. Without adequate time to process what shocks or destabilizes us, we cannot make sense of what happened; nor can we communicate our horrors to others. This robs all of the opportunity to humanize the subjugating effects of terror, abuse, and attack or to lift the isolation and shame that accompany them. Moreover, the unfortunate symbiosis of our president’s narcissistic, attention-hungry outrageousness with our Internet era’s insatiable appetite for spectacle has resulted in a flood of incendiary news and information that none of us, whether previously traumatized or not, has the time or mental space to process. Yet, we gorge ourselves on such toxic infotainment with a niggling sense of impending doom. As New Yorker editor in chief David Remnick said of White House press secretary Sean Spicer’s unusually high ratings for press briefings: “Undoubtedly, some people watch Spicer to be entertained. But there’s another reason his ratings are high: we watch because we’re worried” (Remnick 2017). Indeed, we are worried. Due to Trump and his administration’s constant and volatile shifts in mood, communication, and representations of basic truths, far more Americans now possess narrower “windows of tolerance” in managing stress. As president, Trump has created an epidemic of heightened anxiety. By denying us access to time and calling our perceptions of truth into question, he shuts down our ability to reflect, causes us to doubt reality, and thus encourages reactivity and stress, keeping us in a difficult-to-sustain state of crisis. It is hard to predict how tenable this is for us, as individuals or as a society. Uncertain times call for collective strength and stability, and such disempowerment is detrimental to our individual and national mental health. We can, however, use this deeper understanding of trauma, and of its elements of time and truth, to promote measured thought instead of reactive freezing, panic, or avoidance. We can be aware of the propensity for new media outlets to privilege emotionally stimulating falsehoods over measured and nuanced facts. We can unplug ourselves and take time simply to enjoy the act of thinking freely. It is a privilege we still enjoy in the United States, and it will be the skill we need to prevent us from careening toward crisis, as it seems Donald Trump would have us do.

#### A panel is key to avoid the decision being politicized --- anyone who speaks out now is labeled as “fake”

Hamblin 1-03 [JAMES HAMBLIN, MD, is a staff writer at The Atlantic, 1 – 03 – 2018, “Is Something Neurologically Wrong With Donald Trump?”, https://www.theatlantic.com/health/archive/2018/01/trump-cog-decline/548759//[Premier]

After more than a year of considering Trump’s behavior through the lens of the cognitive sciences, I don’t think that labeling him with a mental illness from afar is wise. A diagnosis like narcissistic personality disorder is too easily played off as a value judgment by an administration that is pushing the narrative that scientists are enemies of the state. Labeling is also counterproductive to the field in that it presents risks to all the people who deal with the stigma of psychiatric diagnoses. To attribute Trump’s behavior to mental illness risks devaluing mental illness. Judiciousness in public statements is only more necessary as the Trump administration plays up the idea of partisan bias in its campaign against “the media.” The consistent message is that if someone is saying something about the president that depicts or reflects upon him unfavorably, the statement must be motivated by an allegiance to a party. It must be, in a word, “fake”—coming from a place of spite, or vengeance, or allegiance to some team, creed, or party. Expertise is simply a guise to further a hidden political cause. Senator Lindsey Graham recently told CNN that the media’s portrayal of President Donald Trump is “an endless, endless attempt to label the guy as some kind of kook not fit to be president.” Bias will color any assessment to some degree, but it needn’t render science useless. (Of course, Graham himself has called Trump a “kook” who is “not fit to be president.” That was in 2016, though, during the Republican presidential primary, when the two were not yet allies.) That sort of breathless indictment—followed by a reversal and condemnation of others for making the same statement—may not be rare among politicians, but it is a leap to assume that doctors and scientists would similarly lie and abandon their professional ethics out of allegiance to a political party. When judgment is compromised with bias, it tends to be more subtle, often unconscious. Bias will color any assessment to some degree, but it needn’t render science useless in assessing presidential capacity. The idea that the president should not be diagnosed from afar only underscores the point that the president needs to be evaluated up close. A presidential-fitness committee—of the sort that Carter and others propose, consisting of nonpartisan medical and psychological experts—could exist in a capacity similar to the Congressional Budget Office. It could regularly assess the president’s neurologic status and give a battery of cognitive tests to assess judgment, recall, decision-making, attention—the sorts of tests that might help a school system assess whether a child is suited to a particular grade level or classroom—and make the results available. Such a panel need not have the power to unseat a president, to undo a democratic election, no matter the severity of illness. Even if every member deemed a president so impaired as to be unfit to execute the duties of the office, the role of the committee would end with the issuing of that statement. Acting on that information—or ignoring or disparaging it—would be up to the people and their elected officials. Of course, the calculations of the Congressional Budget Office can be politicized and ignored—and they recently have been. Almost every Republican legislator voted for health-care bills this year that would have increased the number of uninsured Americans by 20-some million, and they passed a tax bill that will add $1.4 trillion to the federal deficit. A majority of Americans did not support the bill—in part because a nonpartisan source of information like the CBO exists to conduct such analyses. That math and polling can be ignored or disputed, or the CBO can be attacked as a secretly subversive entity, but at least some attempt at a transparent analysis is made. The same cannot be said of the president’s cognitive processes. We are left only with the shouts of experts from the sidelines, demeaning the profession and the presidency.

#### Self monitoring is insufficient --- trump surrounds himself with sycophants that destroy the objectivity of any test he undergoes

Hamblin 1-03 [JAMES HAMBLIN, MD, is a staff writer at The Atlantic, 1 – 03 – 2018, “Is Something Neurologically Wrong With Donald Trump?”, https://www.theatlantic.com/health/archive/2018/01/trump-cog-decline/548759//[Premier]

Though it is not possible to diagnose a person with dementia based on speech patterns alone, these are the sorts of changes that appear in early stages of Alzheimer’s. Trump has likened himself to Ronald Reagan, and the changes in Trump’s speech evoke those seen in the late president. Reagan announced his Alzheimer’s diagnosis in 1994, but there was evidence of linguistic change over the course of his presidency that experts have argued was indicative of early decline. His grammar worsened, and his sentences were more often incomplete. He came to rely ever more on vague and simple words: indefinite nouns and “low imageability” verbs like have, go, and get. After Reagan’s diagnosis, former President Jimmy Carter sounded an alarm over the lack of a system to detect this sort of cognitive impairment earlier on. “Many people have called to my attention the continuing danger to our nation from the possibility of a U.S. president becoming disabled, particularly by a neurologic illness,” Carter wrote in 1994 in the Journal of the American Medical Association. “The great weakness of the Twenty-Fifth Amendment is its provision for determining disability in the event that the president is unable or unwilling to certify to impairment or disability.” Indeed, the 1967 amendment laid out a process for transferring power to the vice president in the event that the president is unable to carry out the duties of the office due to illness. But it generally assumed that the president would be willing to undergo diagnostic testing and be forthcoming about any limitations. This may not happen with a person who has come to be known for denying any hint of weakness or inability. Nor would it happen if a president had a psychiatric disorder that impaired judgment—especially if it was one defined by grandiosity, obsession with status, and intense aversion to being perceived as weak. Nor would it happen if the only person to examine the president was someone like Harold Bornstein—whose sense of objective reality is one in which Donald Trump is healthier than the 42-year-old Theodore Roosevelt (who took office after commanding a volunteer cavalry division called the Rough Riders, and who invited people to the White House for sparring sessions, and who after his presidency would sometimes spend months traversing the Brazilian wilderness). It was for these reasons that in 1994, Carter called for a system that could independently evaluate a president’s health and capacity to serve. At many companies, even where no missiles are involved, entry-level jobs require a physical exam. A president, it would follow, should be more rigorously cleared. Carter called on “the medical community” to take leadership in creating an objective, minimally biased process—to “awaken the public and political leaders of our nation to the importance of this problem.”

#### Evaluations from afar are ineffective --- goldwater rule and lack of specificity

Hamblin 1-03 [JAMES HAMBLIN, MD, is a staff writer at The Atlantic, 1 – 03 – 2018, “Is Something Neurologically Wrong With Donald Trump?”, https://www.theatlantic.com/health/archive/2018/01/trump-cog-decline/548759//[Premier]

More than two decades later, that has not happened. But questions and concern around Trump’s psychiatric status have spurred proposals anew. In December, also in the Journal of the American Medical Association, mental-health professionals proposed a seven-member expert panel “to evaluate presidential fitness.” Last April, representative Jamie Raskin introduced a bill that would create an 11-member “presidential capacity” commission. The real-world application of one of these systems is complicated by the fact that the frontal lobes also control things like judgment, problem-solving, and impulse control. These metrics, which fall under the purview of psychiatrists and clinical psychologists, can be dismissed as opinion. In a hospital or doctor’s office, a neurologist may describe a patient with Parkinson’s disease as having “impaired impulse control.” The National Institute on Aging lists among the symptoms of Alzheimer’s “poor judgment leading to bad decisions.” These are phrases that can and do appear in a person’s medical record. In the public sphere, however, they’re easily dismissed as value judgments motivated by politics. The Harvard law professor Noah Feldman recently accused mental-health professionals who attempt to comment on Trump’s cognition of “leveraging their professional knowledge and status to ‘assess’ his mental health for purposes of political criticism.” Indeed thousands of mental-health professionals have mobilized and signed petitions attesting to Trump’s unfitness to hold office. Some believe Trump should carry a label of narcissistic personality disorder, antisocial personality disorder, or both. The largest such petition has more than 68,000 signatures—though there is no vetting of the signatories’ credentials. Its author, psychologist John Gartner, told me last year that in his 35 years of practicing and teaching, “This is absolutely the worst case of malignant narcissism I’ve ever seen.” Many other mental-health professionals are insistent that Trump not be diagnosed from afar by anyone, ever—that the goal of mental-health care is to help people who are suffering themselves from disabling and debilitating illnesses. A personality disorder is “only a disorder when it causes extreme distress, suffering, and impairment,” argues Allen Frances, the Duke University psychiatrist who was a leading author of the third edition of the Diagnostic and Statistical Manual, which was the first to include personality disorders. This is consistent with the long-standing, widely misunderstood rule in the profession that no one should ever be diagnosed outside of the confines of a one-on-one patient-doctor relationship. The mandate is based on a legal dispute that gave rise to the American Psychiatric Association’s (APA) “Goldwater Rule,” which was implemented after the politician Barry Goldwater sued Fact magazine for libel because a group of mental-health professionals speculated about Goldwater's thought processes in its pages. The rule has protected psychiatrists both from lawsuits and from claims of subjectivity that threaten trust in the entire enterprise.

#### Trump doesn’t have a right to privacy --- public officials can always choose to not run

Grohol 1-8 [John M. Grohol, Psy.D. , 1- 8 – 18, “Assessing a President’s Mental Health”, https://psychcentral.com/blog/assessing-a-presidents-mental-health//[Premier]

Just as Presidents of the United States undergo an annual checkup and physical every year, it makes sense that they should also undergo an annual checkup for their mental health. Since mental health is of equal importance to one’s physical health, it makes little sense to ignore it and pretend it’s not important. Or worse, to act as though a person’s mental health either doesn’t exist or can’t be objectively measured. It’s time for our Presidents, beginning with Donald J. Trump, to undergo annual mental health checkups, coinciding with their physical exams. <!-more–> It goes without saying that most actual smart people don’t tweet out phrases (or say something) such as, “Throughout my life, my two greatest assets have been mental stability and being, like, really smart.” Nor do they make the claim that they are a “very stable genius.” Yet President Trump, the 45th President of the United States, seems to be more concerned about his public image than doing the country’s business. Which has led many, many experts, professionals, researchers, and pundits to conjecture about the president’s mental health and mental stability. One of the most thoughtful and detailed efforts by James Hamblin appears in The Atlantic. Trump’s grandiosity and impulsivity has made him a constant subject of speculation among those concerned with his mental health. But after more than a year of talking to doctors and researchers about whether and how the cognitive sciences could offer a lens to explain Trump’s behavior, I’ve come to believe there should be a role for professional evaluation beyond speculating from afar. […] An annual presidential physical exam at Walter Reed National Military Medical Center is customary, and Trump’s is set for January 12. But the utility of a standard physical exam—knowing a president’s blood pressure and weight and the like—is meager compared with the value of comprehensive neurologic, psychological, and psychiatric evaluation. These are not part of a standard physical. Why would we want to ensure our leaders’ physical health, but not their mental health? Why would we willingly turn a blind eye to someone’s brain health, and write off anything that shows cognitive deficits as “partisan politics?” That isn’t just short-sighted, it’s potentially a very dangerous form of denial. Roosevelt Tried Hiding His Ailments, Too We’ve come a long way since the days where having a chronic, physical illness was a sign of weakness. Franklin D. Roosevelt (FDR) famously tried keeping his polio from the American public, but the mainstream media at the time ensured the public knew he was paralyzed (despite the President’s best efforts to conceal his disability). More disturbingly, Roosevelt may have had cancer, which led to his death early in his fourth term as president. He also had chronic health conditions which would have been important for the public to know before electing him to a fourth term. Beginning in early 1944, the fact that Roosevelt had severely elevated blood pressure and congestive heart failure was also kept secret. If you want to run for President, your health — and more importantly, your mental health — is no longer a private concern, nor should it be.1 The American public has always had a right to know about their leader’s health status. Because if our leaders are unhealthy, they’re not likely to be able to focus as much on the nation’s business as needing to focus on their own health concerns and treatment. If you don’t want to have your mental health and physical health objectively assessed, don’t run for office.

#### The average age of presidents hypercharge our impact – rates of dementia are higher and cognitive functions tend to decrease linearly after 40

Hamblin 1-03 [JAMES HAMBLIN, MD, is a staff writer at The Atlantic, 1 – 03 – 2018, “Is Something Neurologically Wrong With Donald Trump?”, https://www.theatlantic.com/health/archive/2018/01/trump-cog-decline/548759//[Premier]

The lack of a system to evaluate presidential fitness only stands to become more consequential as the average age of leaders increases. The Constitution sets finite lower limits on age but gives no hint of an upper limit. At the time of its writing, septuagenarians were relatively rare, and having survived so long was a sign of hardiness and cautiousness. Now it is the norm. In 2016 the top three presidential candidates turned 69, 70, and 75. By the time of the 2021 inauguration, a President Joe Biden would be 78. After age 40, the brain decreases in volume by about 5 percent every decade. The most noticeable loss is in the frontal lobes. These control motor functioning of the sort that would direct a hand to a cup and a cup to the mouth in one fluid motion—in most cases without even looking at the cup. These lobes also control much more important processes, from language to judgment to impulsivity. Everyone experiences at least some degree of cognitive and motor decline over time, and some 8.8 percent of Americans over 65 now have dementia. An annual presidential physical exam at Walter Reed National Military Medical Center is customary, and Trump’s is set for January 12. But the utility of a standard physical exam—knowing a president’s blood pressure and weight and the like—is meager compared with the value of comprehensive neurologic, psychological, and psychiatric evaluation. These are not part of a standard physical. Even if they were voluntarily undertaken, there would be no requirement to disclose the results. A president could be actively hallucinating, threatening to launch a nuclear attack based on intelligence he had just obtained from David Bowie, and the medical community could be relegated to speculation from afar. Even if the country’s psychiatrists were to make a unanimous statement regarding the president’s mental health, their words may be written off as partisan in today’s political environment. With declining support for fact-based discourse and trust in expert assessments, would there be any way of convincing Americans that these doctors weren’t simply lying, treasonous “liberals”—globalist snowflakes who got triggered?

### Communitarianism

#### Privacy rights treat people as atomistic individuals; they’re at odds with a social view of society.

Corlett 02 summarizes, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

It might also be argued, moreover, that **the Privacy Respecting Theory places too high a premium on privacy in that the foundational character of privacy separates persons from one another in society**.69 **The moral right to privacy, when seen as fundamental, places persons in opposi- tion to one another in society such that they become competitors and enemies**. Moreover, **it may**, like certain other rights, **lead to persons becoming "self-sufficient monads,"**70 **to one's becoming "separated from the community, withdrawn into himself,"**71 **atomistic, and not respect- ing the intrinsic value in social goods**.72 It is not that privacy has no place in a social world. Rather, it is that **privacy cannot be seen as something to which one has an absolute and non-conflictable moral right**. As H. J. McCloskey argues, "to protect privacy is to restrict freedom."73 **This seems to imply,** among other things, that the right to privacy is in general a prima facie right insofar as **the legitimate restriction of free- dom at times eventuates in the overriding of considerations of privacy.** As Gerald Dworkin argues, "**The right to privacy cannot be absolute; it must yield** on occasions **to other interests** which **society considers** to be **of greater importance**.

## Case Blocks

### A2 Scandal Journalism

#### Scandal journalism is healthy for democracy by checking politicians against moral and social norms.

Allern and Sikorski 18 summarize the argument. Allern, Sigurd [University of Oslo] and Sikorski, Christian Von [University of Vienna]. "Political Scandals as a Democratic Challenge: From Important Revelations to Provocations, Trvialities, and Neglect." International Journal of Communication 12, 3014-3023 (2018) [Premier]

In professional journalism, rooted in the Anglo-American tradition, investigating powerful institutions and public figures is a central goal, related to the Montesquieu-inspired notion of the press as an unofficial fourth branch of government, scrutinizing legislative, executive, and judicial powers on behalf of the people. Journalists maintain the norms of public life and the values of political conduct (Ettema & Glasser, 1988). According to this view, scandal journalism is healthy for democracy. News organizations increase their legitimacy by exposing norm violations and circumstances that can become political scandals (Allern & Pollack, 2012). The revelations of international corruption and money laundering known as the Panama Papers and the Paradise Papers, organized by the International Consortium of Investigative Journalists, is a recent example. An optimistic view about the media’s role is also highlighted in the Durkheim-inspired functional theory about scandals; because journalists expose norm transgressions, they help to restore and renew the moral order of society. “In the immediate post-Watergate period, a heightened sensitivity to the general meaning of office and democratic responsibility did indeed lead to heightened conflict and to series of challenges to authoritative control,” writes Jeffrey C. Alexander (1988, p. 213). Scandals may help distinguish between the guilty and the innocent, expose shameful conduct, and ensure that those who violate norms are punished (Girard, 2007, p. 318). Also, certain forms of norm violations may be prevented in the first place—for example, when political actors fear that malfeasance may be discovered by investigative journalists searching for potential misconduct with the aim of turning it into a public scandal. Mediated scandals are therefore opportunities to validate social norms (Jacobsson & Löfmark, 2008, p. 212). In general, the functional sociological theory underlines the positive effects of scandal journalism. Scandals enable an interrogation of the collective moral code, and public opinion is used to punish the deviant behavior of politicians, contributing to the maintenance of a healthy democracy (Brenton, 2012).

### A2 25th Amendment

#### The 25th amendment is insufficient to meet consent of the governed if the president dies – presidents and VPs have different views and the likelihood of succession could influence people’s votes based on the VP candidate’s views.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

The 25th Amendment provides the constitutional mechanism for presidential succession, and information to this effect is readily available to the voters whose consent is required for governance. Thus, one might argue that because this mechanism picks out a particular person whom the populace votes on (viz., the vice president), their informed consent has been secured because they vote on a ticket of president and vice president, even without disclosure. This argument is flawed, though, because there will always be important differences between presidential and vice presidential candidates, and in the absence of any evidence to the contrary, citizens expect that they will be governed by the one and not the other. Information that meets our standard is clearly relevant to the likelihood of presidential succession, and is therefore relevant for informed consent, even on the assumption that the transition to the vice president goes smoothly.12 Consider another surgery analogy. One might consent to surgery from a team with both a primary and a backup surgeon, and exchanging the primary for the backup surgeon because the primary becomes incapacitated would not render consent uninformed. However, if there are substantial differences between the two, if the patient expects that the primary surgeon will perform the procedure, and if there are circumstances that make it significantly more likely that such an exchange will occur, meaningful consent requires disclosure of those circumstances. Knowledge of such circumstances, when they exist, may well lead the patient to consider the qualifications of the backup surgeon more carefully. To take a contemporary example: it seems plausible that Bush’s incapacitation would not be as disruptive to policy making as the incapacitation of other presidents would have been, perhaps because Vice President Cheney plays a particularly active and able role in the Bush administration. (Compare with the possibility of Dan Quayle succeeding George H. W. Bush). But there are nonetheless significant differences between Cheney’s views and Bush’s views (e.g., on a constitutional amendment to ban gay marriage), and perhaps significant differences in the way they are viewed by other world leaders. So even if the 25th Amendment did suffice to ensure a smooth transition in case of presidential incapacity, information about the likelihood of a transition is relevant to the voters’ decisions because of such differences. This is not to say the 25th Amendment is irrelevant to our discussion of mandatory disclosure, since conditions that are likely to lead to the exercise of 25th Amendment succession procedures are conditions that would clearly require disclosure.13 The 25th Amendment contemplates removal on the grounds that the president is unable to “discharge the powers and duties of office,” (U.S. Const. Amend. XXV, § 4) and it follows a fortiori that such conditions would undermine the president’s ability to carry out the core functions of office, which is required by our standard. But there are conditions that meet our standard, but that are not likely to trigger the 25th Amendment, specifically conditions that render the president significantly less able, but not unable, to fulfill the functions of office.

### A2 Past Records Solve

#### Ability to follow through on campaign promises matters – voting decisions can’t be made solely based on past records.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Eugene McCarthy refused to disclose his medical records in the 1976 presidential campaign, stating that the president should be elected “on the basis of his or her record of service, of thought about the issues and programs to deal with them, and not on the basis of any private status such as that of patient” (Bloom, 1976, cited in Annas, 1995). But a moment’s reflection shows that voting decisions should be based not just on the candidate’s past record of service and views about issues and programs, but also on the candidate’s ability to implement those views and programs were he or she to be elected. And plainly enough, there are many medical conditions which can affect that ability. Moreover, the potential disruption that could result from the president being incapacitated—regardless of what that incapacity does for the future of any particular policy or idea—is enough to make the candidate’s health appropriate grounds for voters’ decisions.

### A2 Deters seeking healthcare

#### Required disclosure won’t deter candidates from seeking healthcare.

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

One might argue, as George Annas does, that the public interest is best served by making sure that potential presidential candidates are not deterred from seeking medical care for fear of its effect upon their candidacy (Annas, 1995, p. 5), and that otherwise qualified candidates are not deterred from running for office on the basis of their medical profile. We agree that the public has an interest that fear of disclosure not deter candidates from seeking medical care, nor that it deter good candidates from running for office. The public’s interest in candidates seeking medical care arises in two ways. First, the public has an interest in current candidates seeking healthcare in order that its future president be well cared for. But this interest does not conflict with our disclosure standard. Our view only requires disclosure of conditions that are likely to seriously undermine the candidate’s ability to perform the core functions of the office, and the basis for that interest is an interest in the future president’s ability to carry out the duties of office. If information about the candidate meets the standard for which we argue, disclosure would only be required when that ability is seriously questioned. As to the argument that disclosure requirements might deter otherwise good candidates from running for office, this requires saying that a particular candidate is a good choice for holding a four-year position, despite its being likely that he or she won’t be able to carry out its duties for the full four years. So, although one could point to the effective year or so of Roosevelt’s last term as an example of a candidate who was well-qualified despite his health problems, one would have to argue that having him in office for a year was a better choice than having some other candidate for all four years. While possible, this seems unlikely. More importantly, though, it is up to the public to decide whether a candidate’s good qualities outweigh the possibility that their medical condition will obviate those qualities. Second, the public has an interest that people who might become candidates receive medical care. Presidential candidates come from a fairly rarefied pool of people, such as senators, representatives, governors, and vice presidents, many of whom may have long-standing presidential aspirations. If they fear that medical care will result in disclosure of potentially damaging information, they might forego that care. If they do, this would be contrary to the public’s interest in those people being healthy. This interest, too, is unlikely to be threatened by our standard. If the medical condition for which a potential candidate might seek care is minor, then it would be unlikely to meet our standard, and no disclosure would be required. And if the condition is major, such as lymphoma, then the costs of avoiding care may be enough to motivate the candidate to get care, and, at any rate, avoiding care might result in failing health, which would harm his or her chance of becoming president in its own right.

### A2 Stigma

#### Turn: disclosure requirements can aid advocacy for medical conditions – doesn’t infringe on the voting rights of advocacy groups

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

However, the analogous argument against our disclosure standard is unsound. The election of a candidate with a certain condition could aid the cause of an advocacy group either because the candidate would be an especially effective advocate or would provide a shining example of the lofty achievements possible for someone with that condition. But a candidsate is likely to be a much more effective advocate by advertising, rather than hiding, the condition in question. Moreover, any benefits of post-election publicity would be marred by the public’s realization that the candidate hid the information. And although a candidate’s succumbing to a disease in office might arouse awareness and support, conditions which are likely to seriously undermine the president’s ability to perform the core functions of the office are also likely to undermine the candidate’s ability to be a successful advocate and a shining example. Thus, the interests of such an advocacy group do not conflict with our proposal. It is also implausible to say that any requirement that makes it more difficult for a group’s preferred candidate to be elected infringes that group’s voting rights. There are any number of moral responsibilities incumbent upon a candidate that make it more difficult for him or her to be elected. Elements of a candidate’s political career that are part of the public record are required to be accessible. Candidates ought to avoid lying or misleading the public about elements of their political platform. Clearly, these could disadvantage some groups’ preferred candidates more than others. And in rejecting such a requirement, the advocacy group would be trying to prevent other voters from having access to highly relevant information about the candidate, which runs contrary to democratic principles rather than preserving them. Disclosure of conditions that meet our standard will only provide voters with information highly relevant to the candidate’s ability to function in the presidency, and so will serve to make voters’ choices more meaningful overall, not less.

### A2 Information Overload

#### Information overload and distortion is false – multiple warrants

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Finally, it might be objected that requiring disclosure will harm the public’s interest in a rational and informed political process. Given the complexity of medical information, the public might respond irrationally to even highly relevant information, and the media or a candidate’s opponents might distort such information. Our response is four-fold. First, this worry is largely mitigated by the narrowness of our standard; people simply would not have the opportunity to react irrationally to minor medical conditions. Second, just about any information about a candidate can be distorted or interpreted irrationally. A candidate’s senatorial voting record can be distorted and interpreted irrationally, but democracy is clearly better served, on balance, by requiring disclosure of that information. Third, even if the public responds to information irrationally, it is still something to which members of the public have a right, and if they have a right to it, then the mere fact that they will not use it rationally does not justify withholding it. And finally, in recent instances of candidates publicizing their medical diagnoses, such as Rudy Giuliani’s early-stage prostate cancer, responsible journalists have enlightened the public with well-researched news articles explaining the condition, its treatment, and prognosis. There is always the possibility that voters will misunderstand medical facts (or any facts), but the way to resolve that problem is through education, not by withholding the information in the first place.

## Off Case Blocks

### A2 Coercion/Liberty NCs

#### Privacy is a discretionary right – you have the power to share as much information as you want through your actions

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

Common to any species of the right to liberty is the right holder's ability to choose freely from a variety of acceptable options in life and to what she will do freely (to move about at her own will). This might be seen as the core of her right to liberty. At the periphery of s right might be claims, powers, immunities, etc. Understood in this way, **the moral right to privacy might be seen as a species of a moral liberty right.** Moreover, this right is a right en rem, one that holds against the world at large. Thus, the moral right to privacy as a liberty right is a negative, en rem, and valid claim.30 But **it is also alienable**. **One can voluntarily give up one's privacy.** Because (on some accounts) it is a species of the right to liberty, the moral right to privacy is an interest- protecting right.

The moral right to privacy is a discretionary right in that, when respected**, the right holder is allowed to do what she wants to do in a given situation where she has the right**. For example, one has a moral privacy right to listen to the music of one's choice in one's own home (at reasonable decibel levels so as not to disturb others by violating their right to privacy). As Jeremy Waldron writes, complete answerability would be morally exhausting and individu- ally debilitating. . . . [T]here must be a realm of private freedom somewhere for each individual - an area where he can make deci- sions about what to do and how to do it, justifying these decisions if at all only to himself.31 Or, an employee has a moral privacy right to refuse to provide more information about herself to her employer than is required by valid moral rules.32 Here **the employee monitors herself in providing such information, her moral right guarantees her protection from being forced to say more** than she wants to say about herself beyond what is morally required. In some cases, though, the moral right to privacy is not about keeping information about oneself from others. Rather, it concerns data that is protected as private.33 This is an explication of the information privacy right.

#### Privacy violations do not *necessarily* harm autonomy

McCloskey 80, HJ, Privacy and the Right to Privacy, Philosophy, Vol. 55, No. 211 (Jan., 1980), pp. 17-38 [Premier]

Respect for privacy as respect for personal autonomy. Various of the fore- going accounts seek to relate privacy and liberty, privacy and autonomy. **Obviously, privacy and respect for privacy, autonomy and respect for autonomy, are related.** Many breaches of the right to privacy will be breaches of the duty to respect autonomy; many will involve **lack of regard for the wishes of others**. However, the latter **need not involve lack of respect for autonomy.** Thus **secret spying** which is **never discovered** by the victim **need involve no lack of respect for autonomy**. Consider here the girl who, unknown to herself, has been spied on by a man she knows and whom she may or may not be willing to see her naked. Has her will been forced in either case, if the man never talks and if she never comes to know what he has done? It has been suggested here that such actions of invading privacy, even secret, unknown invasions, involve a forcing of the will, a loss of autonomy. The girl wishes to act free from observation. If spied upon, she is no longer free to opt for the unobserved action. Two replies are sufficient to meet this argument. **Even if the girl hoped and desired that the man she loved would secretly observe her beauty, her lover who did so without her permission would be invading her privacy. There would however be no thwarting of her will.** Further, **many things other people do and do not do, are counter to our wishes. To vote a sitting member out of office is to thwart his wishes. It is not to violate his autonomy**, even less is it to invade his privacy. **Such a view of autonomy would imply that only one being can enjoy autonomy, and that all others would be at risk of becoming his slaves in order to respect his autonomy**.

### A2 Sentimentalism/Emotivism

#### Outrage and embarrassment at a lack of privacy cannot be the basis for the concept, since there are many times a victim is numb to the violation

McCloskey 80, HJ, Privacy and the Right to Privacy, Philosophy, Vol. 55, No. 211 (Jan., 1980), pp. 17-38 [Premier]

However there are very considerable difficulties in the way of such an account of privacy. **Part of our objection to totalitarian regimes is that they render persons of ordinary sensibilities no longer outraged, hurt, shamed or humiliated by invasions of privacy. The invasions become so frequent, so commonplace, the emotional reactions and hurts cease to follow. This is true even of the losses and invasions of privacy experienced in the armed services in war, in institutional life as in a public hospital, etc. Persons of ordinary sensibilities become used to all their affairs becoming known, to the most intimate details of their lives and thoughts becoming common knowledge and handled with insensitivity,** so that before long only the hypersensitive are outraged, hurt, shamed, or humiliated. Clearly, **any account of privacy and of what constitutes losses and invasions of privacy, must explain life under Nazism, and life in institutions, the armed forces, and the like, as life with little privacy**. It is true that any account of privacy, to be satisfactory, must offer a satisfactory explanation of the relativity of beliefs about what is the area of privacy, but it cannot make such relativity basic to privacy.

### A2 Privacy

#### The claim that infringements on privacy destroy dignity and freedom are overblown – numerous restrictions will always exist.

Volokh 2k Volokh, Eugene [Gary T. Schwartz Professor of Law at the UCLA School of Law]. "Freedom of Speech, Information Privacy, and the Troubling Implications of a Right to Stop People from Speaking About You." Stanford Law Review, Volume 52. 2000. [Premier]

It’s not entirely clear what exactly these claims mean. If the assertion is simply that complete lack of privacy, a situation where people are indeed compelled to live “every minute” among others and where their “every . . . thought” is indeed subject to public scrutiny would dramatically affect freedom and intimacy, that might be true. It would be grim indeed to live in a hypothetical environment where there is no private property, where the government constantly listens and watches every conversation, where some thought-reading device reaches into peo- ple’s heads (the only way in which literally “every . . . thought” would be subject to scrutiny), and where there are no market pressures, contracts, or social conven- tions that prevent monitoring or revelation of private information. But of course this grim vision tells us little about any supposed need for extracontractual prohibitions on nongovernmental speech that reveals personal information. Even if all such speech restrictions were unconstitutional, we’d still have a world where much of our privacy can be protected by legal rules that restrain private trespass, wiretapping, and electronic eavesdropping; by constitutional restraints on government searches; by statutory restraints on government collection and revelation of personal information; by contractual obligations on the part of people to whom we must reveal data; by market pressure on certain busi- nesses not to reveal data about their customers;223 by technological self-protection that can hide our identity in many online transactions;224 and by social norms. Some might still think that this world permits undue intrusions on privacy, but it hardly seems to risk the actual destruction of dignity, integrity, freedom, and independence, or the impossibility (not just difficulty, but impossibility) of intimacy and even personhood.

#### The dignity argument tells us nothing about which particular privacy restrictions there should be.

Volokh 2k Volokh, Eugene [Gary T. Schwartz Professor of Law at the UCLA School of Law]. "Freedom of Speech, Information Privacy, and the Troubling Implications of a Right to Stop People from Speaking About You." Stanford Law Review, Volume 52. 2000. [Premier]

Claims about what would happen if privacy were totally destroyed tell us nothing about which particular privacy rules (and especially which restrictions on others’ constitutional rights) are indispensable. To give an analogy, one might plausibly argue that a society where “every minute of [one’s] life”—at home, in public, reading a newspaper, or watching television—one is constantly confronted with nongovernmental proselytizing of a particular religion and with warnings of hellfire and damnation if one doesn’t conform would rob people of dignity, integrity, freedom, individuality, and intimacy. But such an argument provides no support for the government banning nongovernmental proselytizing in the society we have today.

#### Courts should not be in the position to say which kinds of information cause emotional distress or violate dignity.

Volokh 2k Volokh, Eugene [Gary T. Schwartz Professor of Law at the UCLA School of Law]. "Freedom of Speech, Information Privacy, and the Troubling Implications of a Right to Stop People from Speaking About You." Stanford Law Review, Volume 52. 2000. [Premier]

The question, though, is whether the government may constitutionally suppress certain kinds of speech in order to protect dignity, prevent disrespectful behavior, prevent emotional distress, or to protect a supposed civil right not to be talked about. Under current constitutional doctrine, the answer seems to be no. Though the Supreme Court has sometimes left open the door to the possibility of restricting truthful speech simply on those grounds,230 the general trend of the cases cuts against this: Even offensive, outrageous, disrespectful, and dignity- assaulting speech is constitutionally protected.231 And this is for good reason. All of us can imagine some speech that is so offensive and at the same time so valueless that we would not feel any loss if it were restricted, but the trouble is that each of us has a somewhat different vision of which speech should qualify. The more courts conclude that avoidance of disrespect or emotional distress is a “compelling interest” that justifies restricting the speech we find worthless, the more likely they will be to accept the same arguments for restricting the speech we value. Just consider how many proposed new exceptions have been urged on the grounds that they protect “basic human rights” or people’s “dignity.” Proposed bans on “hate speech,” on university campuses or elsewhere, have been defended on exactly these grounds, and their supporters have likewise argued that such speech causes serious emotional distress, interferes with the target groups’ social and business opportunities, and lacks constitutional value to boot.232 The same has been said for sexually themed speech, which many people argue strips all women of their dignity, interferes with the personal and business relationships of women who have to deal with men who watch such speech, and is irrelevant to matters of public concern.233

#### For politicians, the personal and the public are intimately linked.

Yaniv and Tenenboim-Weinblatt 16 Yaniv, Naama Weiss and Tenenboim-Weinblatt, Keren [Hebrew University of Jerusalem, Israel Journalism Department] “Politically Relevant Intimacy: A Conceptual and Empirical Investigation,” International Journal of Communication 10(2016), 5186-5205. [Premier]

Second, scholars have challenged the dichotomous view of political issues and personality while emphasizing the interrelations between the two categories (e.g., Van Santen & Van Zoonen, 2010). Indeed, a study which examined the Dutch media during election period found that news articles featuring politicians were more issue based than articles focusing on parties (Oegema & Kleinnijenhuis, 2009). These findings suggest that greater focus on individuals compared to political groups does not necessarily mean that issues are neglected. Furthermore, some scholars point out the ways in which intimate content is woven into public matters. Studying televised portraits of Dutch politicians, Van Santen and Van Zoonen (2010) demonstrate how personal narratives are “primarily articulated through the political ideas, activities, and goals of the guest politicians” (p. 64). Based on an analysis of the press coverage of British political leaders, Langer (2010) argues that personal information is often used in the formation of public persona, as well as in legitimizing policy, substantiating ideological commitments, and emphasizing political values. By using an intimate aspect, a politician can simplify a complicated issue and gather support for a planned policy (Holtz-Bacha, 2004).

#### Generic right to privacy arguments don’t apply to specific role obligations like public officials.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

The common failing of any justifications based on the rights of politicians is that it does not connect the rationale for privacy to the needs of the democratic process [6]. Once we recognize that public officials do not have the same rights as ordinary citizens, the right to privacy argument does not provide much help in determining what the limits on publicity of politicians’ lives should be. Any adequate justification for privacy must rely on a view about what the democratic process requires. Although there are many different conceptions of democracy, we can posit a minimal requirement that should be acceptable on almost any conception. The requirement is accountability: citizens should be able to hold public officials accountable for their decisions and policies, and therefore citizens must have information that would enable them to judge how well officials are doing or are likely to do their job [7]. It should sufficiently clear that the requirement of accountability provides a reason to override or diminish the right of privacy that officials would otherwise have. The requirement would clearly justify making some conduct public that is ordinarily private, such as information about mental or physical health that could affect performance, the finances of family members that could create conflicts of interest, and other activities that directly affect performance in public office.

#### The right to privacy arguments are irrelevant: politicians voluntarily entered the public eye.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

However, grounding privacy on individual rights, especially without distinguishing between public officials and ordinary citizens, is misconceived. Citizens become public officials by choice: they may be presumed to consent to whatever limitations on their privacy are reasonably believed to be necessary for the effective functioning of the democratic process. What their rights are should depend on what these limitations are. What the democratic process requires should determine what rights officials have. Moreover, giving politicians such a strong right of privacy also gives them greater control over the public discourse than is desirable for healthy democratic debate. The « familialization of political life » and the « publicization of the private », according to some commentators, has already contributed to the « dumbing down » of political debate in France [4]. (In the personal diary kept during the 2002 campaign, Sylviane Agacinski (candidate Lionel Jospin wife) complained that the media’s obsessive interest in candidates’ spouses and partners led to the « trivialization of political debate » [5]. Some commentators complained that her own actions contributed to the trivialization.

#### Violations of privacy inevitable – technology and cultural norms make secrecy impossible.

Milligan 16. “Clinton's Pneumonia Flap and the Public Fight Over Privacy” US News and World Report. Sept. 12, 2016. <https://www.usnews.com/news/articles/2016-09-12/hillary-clinton-pneumonia-flap-highlights-the-public-fight-over-privacy> [Premier]

JOHN F. KENNEDY HAD Addison's disease, an incurable condition of the adrenal glands, and no one knew before he was elected. Until the early 1970s, presidential candidates did not routinely release their tax returns. Before stricter election laws were imposed, a now-deceased Senate official recalled, people would bring thousands of dollars in unregulated cash to the Senate, where it would be doled out to members. Those were the dark ages of government and candidate transparency and accountability. Or maybe they were the good old days. Hillary's Clinton's disclosure that she was diagnosed with pneumonia last Friday – a fact revealed only after she stumbled at a 9/11 memorial ceremony on Sunday – has reignited an ongoing battle among candidates, the press and the public: What, if anything, ought to be the private business of people running for president or serving as commander-in-chief? Presidents and candidates may try to push back against intrusion, asserting control over their personal lives and campaign messages. But the advent of technology, combined with the spill-all nature of contemporary culture, make it hard for anyone in public life to insist on a zone of privacy or secrecy – especially when health and finances are concerned, experts say. "In the same way that the line between news and entertainment has not just been blurred, but disappeared altogether, the line between public and personal does not really exist anymore," says Chris Lehane, who was former Vice President Al Gore's spokesman during the 2000 presidential campaign. "It is not a question of whether something will be public, only when it will be public. That, in turn, puts significant pressure on those running for office to understand that it is critical to proactively manage the telling of the story so they can shape the narrative, tell the story on their terms and benefit from being seen as transparent." Lehane ought to know: When Gore was running in the Democratic primary in 2000 against former Sen. Bill Bradley of New Jersey – an apparently fit, ex-NBA star – Bradley was hospitalized for atrial fibrillation, an irregular heartbeat that can lead to a stroke. He defended himself against suggestions that he might not be up to the job physically – and was backed up by former first lady Barbara Bush, who noted that her Republican husband had the same ailment and was not slowed down by it at all. "If I'm sick in my stomach, do I have to tell you I'm sick in my stomach? If I don't sleep well at night, do I have to tell you I don't sleep well at night?" an exasperated Bradley told reporters at the time. "I think that there is a reasonable way to proceed here, and that is the way we have tried to do it." Such an answer might be deemed suspicious or inadequate today, when the mere age of the candidates (Clinton is 68; the 70-year-old Donald Trump would be the oldest elected president if he wins), combined with a cultural trend toward oversharing, have set a new standard. "I call it the Oprah-ization of American culture," says Barbary Perry, director of presidential studies at the University of Virginia's Miller Center. "There are things that could have been kept secret that aren't, now, because of this new culture. Add the layer of the internet and the Ken Starr report [detailing Bill Clinton's sexual indiscretions] and there's no holding back there." The alleged victims of the increased demand for personal details – the candidates themselves – are partly responsible for their situations, Perry says.

# Negative

## CPs

### CP – Public Campaign Financing

#### Counterplan: Campaigns should be publicly financed.

Lessig 15. Lessig, Lawrence [Law professor at Harvard] “The Only Realistic Way to Fix Campaign Financing” New York Times, 7/21/15, <https://www.nytimes.com/2015/07/21/opinion/the-only-realistic-way-to-fix-campaign-finance.html> [Premier]

CAMBRIDGE, Mass. — FOR the first time in modern history, the leading issue concerning voters in the upcoming presidential election, according to a recent Wall Street Journal/NBC News poll, is that “wealthy individuals and corporations will have too much influence over who wins.” Five years after the Supreme Court gave corporations and unions the right to spend unlimited amounts in political campaigns, voters have had enough. Republican candidates, including Chris Christie, Ted Cruz and Lindsey Graham, and the main Democratic candidates, Hillary Rodham Clinton, Martin O’Malley and Bernie Sanders, all acknowledge the problem, with some tying it to the Supreme Court’s 2010 decision in Citizens United, which unleashed virtually unlimited “independent” political spending. The solution proposed by some, notably Mrs. Clinton, Mr. Graham and Mr. Sanders, is amending the Constitution. It sounds appealing, but anyone who’s serious about reform should not buy it. For a presidential candidate, constitutional reform is fake reform. And no candidate who talks exclusively about amending the Constitution can be considered a credible reformer. This is not because we don’t need constitutional reform. Of course we do. No sane constitutional designer would have picked the mix of restrictions and rights that our Constitution has been read to embrace. And with due respect to the Supreme Court, neither did our framers. Amendments will be essential to restoring this democracy, just as a healthy diet is essential to the recovery of a patient who has suffered a heart attack. Nor is this because a constitutional amendment is impossible. No doubt it is ridiculously difficult to amend our Constitution. The veto of one house in just 13 states — representing as little as 5 percent of the American public — could block an amendment. But in the last hundred years we’ve added 10 amendments to our Constitution, with an average ratification time (excepting the most recent, which took 202 years) of less than 16 months. We’ve done it before; we can do it again. Nor does this mean that the many reform organizations pushing for a constitutional amendment are not themselves true reformers. Of course they are, and their work is the most important force building the essential political movement that real reform will require. But even if we could pass amendment to reverse Citizens United soon (and not since the Civil War has an amendment been adopted with support from just one party), it would not solve the problem of money’s influence in American politics. If the core problem is politicians beholden to their funders, then giving Congress the power to limit the amount spent or the amount contributed would not resolve it. Regardless of how much was spent, the private funding of public campaigns, even with limits, would inevitably reproduce the world we have now. Real reform will require changing the way campaigns are funded — moving from large-dollar private funding to small-dollar public funding. Democrats, for example, have pushed for small-dollar public funding through matching systems, like New York City’s. Under a plan by Representative John Sarbanes, Democrat of Maryland, contributions could be matched up to nine to one, for candidates who agree to accept only small donations. Republicans, too, are increasingly calling for small-dollar funding systems. The legal scholar Richard W. Painter, a former “ethics czar” for President George W. Bush, has proposed a $200 tax rebate to fund small-dollar campaigns. Likewise, Jim Rubens, a candidate in the Republican primary for Senate in New Hampshire last year, proposed a $50 tax rebate to fund congressional campaigns. Either approach would radically increase the number of funders in campaigns, in that way reducing the concentration of large funders that especially typifies congressional and senatorial campaigns right now. Some 13 states already offer two kinds of public campaign funding: In Arizona, Connecticut and Maine, “clean elections” laws offer full subsidies to candidates who agree to limit their spending and private fund-raising, while Florida and Hawaii match small donations up to a certain amount. The Brennan Center for Justice wants to expand New York City’s matching-contribution law to the rest of the state, saying it would increase transparency, accountability and voter turnout. Most Americans are deeply skeptical of reform, and especially reform that costs money. So it’s much easier to call for a constitutional amendment than to propose public financing. But solving the crisis in our democracy will not be cheap or easy. We won’t end the corruption of a system beholden to the funders until we, the citizens, are the funders. That truth takes courage to utter. This election needs that courage.

### CP – Voluntary Disclosure

#### Candidates should disclose voluntarily – they have a moral obligation

Streiffer et al 06 ROBERT STREIFFER , ALAN P. RUBEL & JULIE R. FAGAN; profs of philosophy, (2006) Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose, Journal of Medicine and Philosophy, 31:4, 417-439 [Premier]

**People do not lose their right to** medical **privacy solely by becoming candidates** for president, **and their interest in that privacy is substantial despite running for public office.** (Indeed, it is in many ways more substantial precisely because of their running for office.) However, **candidates are in a special position in which privacy conflicts with a fundamental democratic right—the people’s right to be governed only by consent, as realized in their right to vote**. We have argued that **the right to vote includes the right to the information necessary to make informed voting decisions**, and that **this right places a moral requirement upon candidates to disclose information** about medical conditions that are **likely to seriously undermine their ability to fulfill the core functions of the office**.

### CP – Public Financing, 3rd Party Disclosure

#### Counterplan: [Democracy] ought to adopt public campaign financing, contribution limits, independent advocacy restrictions, and require third party organizations to reveal contributions and expenditures. This preserves privacy while deterring corruption and providing public information,

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

Many of **the goals of disclosure, such as deterring corruption and providing information, can be advanced through other regulatory techniques without any sacrifice of data privacy at all. Public financing might be the most comprehensive approach. There are also contribution limits, independent advocacy restrictions, ballot access laws, and many more.** Furthermore, the disclosure of political activity by organizations does not implicate the problems documented in Part I because privacy is an individual interest.2 46 Thus **there is no privacyrelated objection to a requirement that the First National Bank or the NAACP reveal contributions and expenditures** 47 (unless they must also divulge the names of individuals who gave them money2 48 ). **Under a regulatory framework, the number of non-disclosure options would grow even larger.**249

### CP – Companies

#### Counterplan: [Democracy] ought to respect candidate privacy while creating campaign finance transparency by requiring publicity of companies that pay for political campaigns and party activities in addition to effects of proposed policies on those companies,

O'Reilly 99, James T., law prof @ Cincinnati, (1999) "Money Talks and Policy Walks: The Influence of the Campaign Funding Process Upon Administrative Agency Decisions," Journal of Civil Rights and Economic Development: Vol. 14: Iss. 1, Article 3 [Premier]

Disclosure in electoral contexts is circumscribed by the rights of donors. 44 **First Amendment protected speech includes the right to participate in political campaign support.**45 Donors are welcomed and encouraged to participate because advertising is expensive and the public has shown no willingness to fund campaigns with tax money. Furthermore, being identified as a donor is not dishonorable or suspect, and in some instances, **disclosure of donors already takes place**.

**The Federal Election Act provides that the identities of the employers of individuals who make donations be made public.** 46 The identities of soft money sources are also generally known by the national political parties, 47 whether or not these sources "co ordinate" election spending with the presidential candidate. However, full disclosure concerning soft money donors is a topic beyond the scope of this article.

Freedom of association would be chilled if the government could force every private group to register its lists of members. 48 **Rather than compelling private persons to disclose their motives for contributing, or attempting an unwise ban on contributions by regulated persons, the donor transparency proposed in this article would instead balance disclosure of donors with First Amendment rights**. The **donor transparency would require clerks in a federal agency to collate two sets of public facts that are already known in separate corners of the federal bureaucracy: (1) companies that are likely to be affected by the rule or policy; and (2) companies whose employees paid for political campaign or party activities**. This information is readily available and can be downloaded from the FEC data bases on a periodic basis.

### CP – Mandatory Anonymity

#### Counterplan: Keep campaign contributions anonymous from the candidates to preserve everyone’s privacy and prevent corruption,

McGeveran 03 summarizes Ackerman and Ayres, William McGeveran, JD from NYU, clerked for Judge Lynch; Ackerman and Ayres are professors at Yale Law School; “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

**A more radical approach, advanced by Ackerman and Ayres, would replace mandatory disclosure of campaign contributions with mandatory anonymity**. 2° **Their** provocative **proposal is motivated by the elimination of the corrupting influence of contributions rather than by privacy concerns**. Under their elaborate plan, **contributions could be made only through intermediaries that conceal the donor's identity, even from the candidate. They reason that candidates cannot be beholden to donors whose identities they do not know.** 51 Whatever its effectiveness in fighting corruption, **this scheme would certainly protect privacy better than disclosure**. 2 5 While the idea seems farfetched, that is largely because it contradicts our unthinking embrace of sunlight. After all, we take the privacy of the voting booth for granted today,52 but **the secret ballot** is a radical reform of very recent vintage; it swept the nation in a wave of progressive zeal in the late nineteenth century.54 That reform **was also motivated by a desire to fight corruption, not to protect privacy.** 5 **Perhaps** someday **we will feel the same about the privacy of contributions as we do about the secret ballot**.

### CP – Laundry List

#### Counterplan: Contributors should voluntarily disclose their contributions, media should pressure candidates to release campaign finance reports, the government should require reporting so it can evaluate potential corruption

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

Additional disclosure also might occur through informal norms rather than formal law. Of course, **individuals are always free to disclose their own political contributions**. Protection of expression, after all, is the whole purpose of anonymity, and information privacy protects an interest in choice rather than imposing secrecy.25 s Scattered **voluntary disclosures do not harm privacy,** but they are unlikely to advance information or corruption interests. More significantly, if the government did not provide data on particular contributors, **media outlets and good-government organizations might pressure candidates to release their full campaign finance reports, including details about their contributors. Candidates currently provide their personal tax returns to journalists so routinely that a refusal to do so is often newsworthy.**2 5 9 Since **the law would continue to require reporting to the government even without public disclosure, candidates and PACs would possess detailed reports that could be shared with reporters easily.** This practice would erode privacy by imposing many of the same costs discussed in Part I. In some ways it would be worse, because **contributors would not know in advance whether their data would remain private or not.** Some rules might be necessary to address this problem.2 ' At least **norms would involve no state action,** however, and probably no central Web site of all contributions.

### PIC – Big Donors

#### The public has a right to know about big campaign contributions – limits privacy concerns since it’s a smaller group

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

**We can**, however, **make strides toward privacy-sensitive disclosure rules without such a dramatic paradigm shift**. First, as noted repeatedly in this Article, **relatively large contributions present a stronger case for the government's corruption and information interests. Disclosure policy that concentrated on these contributions would do more to advance those interests, while protecting the privacy of most individual contributors.** 2 5 6 Reformers who are serious about privacy should get to work producing the empirical evidence needed to determine at what level benefits outweigh costs. 257 In lieu of such evidence, the current regime relies on unexamined **assumptions about the value of sunlight**, even for small contributions. These assumptions **may turn out to be true**, on further consideration, **in the (relatively rare) case of large individual contributions.**

### PIC – Families

#### Politicians and candidates use their families as props on a stage. Families should be off limits from the start- Bill Clinton proves.

Denvil 14. Denvil, Alasdair. Alasdair writers frequently for the Hill on everything from terrorism to politics and family life. “Are politicians' family members 'off limits?”  12/07/14 <https://thehill.com/blogs/congress-blog/politics/226148-are-politicians-family-members-off-limits> [Premier].

Unfortunately, the "holistic" approach quickly gets dumped the moment it becomes apparent that a large chunk of a politician's life is in less than good order. The second one of the kids is arrested for DUI or possession of a controlled substance, or the spouse (or the politician themselves) is found in an act of sexual improvisation outside wedlock, then the "holistic" approach is abandoned in favor of the "compartmental" one: a politician's personal life — be it sexual or familial — is separate from and has no bearing on their political positions or their public conduct, and is therefore to be ignored. ¶And, again, I have some sympathy for this "compartmentalizing" viewpoint. But there's a real problem with the opportunistic shifting from one standard to the other in midstream. The classic example of this flip-flop is President [Bill Clinton](https://thehill.com/people/bill-clinton), who — like most politicians — put his family prominently on display when running for the White House in 1992, to the point of making his wife, Hillary Rodham Clinton, a chief adviser. Bill's candidacy promised "two for the price of one," and, once in office, he made Hillary the head of a task force on health care reform. ¶ Once Bill Clinton was found to be having an affair with a White House intern (and deceiving a grand jury about said affair), however, the holistic politician transformed into compartmentalizing mode, and Clinton's critics were blamed for trying to use Clinton's personal troubles to complicate his political career. The rest is history. ¶It's easy to insist that family members should be off limits until they engage in political activity — say, when they stump for political causes or candidates. But. when a politician brings their family up on stage during a campaign, we have to ask, why are they there? What point is there to them being on display if it's not a political one? I'm still waiting for the politician who campaigns alone, and when asked why their family isn't there says something like, "a political campaign is basically a job interview, and I don't bring my family to job interviews. Like many Americans, I'll do my job as best I can, whatever might be going on back at home." That's what it would mean to take the "compartmental" approach before it becomes a matter of desperate political convenience. ¶ I'm still waiting for the politician who campaigns alone, and when asked why their family isn't there says something like, "a political campaign is basically a job interview, and I don't bring my family to job interviews. Like many Americans, I'll do my job as best I can, whatever might be going on back at home." That's what it would mean to take the "compartmental" approach before it becomes a matter of desperate political convenience.

#### Offensive cartoons depicting the five and seven year old daughters of Ted Cruz as monkeys proves children should be off limits.

Hooper 15. Hooper, Jessica. Jessica is a writer for abc news and has written a large range of political pieces. “Ted Cruz Defends Candidates' Children as Off Limits: 'Don't Mess With Our Kids'”. Dec 23, 2015, <https://abcnews.go.com/Politics/ted-cruz-defends-candidates-children-off-limits-dont/story?id=35924436> [Premier]

[Republican presidential candidate](http://abcnews.go.com/topics/news/elections/republican-presidential-candidates.htm) Ted Cruz today addressed the Washington Post cartoon depicting his daughters as monkeys, saying it angered him and that kids are off limits."You know, I have to admit yesterday when I saw that cartoon, not much ticks me off but making fun of my girls, that'll do it," Cruz said during a campaign event in Tulsa, Oklahoma. "That tweet that I sent, I typed it out on my [iPhone](http://abcnews.go.com/topics/business/technology/iphone.htm)and listen, all of us learned in kindergarten, don't hit little girls. It's not complicated. Don't make fun of a five-year-old girl and a seven-year-old girl."On Tuesday, The Washington Post published a cartoon that depicted Cruz as Santa with an organ grinder and his daughters, Caroline and Catherine, as monkeys. Cruz voiced his anger about the cartoon with a tweet to The Washington Post saying, ”Stick w/ attacking me--Caroline & Catherine are out of your league.”Ann Telnaes, who created the cartoon, said she viewed the children as “fair game” because they’d been used as “political props” by their dad. The Washington Post ultimately took the cartoon down. Last night, Cruz’s campaign issued a fundraising email with the subject line, “They attacked my children." The campaign encouraged supporters to make an “emergency contribution” to help him fight back. Today in Tulsa, Oklahoma, Cruz said he appreciated that The Washington Post took the cartoon down."Folks want to attack me, knock yourself out. That's part of the process. I signed up for that. That's fine, but my girls didn't sign up for that," Cruz said. Cruz thanked GOP rivals [Marco Rubio](http://abcnews.go.com/topics/news/us/marco-rubio.htm), [Jeb Bush](http://abcnews.go.com/topics/news/us/jeb-bush.htm) and [Donald Trump](http://abcnews.go.com/topics/news/donald-trump.htm)for coming to his defense."Marco has reached out and publicly supported me. Jeb has reached out and publicly supported me. Donald Trump just tweeted out and publicly supported me," he said. "You know I have appreciated that. There ought to be unanimity and you know what, there shouldn't be a partisan line. It should be true for both Democrats and Republicans. We ought to agree, leave our kids alone. Let's argue about marginal tax rates. Let's argue about policy but don't be attacking five-year-old girls."

### PIC – Medical Privacy

#### Candidates should have medical privacy – disclosure discourages proper treatment

Annas 2k, GEORGE J. ANNAS, prof @ Boston U, FEB. 1, 2000 Candidates Deserve Medical Privacy, <https://www.nytimes.com/2000/02/01/opinion/candidates-deserve-medical-privacy.html> [Premier]

Bill Bradley has been regularly updating us on his episodes of irregular heartbeat, just as he promised he would do ever since he alerted us to his atrial fibrillation earlier in the campaign. On Friday, he reported that he had suffered his fifth episode within a month and that three times since 1996, he had received a procedure known as cardioversion, in which the heart is jolted with electricity. He evidently feels pressured to issue these announcements every time he goes to the doctor, but why is this any of our business? The condition is not serious, and **the precedent of having a presidential candidate abandon his medical privacy is an alarming one**. **The health of presidential candidates has been fair game for the press since** 1972, when George McGovern was forced to replace his running mate, **Senator** Thomas **Eagleton** of Missouri, after it was disclosed that he **had been hospitalized for depression**. This trend toward full disclosure became full blown during the 1992 presidential campaign, when **Paul Tsongas's history of cancer became a central issue of his candidacy for the Democratic nomination**. Both Mr. Tsongas and two of his doctors told the press **he was ''cancer free''** after a 1986 bone-marrow transplant to treat his lymphoma. But after he suspended his unsuccessful campaign, he and his doctors revealed that he had had a recurrence of lymphoma in 1987. And in January 1997 -- what would have been the very end of his first term had he been elected -- Mr. Tsongas died of a complication of cancer treatment, at age 55. Before he died, Mr. Tsongas acknowledged that he should have told the full truth about his condition, and given that his disease was life-threatening, he should have. But Mr. Tsongas took a further step, asking President Clinton to appoint a special commission to define what should constitute full medical disclosure for presidential candidates. President Clinton took no action on this suggestion, and seems to believe, correctly I think, that **there should be limits on what presidential candidates are expected to reveal regarding their physical and mental health.** Indeed, **a candidate's medical records should be disclosed only if there is a reasonable medical certainty that a presidential candidate will not survive a four-year term, or will be unable to function mentally.** It is also worth noting that presidents have always been more likely to be killed by assassins than by diseases; and that the only president ever to die in office of a pre-existing medical condition that made his death in office likely was Franklin Roosevelt, and that only in his fourth term. **The central issue is the candidate's fitness for the presidency. This can be much more accurately judged by the candidate's record and performance on the campaign trail than by a release of medical information.** In the case of Mr. Bradley, where there is no evidence that he suffers from a lifethreatening illness, the promise that he would go public every time he sees a physician is too extreme. After all, **this rule could discourage any candidate from seeking medical advice when he actually needed it, turning a personal decision about seeing a doctor into a political judgment about how the press and public will react. As the Eagleton case illustrated, this problem is particularly sensitive in mental health treatment. Psychiatric care may be absolutely essential to a candidate, but may not be sought if it will become a matter of public record. We should respect the medical privacy of presidential candidates and thereby encourage our leaders to seek both medical and psychiatric care whenever they feel they need it, both for their own sakes and for ours**.

## DAs

### Republican Morals

#### Republican candidates use religion both to enforce moral codes and to organize the religious right.

Calfano and Djupe 09. Calfano, Brian and Djupe, Paul. Brian Calfano (Ph.D., University of North Texas) has a joint appointment in the Departments of Political Science and Journalism at UC, and teaches undergraduate and graduate courses in experimental design, research methods, political reporting, and politics and media. Paul Djupe is a Philosophy, Politics, & Economics professor at Denison University “God Talk Religious Cues and Electoral Support”. Political Research Quarterly, Vol. 62, No. 2 (Jun., 2009), pp. 329-339 <https://www.researchgate.net/publication/228612545> [Premier].

A cursory look at the national political campaigns of the past thirty-five years suggests that Republicans are skilled at using religiously laden appeals to woo certain voters. Nixon's Southern Strategy, Lee Atwater's masterminding of the Reagan landslides, and Karl Rove's present-day efforts suggest that GOP candidates have achieved tremendous success by turning elections into referenda on their opponents' morality (Leege et al. 2002). In his book Tempting Faith, former White House staffer David Kuo (2006) revealed that Republicans use highly selective cues to appeal to religious conservatives. These cues, or what we term "the code," signal the in group status of a GOP candidate to white evangelical voters. However, because the cues are so specific to evangelical culture, they are intended to pass unnoticed by other voters and therefore allow GOP candi dates to avoid broadcasting very conservative issue positions that might alienate more moderate voters. Thus, the code is a highly sophisticated communication strategy that is designed to appeal to an in-group without rousing an out of group’s suspicions. ¶ Linking politics and morality often requires appeals to (1) religion, because Americans are such an exceptionally religious people, and (2) religious groups, which are important organizational nodes for the electorate. We believe that both aspects of religion-its social and psychological aspects-are important, although the religion and politics literature has been less than concrete about how each matters in terms of candidate choice (Regnerus, Sikkink, and Smith 1999). Although each perspective suggests that a theory incorporating both the social and psychological aspects would be particularly salutary, little progress has been made. For instance, while almost every study of Christian Right support notes that links between individuals and the movement are made through grass roots mechanisms, that is, churches (e.g., Wilcox and Larson 2006), most studies focus their measurement strategies on individual identifications (Jelen 1993; Wilcox 1989; Wilcox, Jelen, and Leege 1993). Alternately, the religious commitment perspective uses religious traditions, such as evangelical Protestant or Catholic, as an operationalization of a common set of political information conveyed to members (Green et al. 1996), an assumption that Djupe and Gilbert (2004) demolished with their demonstration of the tremendous diversity within those categories.

#### Introducing religious beliefs into the public sphere chills discourse-both religious and nonreligious professors agree.

Evans 2017. Evans, John.  John H. Evans earned his BA from Macalester College and his PhD from Princeton.  He has been a visiting member at the Institute for Advanced Study in Princeton, NJ, a post-doctoral fellow at Yale University and has held visiting professorial fellowships or honorary professorships at the Universities of Edinburgh, Muenster, Ben Gurion, and Queensland. “Aversion to and Understanding of God Talk in the Public Sphere: A Survey Experiment.” 2017-09-01 <https://escholarship.org/uc/item/56n8b5rj> [premier].

The basic testable empirical claim of the social and political theorists is that participants in the public sphere are averse to hearing God talk. The most famous proponent of this view is religiously-oriented law professor Stephen Carter, who writes that “one good way to end a conversation . . . is to tell a group of well-educated professionals that you hold a political position . . . because it is required by your understanding of God’s will” (Carter 1993: 23). Atheist Richard Rorty agrees, writing in response to Carter that “the main reason that religion needs to be privatized is that, in political discussion with those outside the relevant religious community, it is a conversation-stopper” (Rorty 1999: 171).

### DNA

#### Advances in genomics will allow the press to use problematic DNA scan interpretations to sabotage candidates.

Green and Annas 8. Dr. Robert C. Green, M.D., M.P.H., Professor and Mr. George J. Annas, J.D., M.P.H., Chair. “The Genetic Privacy of Presidential Candidates” New England Journal of Medicine, 359:21, 2192-2193, 2008 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2925179/> [Premier].

In the wake of the often bitter presidential election, with its emphasis on negative campaigning and intermittent controversies over the release of candidates’ health information, it is not too soon to begin planning for the next presidential campaign. By then, advances in genomics will make it more likely that DNA will be collected and analyzed to assess genetic risk information that could be used for or, more likely, against presidential candidates. Since 1972, when George McGovern was forced to replace his vice-presidential running mate, Thomas Eagleton, after it was revealed that he had been hospitalized for depression, the health status of presidential candidates has been seen by the press as fair game.1 More recently, historians have discovered that some presidential candidates, including Franklin Roosevelt, Dwight Eisen-hower, and John F. Kennedy, misled the public about their health status and that illness may have adversely affected their ability to perform their duties. In this year’s election, Senator John McCain, who had released extensive medical records in 1999, released an additional 1100 pages of records but gave reporters only a few hours to review them. President-Elect Barack Obama released an undated one-page “medical summary” to the press. News organizations pressed for more details, in the belief that the public has a right to know about a candidate’s risk of future disease as an important indication of fitness for office. Although the presence of a disease or health condition is the most salient factor in the prediction of future health, medicine’s ability to define levels of risk for individuals is expanding to include family history (a proxy for genetic predispositions to many diseases) and genetic markers. Family history was used by the McCain campaign, which highlighted the energy and mental sharpness of McCain’s 95-year-old mother, in an attempt to counter the notion that McCain’s age might be associated with diminished vigor or cognitive function. Little was said about the death of his father and grandfather of heart attacks at 70 and 61 years of age, respectively. By the same token, the Obama campaign remained silent about the death of Obama’s grandfather from prostate cancer, which indicates that Obama’s own risk is higher than average. During future campaigns, presidential candidates could release information about parts of their own genomes in order to highlight what might be considered a favorable ethnic background or, if they have already had a disease such as cancer, to highlight the absence of genes that confer a risk of recurrence. But in a climate of negative personal and political messages, it is more likely that persons or groups opposing a candidate will release such information, hoping to harm his or her chances for election or reelection. Obtaining DNA, even from a president, would not be very difficult. Sufficient DNA for amplification and analysis can be obtained from loose hairs, coffee cups, discarded utensils, or even a handshake. A genome scan assessing hundreds of thousands or more single-nucleotide polymorphisms (SNPs) in such a sample could be performed with a commercially available microarray, or “SNP chip.” Some SNP variants are known to be associated with clinical diseases, and a tremendous number of new markers are being discovered and reported, although the contradictory evidence regarding some of these associations and the limited strength of many of them makes interpretation problematic. Would analysis of genetic markers have given us useful information about McCain or Obama, for example, that would have clarified the implications of their family histories of heart disease and prostate cancer? Some genes have been found to have significant associations with coronary artery disease — most notably, a locus on the 9p21 region of chromosome 9. Three regions in the 8q21 region of chromosome 8 have been reproducibly linked to prostate cancer. Both 9p21 and 8q21 are non-coding regions of the genome, meaning that there are no actual genes there that code for protein products, but there may be nearby genes that are important, or there may be regulatory sequences in these regions that are important in the expression of other genes. These associations have been replicated in several populations and are probably valid on a population basis, but their value in providing risk information about a given person is severely limited. The relative risks associated with the implicated SNP variants at either of these loci would be less than 2, and there are legitimate questions about whether this degree of increased risk is meaningful on the individual level. But in the world of inflammatory accusations and smears that characterize presidential politics, it would be easy to engage in what might be called “genetic McCarthyism” by implying that an increased risk of disease is more substantial than it really is.

#### Misrepresentation and misinterpretation of genome sequences can be used as political ammo and sway high stakes elections – reinforces prejudice and stigma surrounding mental health.

Green and Annas 8. Dr. Robert C. Green, M.D., M.P.H., Professor and Mr. George J. Annas, J.D., M.P.H., Chair. “The Genetic Privacy of Presidential Candidates” New England Journal of Medicine, 359:21, 2192-2193, 2008 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2925179/> [Premier].

Some associations between common diseases and gene markers are reasonably well established. However, there is a constant stream of less well validated markers being linked to psychiatric conditions (still the most stigmatizing for presidential contenders) or even personality traits, which could be used to raise doubts about a candidate in the minds of an uninformed public. For example, the risk of bipolar disorder is reportedly increased by a gene encoding diacylglycerol kinase eta (DGKH) and decreased by a particular allele at the SNP rs420259, but both of these findings have had limited replication and involve modest effect sizes. Still, in the next presidential campaign, someone might publish a candidate’s genome and focus on a marker that has been linked to a psychiatric condition, regardless of how unproven the association is. Though current genome scans can reveal 1 million SNPs, sequencing is required to reveal many known mutations and copy-number variants that may be associated with mostly rare diseases. Sequencing an entire human genome has thus far been an elaborate and costly undertaking, but technological advances are rapidly increasing the speed and decreasing the cost. To date, only two people, Craig Venter and James Watson, have had substantial portions of their genomes published, and their cases illustrate the latitude for interpretation and the potential for distortion. In his autobiography, Venter noted that he had one copy of the apolipoprotein E (APOE) ε4 allele conferring an increased risk of Alzheimer’s disease, a variant of the gene for complement factor H that has been linked to an increased risk of macular degeneration, and longer forms of the serotonin-transporter gene 5-HTTLPR that might make him more resilient against depression.2 Watson asked that his APOE results be redacted, but his published genome indicates homozygosity for two devastating diseases, type 1B Usher’s syndrome and Cockayne’s syndrome, neither of which the 80-year-old Watson has.3 As these examples show, sequence information may produce results that are emotionally charged, easily overinterpreted, or simply wrong by virtue of technical errors, low sequence coverage, or low-complexity sequencing.4 For the foreseeable future, the examination of thousands of genes in any genome is likely to result in large numbers of false positive findings, along with “incidental” findings of dubious clinical value.5 Thus, when sequence information about individual genomes becomes available, we will have to contend not only with the statistical issues of replication, effect size, and attributable risk but also with the specter of genetic information that is wrong or misleading. Genetic information is easy to misinterpret and to misrepresent. Nonetheless, its scientific patina will encourage presidential campaigns to use it to reinforce existing prejudices. Therefore, we think future presidential candidates should resist calls to disclose their own genetic information. We recommend that they also pledge that their campaigns will not attempt to obtain or release genomic information about their opponents. Genetics experts, whether partisan or neutral, must be prepared to speak with the press to explain the nature of genomic information if and when it becomes public. Though it might be tempting to enact laws that would make it a federal crime to sequence a candidate’s DNA without consent, we believe that restraint by the candidates, coupled with education of the public, will be a more reasonable approach as we enter a medical future based at least in part on personalized genomics. Using genetic information to disparage opponents has no place in presidential campaigns. Nonetheless, the threat of genetic McCarthyism provides us with an opportunity to engage in a public dialogue about the limitations and complexities of using genomic information for decisions about life and health — including voting for our president.

## Ks

### Birtherism

#### “Right to know” discourse was used to justify racist charges against Obama asserting he was born in Kenya and demanding he release his birth certificate,

Zahn 09, Drew Zahn, 9-15-2009, “LEGISLATOR TAKES ELIGIBILITY QUESTION TO ELECTION OFFICIALS” Read more at <https://www.wnd.com/2009/09/109915/#oXkrBcIE26QU1cLI.99> [Premier]

**New Hampshire State Rep.** Laurence Rappaport, R-Colebrook, is tired of telling his constituents that he’s not sure of Barack Obama’s eligibility to serve as president. So late last week, Rappaport says, he **met with New Hampshire’s secretary of state**, William Gardner, who oversees the state’s elections, **to demand answers. Rappaport took with him a pair of allegedly genuine, Kenyan birth certificates** that declare Obama was born in Africa, and not in the U.S., as has been widely reported. “Several of my constituents have raised the issue, ‘Where was Mr. Obama born? Was he born in Kenya, or was he born in Hawaii?'” Rappaport told WND. “I have two Kenyan birth certificates that I presented to Mr. Gardner, and he said he would ‘look into it.'” **Join the** petition **campaign to demand** President **Obama** resolve the questions over his birthplace by **reveal**ing **his long-form, hospital-generated birth certificate!** “Regardless of where he was born, is he a natural born citizen as required by the Constitution? I don’t know the answer to that,” Rappaport said. “My understanding is that … a natural born citizen had to be someone with two American parents. If that’s true, **his father was** a **Kenyan and therefore a British subject** at the time. Then there’s the issue: **If he was born out of the country, was his mother old enough at the time to confer citizenship?** “**I expect somebody to come up with the legal answers** to this,” Rappaport told WND, “and so far that hasn’t happened.” “**There’s been virtually nothing released** regarding [Obama’s] school records or his birth records, **and** the thing that bothers me is that I think **as a citizen of the United States,** we have the right to know that,” Rappaport said. “So far I haven’t gotten answers to any of those questions, and my constituents haven’t either. We feel we need to know this.”

### Fem

#### Coverage of politicians’ personal lives is gendered.

Yaniv and Tenenboim-Weinblatt 16 Yaniv, Naama Weiss and Tenenboim-Weinblatt, Keren [Hebrew University of Jerusalem, Israel Journalism Department] “Politically Relevant Intimacy: A Conceptual and Empirical Investigation,” International Journal of Communication 10(2016), 5186-5205. [Premier]

Many of the studies that examine gendered differences in the coverage of male and female politicians found that the media tend to focus more on the personal lives of female politicians than on their male counterparts (e.g., Bystrom, Robertson, & Banwart, 2001; Trimble, Wagner, Sampert, Raphael, & Gerrits, 2013). Furthermore, research has highlighted the ways in which the media differently relate to the personal lives of female politicians compared to male politicians. Because of the dichotomous division into private and public spheres, and the corresponding dichotomous division into femininity and masculinity, coverage of politicians’ personal lives highlights the differences between female and male politicians. It is argued, for example, that coverage of female politicians’ personal lives tends to bring out their “odd” and “unusual” choice to assume public office instead of private fulfillment (Van Zoonen, 2006, p. 299; see also Bystrom, 2006). The fact that women are associated with the private sphere may lead to differences in levels of politically relevant intimacy for male and female politicians. As women are regarded as being in charge of the private sphere, the emphasis on private aspects creates new opportunities for female politicians to discuss public matters. Female politicians may be seen as those who can discuss firsthand the challenges in education, health programs, the difficulties of women in the labor market, and so on. Male politicians, on the other hand, may be viewed as connected to the private sphere, and therefore might discuss the wife and kids, but are not considered to be in charge at home. In line with this argument, we postulate that a higher rate of politically relevant intimacy will be found in items referring to the personal lives of female politicians compared to their male counterparts.

#### A lack of privacy for potential candidates deters qualified females from running for office.

Lawless and Fox 2012. Lawless, Jennifer and Fox, Richard. Jennifer is a Associate Professor of Government American University and Fox is a Associate Professor of Political Science Loyola Marymount University. “Men Rule: The Continued Under-Representation of Women in U.S. Politics”. WOMEN & POLITICS INSTITUTE. January 2012 <https://www.american.edu/spa/wpi/upload/2012-Men-Rule-Report-final-web.pdf> [Premier].

Entering the electoral arena involves the courageous step of putting oneself before the public, often only to face intense examination, loss of privacy, possible rejection, and disruption from regular routines and pursuits. This decision, even for experienced politicians, requires character traits such as confidence, competitiveness, and risk-taking – characteristics that men have traditionally been encouraged to embrace and women to eschew. As the data presented in Table 5 reveal, women are significantly less likely than men to report that they have the traits that are generally required of candidates for elective office. In terms of thick skin, an entrepreneurial spirit, and a willingness to take risks, men are at least 25 percent more likely than women to believe that they possess the political trait in question.

## NCs

### Constitution

#### The Constitution and subsequent SCOTUS cases have protected a right to privacy

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

Furthermore, to the extent that self-rule and freedom of expression involve, among other things, one's ability to control or monitor what others know about oneself, the moral right to privacy is part of a "rights package"34 which includes the moral rights to self-rule and freedom of expression.35 **That the moral right to privacy is often a part of rights packages seems, incidentally, to square with an array of legal decisions dealing with some form of privacy, including Griswold** v. Connecti- cut,36 **Stanley** v. Georgia,31 **Eisenstadt** v. Baird,3% **Roe** v. Wade39 **Paul** v. Davis,40 **and Whalen** v. Roe.4i Legally speaking, the right to privacy is **often based on the contents of the Fourth and Ninth Amendments** to the United States Constitution,42 **and** is **implicit in the legal concept of an "ordered liberty."** The scope of the legal right to privacy includes per- sonal decisions in contexts of marriage, procreation, contraception, abortion, private education, the family, interstate travel, voting, and medical treatment. But **the legal right to privacy includes certain First Amendment rights,** **such as the right to freedom of expression of opin- ion**.43 Thus the right to privacy is often part of a cluster of rights other than that of privacy.

#### There is a constitutional right to privacy – at least from the 4th Amendment

Parent 83, William A Parent, philosopher @ Santa Clara, “A New Definition of Privacy for the Law” Law and Philosophy, Vol. 2, No. 3 (Dec., 1983), pp. 305-338 [Premier]

**The Fourth Amendment,** which condemns unreasonable searches and seizures and requires for any search the issuance of a warrant "particularly describing the place to be searched, and the persons or things to be seized," **clearly is designed, among other things, to ensure that the government not acquire sensitive personal knowledge about citizens via arbitrary investigative methods** (it is also designed to ensure that the government not arbitrarily inter- fere with citizens' enjoyment of their property). **The warrant requirement in particular reflects our founding fathers' concern for** what I earlier called indiscriminate **invasions of privacy**. And the reasonableness requirement serves to condemn what I have called gratuitous invasions of privacy. So **the Amendment as a whole can plausibly be interpreted to presuppose a right to privacy. It is convincing to say**, then, **that while privacy is not among the explicitly enumerated Constitutional rights it is nonetheless a right protected by the Constitution**. It follows that whenever the Supreme Court is presented with questions concerning the admis- sibility of evidence secured by wiretapping or by other forms of official prying, or with questions concerning the need to obtain a search warrant before conducting a search, it inevitably engages in the difficult task of defining the contours of the right to privacy presupposed by the Fourth Amendment.

#### The First Amendment is not absolute, and privacy outweighs; it should count as a First Amendment exception or “limiting principle”

Parent 83, William A Parent, philosopher @ Santa Clara, “A New Definition of Privacy for the Law” Law and Philosophy, Vol. 2, No. 3 (Dec., 1983), pp. 305-338 [Premier]

**The First Amendment to the Constitution provides** in part that "**Congress shall make no law**...abridging and freedom of speech, or of the press...' **At first glance it might seem that the right to privacy is seriously jeopardized** by this provision. After all, speech and the press are two prominent vehicles through which undocumented personal knowledge is disclosed, so if there aren't any legal restrictions whatsoever on their operation then what's to stop gratuitous and indiscriminate invasions of privacy on a massive scale?

Of course one should be surprised if this were indeed a consequence of First Amendment jurisprudence since, as we have seen, the Fourth Amendment serves in part to protect against just such a possibility. Are we to assume that the two Amendments work against each other?74 No, for the simple reason that **the Supreme Court has never treated the First Amendment as an absolute. Justifiable exceptions for the "no law" rule have been recognized and in my view the safeguarding of individual privacy against wrongful assault can and should be included among them**. Let me elaborate.

The Supreme Court has never taken the position that the publication of obscenity is guaranteed under the First Amend- ment.75 Every state has laws forbidding the sale of **child pornography**, for example. Similarly, the Court has never defended the view that **public speech**, no matter how inflammatory, enjoys an absolute immunity from legal restrictions. **It all depends on the nature of the words used and the circumstances** under which they are uttered.76 Nor has the Court taken a completely hands-off attitude towards the publication of false statements about individuals. **Libelous utterances do not fall within the area of con- stitutionally protected speech.**77

**Privacy deserves to count as a First Amendment limiting principle as well.** **Whenever the press discloses undocumented per- sonal information about an individual in an entirely gratuitous, arbitrary, or indiscriminate manner it should be subject to legal sanctions.** After all, **the hurt and damage caused by such dis- closures can be as severe and traumatic as that brought about by defamatory publications, instigative language, or obscenity.** In other words, we can be seriously wronged by invasions of privacy and there is no compelling reason why the right to freedom of speech and of the press should be interpreted to allow this wrong while forbidding other comparable offenses.

### Particularism

#### The attractiveness of disclosure or privacy depends on context.

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

To overcome objections to privacy costs, it is not sufficient simply to point at the drawbacks of protecting contribution privacy. **Data privacy frequently imposes burdens on other values**.2 3 ' **The availability of personal data reduces the transaction costs of cumbersome information-gathering and avoids externalizing costs based on any resulting gaps in information.**2 40 Richard Posner has long argued that **the ability of individuals to shield data about themselves from others leads to imbalances in all kinds of daily interactions with people who would respond differently if they had full information**.41

**The law routinely balances these burdens against privacy costs, and reaches different conclusions in different situations. We allow lenders to demand extensive personal information from prospective borrowers,** in part because we recognize that loans would become more expensive for everyone if lenders could not adjust their interest rates to account for individual credit risks. This may seem intuitive, yet **we limit the ability of health insurers to use personal information of beneficiaries in the same way.** **These restrictions lead to the same predictable externalization-everyone's premiums go up to protect privacy-but we have made a normative policy choice based in part on the sensitivity of the data**.

### Kant/Rights

#### Privacy prevents people from being treated as means to an end – even public figures have the right,

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

**Privacy, moreover, can insulate one from being treated as a mere means to the end of, say, social utility, where private objectives tend to be devalued. It is based on the Kantian principle of respect for per- sons.**45 **Privacy enables us to pursue our projects because they are ours, because they have value for us. Construed in this way, the moral right to privacy may be seen as a concern for moral autonomy**.46 Further- more, **privacy is necessary for persons to create, develop, and sustain intimacy with others.47 It is connected to basic ends and relations such as respect, love, friendship, and trust**.48 As Thomas Nagel argues, "The boundary between what we reveal and what we do not, and some con- trol over that boundary, are among the most important attributes of our humanity."49 And as Frederick Schauer argues, **not even public figures, elected or otherwise, ought to be expected to forgo their essential pri- vacy**.50 **To argue thusly is to insist on the essential moral** (though non-absolute) **right to privacy, a right which is only the moral agent's to waive as she sees fit.** To the extent that the balance of reason secures the importance of these factors for human life, these factors serve as moral grounds for the need to respect privacy by moral right. Indeed, **among other things, a well-ordered society ought to foster a reasonable culture of privacy.** But this is possible only where there is a clear idea, not only of the nature and value of privacy as a moral right, but also of the scope of that right.

#### Human dignity and the ability to maintain self-respect and a coherent identity require protection of privacy and the right to make claims against others for its violation.

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

But what about the value of the moral right to privacy? As Aristotle averred, we are social animals. But as Nagel cautions, "It is very im- portant for human freedom that individuals should not be merely social or political beings."58 Moreover, if Feinberg is correct about the nature and value of rights in general, then **to have a right is to have a claim against someone whose recognition as valid is called for by some set of governing rules** (in the case of legal rights) or moral principles (in the case of moral rights). To have a claim is to have a case meriting consid- eration. **The act of claiming makes for self-respect and respect for others, and it is this that provides a rights-respecting society with a partial foundation for human dignity.** Feinberg adds that it is insufficient for persons to have rights; they must know that they possess them.59 Now what Feinberg articulates about rights in general holds for the moral right to privacy in particular. The moral right to privacy, when re- spected, protects privacy itself. Judith W. DeCew writes about the value of privacy protection in medical contexts:

**Privacy shields us not only from interference and pressures that pre- clude self-expression and the development of relationships, but also from intrusions and pressures arising from others' access to our per- sons and details about us. Threats of information leaks, as well as threats of control over our bodies, our activities, and our power to make our own choices, give rise to fears that we are being scruti- nized, judged, ridiculed, pressured, coerced or otherwise taken advantage of by others.** Protection of privacy enhances and ensures the freedom from such scrutiny, pressure to conform, and exploita- tion. **We require this protection that privacy provides so that as self-conscious beings we can maintain our self-respect, develop our self-esteem, and increase our ability to form a coherent identity and set of values, as well as our ability to form varied and complex relationships with others**.60

**The loss of legitimate privacy leaves us vulnerable to social harm by others, often resulting in loss of self-esteem and self-respect, mental distress, etc.** Moreover, Feinberg's view of the value of rights in gen- eral is **consistent with** Inness's notion of **the value of privacy as acknowledging "our respect for persons as autonomous beings with the capacity to love, care and like.**"

### Privacy

#### Privacy rights are key to upholding republican freedom as non-domination.

Allen 11 Allen, Anita [Professor of Philosophy at University of Pennsylvania] “Privacies Not Wanted” in “Unpopular Privacy: What Must We Hide?” Oxford University Press (Oxford: 2011). [Premier]

In describing the virtues of the republican ideal of a government marked by nondomination, Philip Pettit puzzled over the role that trust of officials and trust of fellow citizens should play. He confronted a dilemma. “Much of what is best in life,” he wrote, “comes from overtures of personal trust, as when we initiate relationships of love and friendship by risking ourselves in such acts: by showing that we confidently put ourselves at the mercy of the other person.”61 And yet, the republican ideal calls for citizens’ “eternal vigilance,” he argues, a watchfulness over officials and fellow citizens that imposes a high degree of accountability that reads as incivility. Now accountability is at odds with privacy. We may want to limit government secrecy, but we do not want to obliterate the privacy that enables citizens to hold their heads up high and practice virtue. As Robert Post and others have emphasized, in Goffman's vein, privacy laws against intrusion upon seclusion can be interpreted as rules of deference and demeanor that are hallmarks of civility.62 The civility case for informational privacy was subtly advanced by Pettit. Pettit responded to his dilemma of vigilance and trust by arguing that the two desiderata are consistent. Republican vigilance is consistent with endorsing a civility regime of personal trust. The republican goal of promoting nondomination requires civility and concomitant trust: “consistently with endorsing the republican theory of freedom and government, we can see sense and value in people's reliance on overtures of personal trust to build up a world of supportive relationships around them.”63 There is a message here for liberal, no less than republican, political theory. To the extent that physical and informational privacy are dimensions of civility and interpersonal trust on which a free and egalitarian society depends, they should be (p.17) understood as foundational goods. The laws that mandate such privacies are laws that understand the value of independence, nondomination, in a context of supportive interpersonal relationships.

#### Privacy rights ensure that people have effective freedoms required by liberalism.

Allen 11 Allen, Anita [Professor of Philosophy at University of Pennsylvania] “Privacies Not Wanted” in “Unpopular Privacy: What Must We Hide?” Oxford University Press (Oxford: 2011). [Premier]

Bruce Ackerman's unique take on the liberal case for privacy construes privacy as a way of affording persons what he calls “transactional flexibility” to live as they like, while allowing others to similarly live as they like.66 Denying that liberals have any special fondness for such things as intimacy or nudity, Ackerman argued that liberals will strategically prefer an arrangement, such as rules of seclusion and concealment that allow people to behave as they wish behind closed doors without imposing any costs on others who might find their conduct disagreeable. Liberalism cannot ban morally offensive conduct, but it can compartmentalize it. A dignitarian like Benn would agree with compartmentalization, but on other grounds; it allows moral agents freedom to live by their own lights as required by their worth, without denying other moral agents similar freedom. Diana T. Meyers explains in common terms that, “A moral agent is an individual who is capable of choosing and acting in accordance with judgments about what is right, wrong, good, bad, worthy, or unworthy. Such individuals are thought to be free and hence responsible for what they do.”67 Creating physical sanctuaries and data protection by law is a way to give moral agents added opportunities make choices, and act on them without fear of recrimination, even to the point of breaking the law. The permissive ideal is reflected in judicial determinations that people can use illegal drugs in their homes, but not sell them, or view legally obscene films (featuring adults) in their homes, but not market them.

#### Privacy rights are a foundational good that shield citizens from domination of the state.

Allen 11 Allen, Anita [Professor of Philosophy at University of Pennsylvania] “Privacies Not Wanted” in “Unpopular Privacy: What Must We Hide?” Oxford University Press (Oxford: 2011). [Premier]

I am not centrally concerned with decisional privacy here, but it is worth noting that there is a dignitarian case for decisional privacy as a foundational good, too. Decisional privacies limit the extent to which the moral agency of individuals can be supplanted by government agency. If there are not limits to state power to control of the details of individual lives, there can be no meaningful political freedom at all, hence Jed Rubenfeld's notion that decisional privacy critically checks totalitarianism.69 Some philosophers have maintained that extremes of state control over the details of individual lives interferes with the formation of autonomous personality and therefore with meaningful citizenship and democracy. Democracy is attractive precisely because it regards individuals as distinct moral personalities; and liberal democracy is attractive precisely because it understands individuals as capable free agents. Privacy institutions and practices play a role in creating and sustaining the capable free agents presupposed by liberal democracy, and for that reason are properly deemed foundational. Moreover, the subjective happiness of individuals often depends upon the sense of liberty and the availability of choices that matter in daily life. Orwellian totalitarian control over a person's life is outside the frame of liberal democracy, as are unrestrained, intolerant moralism and theocracy. David A. J. Richards identified respect for tolerance as a principled basis for legal, constitutional protection of decisional privacy.70 Yet within the frame of plausible liberal egalitarian regimes of choice and coercion, there are bound to be debates about precisely which decisions should be deemed “private” and to what precise extent. There will be reasonable restrictions on marriages, religions, and sexual expression in liberal egalitarian societies, even though these are without question among the most intimate areas of life. There will be reasonable restrictions on travel, parenting, and education, even though these are among the most personal areas of life, too. Drawing lines in principled and politically acceptable ways is a policymaking task sure to leave some members of society dissatisfied. The ongoing debates in the United States over abortion privacy, marriage privacy, and the privacy of refusing medical care reveal just the policymaking challenge to which I am alluding.

#### Prioritizing the privacy of public figures is necessary to safeguard individual dignity.

Shackelford 12 Shackelford, Scott J [Professor of Law at Indiana University Bloomington School of Law]. "Fragile Merchandise: A Comparative Analysis of the Privacy Rights for Public Figures." American Business Law Journal. Volume 49, Issue 1, 125-208, Spring 2012. [Premier]

Privacy is a critical value in constitutional law, as seen in cases from Griswold v. Connecticut202 through to Roe v. Wade203 and beyond. This form of privacy is in some ways the opposite of that which Warren and Brandeis envisioned—the freedom to make choices without the heavy hand of the law and to do so in an “open and notorious” manner versus “the freedom to be left alone.”204 As this part has discussed, over the course of the twentieth century, U.S. courts have gradually expanded both the defini- tion of the public interest and who is considered a public figure. The trend can be seen when comparing Brents v. Morgan with Gertz, and later the 1996 Olympic bombing case. Ultimately the burden of curbing privacy invasions must rest primarily with the press itself.205 The U.S. foundation of free speech and a free press, including the right to be voyeurs,206 should not be usurped. But greater privacy protections are clearly needed, especially for involuntary public figures. A more disciplined use of the Brennan test, strengthening privacy protections for those individuals who do not seek media attention, would seem to be an apt compromise, as would a more defined principle on what constitutes the public interest. Not everything a public figure does is naturally in the public interest—as is already the law in France and Germany. The invasion of privacy tort should safeguard the interests of indi- viduals in the maintenance of rules of civility. These rules enable individuals to receive and to express respect, and to that extent are constitutive of human dignity. In the case of intrusion, these rules also enable individuals to receive and to express intimacy, which is essential for autonomy. The civility rules maintained by this tort embody the obligations owed by members of a community to each other, helping to define the substance and boundaries of community life.207 The common law shifts between “maintaining civility in public discourse” and “giving ample ‘latitude’ to the processes of critical evaluation that are also intrinsic to effective and informed public debate.”208 Such honest discussions are ongoing and may be informed by the experience of the European courts that have similarly dealt with these same issues.

#### Privacy is an interest worthy of protection even if a utilitarian value theory is correct.

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

It is important to note that this notion of the moral value of the right to privacy is Kantian in content. Yet **one might consider the plausibility of there being a utilitarian-based view of the value of the right to pri- vacy as well. One might**, along with the Kantian notion of the moral value of the right to privacy, **invoke John Stuart Mill's "harm prin- ciple" and apply it to the value of the right to privacy**.62 In so doing, **one might construe the moral value of the right to privacy as that of seeking to protect, for instance, one's intimate liberties insofar as they do not set back the legitimate interests of others.**

## On Case Blocks

### Democracy

#### Privacy encourages campaign contributions, which are an important way the electorate can have a voice in politics

Birkenstock 12 summarizes Joseph M. Birkenstock, lawyer and lecturer @ Virginia Law, “Three Can Keep a Secret, If Two of Them Are Dead: A Thought Experiment Around Compelled Public Disclosure of “Anonymous” Political Expenditures” <http://www.capdale.com/files/7257_4%20JLP%2027.4%20-%20Birkenstock%20FINAL.pdf> [Premier]

Similarly, **despite the generally negative public view of lobbyists and the lobbying profession, expressing policy ideas and concerns directly to public officials is likewise a critical component of a representative democracy and is, of course, the subject of its own clause in the First Amendment.**30 **We trust that constituents will hold their elected officials accountable, and if the policy decisions of elected officials are in tension with the preferences of their constituents, then those constituents owe it to themselves, to the officeholder, and perhaps even to the rest of the general public to explain those tensions to their elected officials and their fellow citizens –urging those officials to better represent their concerns and urging those citizens to join the cause.**

**Outside the context of concern over the influence of money on public policy, all these communications provide unobjectionable and even admirable examples of democratic accountability in action**. Nevertheless, powerful opportunities for undue influence and outright corruption arise when the funded political expression is not only an end in itself, but when it is also or instead used as a “carrot” or ”stick” in a lobbying context.

#### Historically, democracy has survived without extensive access to information about state actors.

Mayer 14**:** Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

That said, there is a more compelling basis for criticizing this justification. Despite the historic elevation of the public’s right to know to an unassailable aspect of democracy, at least in the United States, the reality is both that democratic governments have often been quite successful in withholding information about their activities and actors from the public and the public has been remarkably resistant to absorbing information about their government even when it is made available. On the first point, much of the existing right to know literature is devoted to criticizing governments for (successfully) withholding information allegedly critical for citizens.90 On the second point, there is an extensive literature documenting how little citizens know when it comes to politically relevant information and yet, counter-intuitively, how their voting and other political decisions may still tend to accurately reflect their political preferences, in significant part because of their reliance not on detailed information but on heuristic cues such as political party affiliation.91 These observations suggest a serious flaw with the democracy justification—it appears that democratic governments have thrived for decades, indeed for centuries in the United States, even though citizens have historically not had access to much information about government activities and actors.92

**Mayer 14** continues

Given the difficulty of demonstrating strong linkages between the public’s right to know and the volume and effectiveness of public participation in a democratic government, it is even more difficult to confirm a linkage between disclosure of information relating to purely private-private interactions and such participation. If democracies have thrived even when the public often lacks critical, government-held information whether because of non-disclosure or ignorance of information that has been disclosed, it is hard to argue that extending the right to know beyond government entities and private-government interactions is vital to maintaining a vibrant democracy or even that doing so will marginally increase the amount or quality of public engagement with their government.

#### The utilitarian argument for a right to know lacks sufficient empirical support.

Mayer 14: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

If further research supports their conclusions and also finds that the relationship is one of causation, not just correlation, those results would provide a broad utilitarian justification for the public’s right to know because it would demonstrate that a stronger right to know leads to better social, economic, and development results, as well as less government corruption (an issue addressed specifically by the accountability justification). Bellver and Kaufmann are careful to note, however, that at most their study shows an apparent correlation between transparency measured broadly, including some measures of political transparency, and positive social and economic development.100 Whether their initial conclusions can be confirmed and refined to show causation stemming from political transparency specifically remains to be seen. This justification[‘s] therefore suffers from similar flaws as the democracy justification but to an even greater extent—both its general support for the public’s right to know and its specific support for extending that right to private-private interactions are, respectively, weak and essentially non- existent given the paucity of current evidence. This justification may therefore have the potential to support the right to know and even its extension to some private-private political interactions, but that potential is at this point unrealized.

#### Focus on the private lives of politicians can erode democratic deliberation.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

The last criterion relates private conduct to other public issues. To what extent does knowing about this conduct help or hinder citizens’ knowing about other matters they need to know to hold officials accountable? The focus is on the Gresham effects: is cheap talk driving out quality talk? Even when private vices bear some relation to the duties of public office, public discussions of politicians’ ethics have an unfortunate tendency to dwell on private conduct to the neglect of conduct more relevant to the office. In the confirmation hearings of Clarence Thomas, the press, the public, and the Senate Judiciary Committee paid more attention to Clarence Thomas’s relationship with Anita Hill than to his judicial qualifications. The Gresham effects are especially damaging when, as in this case, irreversible decisions are made under tight constraints of time, so that any distortions in the process of accountability cannot be corrected as they might be in the normal course of politics. The Gresham effects go well beyond particular cases such as Clarence Thomas and Bill Clinton. The cumulative consequences of many cases, as they increase in number and prominence, create a pattern of press coverage that distorts our common practices of deliberation. Habits of discourse—the considerations we easily identify, the distinctions we readily make, the reasons we immediately accept—become better adapted to controversies about private life than to public life. The more citizens hone their skills of deliberation on the finer points of sexual encounters (would he have really put her hand there?), the less they are prepared to develop their capacities to deliberate about the nuances of public policy (should he support this revision of the welfare program?). Democratic deliberation is degraded, and democratic accountability thereby eroded. Publicity about the private lives of public officials can damage the democratic process by distracting citizens from more important questions of policy and performance of government. When deciding whether to publicize what would otherwise be private conduct or when judging such decisions made by others, including the press and officials themselves, the key questions concern the effects on accountability. Is the conduct of a type about which citizens generally need to know in order to hold officials in this position accountable? If the conduct is relevant in this sense, is the degree of the publicity proportionate to the relevance? Are the character flaws revealed by the conduct closely and specifically connected to the office (are they political rather than only personal vices)? If negative public reaction to the conduct is part of the reason for publicizing it, is the reaction morally justified? Is the publicity about the conduct unlikely to distract citizens from paying attention to other political matters they need to know to hold officials accountable (will there be no Gresham effects)? If more citizens, journalists, and officials themselves would more often consider these questions seriously, and more regularly restrain their penchant for publicity when they cannot honestly answer them in the affirmative, we might notice some improvement in the quality of democratic discourse. In the meantime, citizens in the U.S. and increasingly in Europe will remain hostage to the vagaries of a political version of Gresham’s law.

#### Coverage of private lives undermines state accountability by cheapening political discourse.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

But the accountability requirement has another implication that is less noticed but no less important. The requirement provides a reason to limit publicity about private lives. When such publicity undermines the practice of accountability, it is not justified. How can publicity undermine accountability? The most important way is through the operation of a political version of Gresham’s law: Cheap talk drives out quality talk. (The mechanism itself is not quite analogous. The cheap talk dominates not because people hoard the quality talk in the hope that they might be able to enjoy it later, as Gresham thought people would hoard higher-value currency. Rather, the cheap talk attracts readers and viewers, even those who in their more reflective hours would prefer quality talk.) Talk about private lives is « cheap » in two ways. First, the information is usually more immediately engaging and more readily comprehensible than information about job performance. Most people (understandably) think they know more about sex than tariffs. Second, the information itself is less reliable because it is usually less accessible and less comprehensive. Even if citizens happen to know more about the private lives of politicians than their public decisions, they may not be able to make reliable judgments about the effects of private conduct on public decisions. To make those kinds of judgments in a present case, they need information about past cases to establish reliable generalizations about the effects of private conduct on public performance. That kind of information is usually not readily available. Given these characteristics, information about private life tends to dominate other forms of information and to lower the overall quality of public discourse and democratic accountability. Informing citizens about some matters makes it harder for them to be informed about other matters. To take a salient example: Even during the first six months of its public life, the Clinton-Lewinsky affair dominated media discussion of not only important new policy proposals on social security, health insurance, and campaign finance reform but also attempts to explain the U.S. position on Iraq in preparation for military action [8].

### A2 Political Engagement

#### Turn: Increase in soft news turns off viewers from politics and decreases political knowledge.

Boukes and Boomgaarden 14 Mark Boukes [Postdoctoral Researcher at University of Amsterdam] and Hajo G. Boomgaarden “Soft News With Hard Consequences? Introducing a Nuanced Measure of Soft Versus Hard News Exposure and Its Relationship With Political Cynicism” Communication Research. Vol 42, Issue 5, pp. 701 - 731 First Published June 18, 2014. [Premier]

The claim that soft news would attract broader audiences has, however, been questioned, as audience shares of soft news do not outnumber those of hard news (Belt & Just, 2008; Graber, 2003; Nguyen, 2012; Patterson, 2003). More extremely, soft news possibly even turns people off from politics and journalism, because relatively small issues are covered so frequently in very dramatized and alarming ways that people are less surprised by yet another “breaking news story” (Bennett, 2003), which might explain decreasing turnout rates among soft news viewers (Rittenberg et al., 2012). Furthermore, ratings-driven soft news might undermine public knowledge about larger, unsensational social or political topics (Bird, 2009), because of its lowered standards to meet the expectations of the widest audience possible (Thussu, 2007). A preference for soft news, for instance, seems unrelated to knowing more about a variety of news topics, while watching hard news and reading newspapers do positively relate to political knowledge (Prior, 2003).

#### Turn: empirics prove that soft news fosters political cynicism.

Boukes and Boomgaarden 14 Mark Boukes [Postdoctoral Researcher at University of Amsterdam] and Hajo G. Boomgaarden “Soft News With Hard Consequences? Introducing a Nuanced Measure of Soft Versus Hard News Exposure and Its Relationship With Political Cynicism” Communication Research. Vol 42, Issue 5, pp. 701 - 731 First Published June 18, 2014. [Premier]

Turning to the relationship of interest, we found that people’s exposure to soft versus hard news was significantly and positively related to their level of political cynicism, in the case of an effect of the first on the latter, B = 0.16, SE = 0.07, β = .13, p = .027, 10,000 bias-corrected bootstraps 95% confidence interval (CI) = [0.01, 0.31]. Therefore, we could confirm Hypothesis 1. However, the effect that runs in the opposite direction, from political cynicism to relative soft news exposure was far from significant, B = 0.11, SE = 0.12, β = .14 p = .345, 10,000 bias-corrected bootstraps 95% CI = [−0.20, 0.42]. This implies that as respondents watched soft news programs more regularly, they had a higher level of political cynicism than similar people who watched hard news programs more frequently, while holding all other variables constant. Yet, we should be cautious about deriving too strong inferences about causality from this analysis as we are still relying on cross-sectional data. Refraining from formulating strong conclusions regarding the causal direction, the analysis, nevertheless, suggests that there is a robust relationship running from exposure to soft versus hard news to political cynicism.

#### The price for holding public office can’t be total sacrifice of personal privacy – discourages participation in public service.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

Privacy involves the protection of information about an individual that he or she is entitled to control: personal activities that should not be known, observed, or intruded upon without his or her consent. The most common justification for this claim invokes the right of privacy that all citizens should possess. Like all politicians, officials have some right to the kind of control implied by this right. No democracy should make the price of public service the sacrifice of all one’s rights, especially when the consequences may be permanent and follow the individual long after leaving office. Although political culture in the United States is generally thought to be more rights-centered than in other democracies, its norms and laws protect the privacy rights of politicians less. The contrast with France is especially striking. In addition to cultural and professional norms against publicizing private lives, French law threatens severe sanctions for violations of privacy rights (violations of the intimité de la view privée even more severely than the vie privéee) [3]. Unlike U.S. jurisprudence, French law does not sharply distinguish between the rights of public figures such as politicians or celebrities, and those of ordinary citizens. Even photographs of public figures are subject to protection by means of the droit à l’image: the images are treated as private property. Another (related) justification for privacy of politicians refers to effects on the recruitment. If the press constantly probes the private lives of politicians, some worthy candidates may be discouraged from running for office. The prospect of exposing to public scrutiny one’s personal finances (and those of one’s family) or any past indiscretion (however minor) is hardly a positive incentive to seek public office. This justification at least has the virtue of pointing to an effect on the democratic process—the potential loss of talented officials. But it still rests on an individual right. Until we decide how extensive a right of privacy a politician should have, we cannot assess whether an individual is warranted in avoiding public service. If someone declines to serve because he is claiming more than he has a right to, then he is not likely to be the kind of person we should want to hold public office.

#### A lack of privacy will result in self censorship and chill community discussions

Shaw 17.  Shaw, Jonathan.  Jonathan is a managing editor for Harvard Magazine. “Assaults on privacy in America” [JANUARY-FEBRUARY 2017](https://harvardmagazine.com/2017/01) <https://harvardmagazine.com/2017/01/the-watchers> [Premier].

Bemis professor of international law and of computer science Jonathan Zittrain, faculty chair of the Berkman Klein Center, worries that the ubiquity of privacy threats has led to apathy. When a hacker released former Secretary of State Colin Powell’s private assessments of the two leading presidential candidates prior to the recent election, “I was surprised at how little sympathy there was for his situation, how it was treated as any other document dump,” Zittrain explains. “People have a hard time distinguishing, for instance, between government documents and private documents authored by people who were once government officials, [between] documents released under the Freedom of Information Act, and documents leaked by a whistleblower. It’s all just seen as…‘stuff is porous, and we can get it.’” As “the ability to hack is democratized,” Zittrain worries that people have lost sight of the original value behind whistleblowing, which is to make powerful institutions publicly accountable. Now everyone is vulnerable. “Over time,” he wrote recently, “continued leaks will lead people to keep their thoughts to themselves, or to furtively communicate unpopular views only in person.” “That does not seem sustainable to me,” he said in an interview, “and it doesn’t seem healthy for a free society.”

### Press Coverage Tradeoff

#### Focusing on a candidate’s past life trades off with media coverage on candidate’s positions on issues.

Altman 2016. Altman, Drew. Dr. Altman was Commissioner of the Department of Human Services for the state of New Jersey under Governor Tom Kean.  As Commissioner, he developed nationally recognized initiatives in welfare reform, school-based youth services, programs for the homeless, and Medicaid managed care. “Risks in ‘Full’ Disclosure of Presidential Candidates’ Health Records.” Henry J Kaiser Family foundation. **Sep 13, 2016** <https://www.kff.org/other/perspective/risks-in-full-disclosure-of-presidential-candidates-health-records/> [Premier].

Serving up certain details of any candidate’s health, and past life, in a voracious social-media environment in which some elements of the media focus on “gotcha!” journalism and opponents leap to make attack ads has the potential to focus disproportionate attention on a candidate’s health–rather than a person’s readiness to govern and her or his positions on major issues. It makes sense that voters need to know whether candidates have a documented medical problem that could compromise their ability to serve as president or prevent them from completing their full term in office. That said, it seems possible to devise a formal system that both major parties could buy into, ensuring that such information is produced, rather than imploring individual candidates to produce it themselves. ¶ It’s easy to see the argument for disclosure if a presidential candidate has, say, serious heart disease or cancer, conditions that could affect one’s ability to serve. Now imagine the frenzy on social media if a candidate’s medical records indicated an episode of depression years before, or a sexually transmitted disease, or whether a male candidate uses Viagra, or if a candidate of either gender had been abused. These are points that understandably involve privacy. Full disclosure would tilt the spotlight to these issues, probably setting off long discussions on cable news about whether such issues should even be discussed. Not that long ago, well before the advent of social media and 24/7 cable news coverage, Thomas Eagleton was forced off the Democratic ticket after revealing that some of his past treatment for depression [had involved electric shock](http://www.nytimes.com/2007/03/05/washington/05eagleton.html). Imagine the constant focus on such information today.The New York Times editorial seemed to suggest that Mr. Trump and Mrs. Clinton’s ages signify a special need to know all of their medical records: “[Now Americans are deciding between Mr. Trump, who is 70, and Mrs. Clinton, who is 68. Whoever prevails will have to deal with round-the-clock demands, so it seems entirely relevant to inquire about their medical histories and current health](http://www.nytimes.com/2016/09/13/opinion/full-disclosure-on-candidates-health.html).” Well, a healthy 48-year-old president could drop dead of a heart attack while jogging. It seems not far-fetched to suggest that unless a candidate has a known debilitating or potentially life-threatening medical condition, the American people would base their vote on other grounds–and take their chances on a candidate’s health in office, mindful always of who the vice presidential nominee is and that person’s ability to serve if needed. John F. Kennedy was the youngest person ever elected to the U.S. presidency, and he had serious health conditions. How might his close race against Richard Nixon have been affected by social media focus on his physical health?

### Scandal Journalism

#### Turn: focusing on scandal evokes political cynicism.

Boukes and Boomgaarden 14 Mark Boukes [Postdoctoral Researcher at University of Amsterdam] and Hajo G. Boomgaarden “Soft News With Hard Consequences? Introducing a Nuanced Measure of Soft Versus Hard News Exposure and Its Relationship With Political Cynicism” Communication Research. Vol 42, Issue 5, pp. 701 - 731 First Published June 18, 2014. [Premier]

This study has investigated the relationship between the news programs people watch—relatively more or less soft news—and their level of political cynicism. In line with theoretical accounts, we argued that the difference between hard and soft news is not between two extremes but rather of a gliding scale with many intermediate positions. This scale has been successfully operationalized employing nonparametric unidimensional unfolding. Subsequently, the usefulness of this approach is illustrated by a hitherto novel investigation of the relationship of soft news exposure and political cynicism. Earlier studies have found positive outcomes of watching soft news, as it would increase political knowledge and foster attentiveness among politically unaware people (Baum, 2003b). Accordingly, soft news may contribute to the quality of democracy, being a gateway to politics for politically uninterested individuals. However, our study presents a less positive consequence: People who watched more soft news had higher levels of political cynicism than those who watched more hard news. This relationship was found across-the-board, which puts into question the democratizing potential of soft news. An increase in knowledge and attentiveness (Baum, 2003a) seem to go hand-in-hand with an increase in cynicism (this study) as consequences of watching soft news. Not totally inexplicable, as learning about particular political topics—especially dramatic, negative, and strategic ones—may cause dissatisfaction with politicians. Soft news may thus bring citizens closer to politics (gateway-hypothesis), but they do not necessarily appreciate what they experience there. The strong relationship between exposure to soft news and political cynicism can be explained by a potential tendency of politically cynical people to prefer soft over hard news. However, previous studies have found that such motivational viewing is only a weak predictor of news viewing behavior (Wonneberger et al., 2011) and that news consumption behavior is a routine and mostly habitual (Diddi & LaRose, 2006). Our statistical findings and the theoretical rationales that would predict soft news characteristics to cause political cynicism are, however, arguably more convincing. Soft news’ tendency to focus on sensational and dramatic topics, such as crime, disasters, crises, or scandals (Baum, 2003b; Grabe et al., 2001; Patterson, 2000), to strategically and episodically frame politically relevant news stories with a focus on personal experiences and by showing ordinary people expressing their opinions and feelings (Bird, 1998; Machin & Papatheoderou, 2002; Patterson, 2000; Rucinski, 1992) probably evokes negative perceptions of the politicians responsible for governing society. Overall, there are several theoretical indications that soft news causes political cynicism; however, this study could not fully rule out that such an attitude causes increased soft news selection in its turn.

#### Scandal journalism blurs the line between important and trivial political issues.

Allern and Sikorski 18 Allern, Sigurd [University of Oslo] and Sikorski, Christian Von [University of Vienna]. "Political Scandals as a Democratic Challenge: From Important Revelations to Provocations, Trvialities, and Neglect." International Journal of Communication 12, 3014-3023 (2018) [Premier]

However, while this benevolent interpretation of scandal journalism sometimes fits well, the functionalist perspective tends to overlook several more problematic aspects related to the role of the media in scandalization processes (Verbalyte, 2018). First, only a selection of norm violations is made public and condemned; to make mediated scandals out of every misdemeanor is impossible (Ehmig, 2016). The strength of scandalization is not directly related to the significance of the violated norms (Kepplinger, 2009). Even limited norm violations and minor scandals can sometimes lead to media frenzies. An analysis of scandal reporting shows that serious norm violations may not be reported, while more trivial matters are blown up to become large scandals (Allern et al., 2012; Entman, 2012). The media organizations’ own interests and relationships to those in power also influence the scope of scandal reporting.

#### Scandal journalism is itself weaponized by politicians to serve their ends.

Allern and Sikorski 18 Allern, Sigurd [University of Oslo] and Sikorski, Christian Von [University of Vienna]. "Political Scandals as a Democratic Challenge: From Important Revelations to Provocations, Trvialities, and Neglect." International Journal of Communication 12, 3014-3023 (2018) [Premier]

Political actors also use scandalization as a political weapon (Jenssen & Fladmoe, 2012). Those in power can use strategic communication to shape what is framed and mediated as a scandal. Staged scandals can be used to influence the public agenda and smear competitors. Politicians may also intentionally trigger “scandals” through provocative slogans and remarks to influence the political media agenda, as in the case of some right-wing populist parties (Wodak, 2015). The complexity of such scandalization processes underlines the need of critical, interdisciplinary research that examines the various roles and effects of political scandals.

#### Scandal journalism is more valuable as a means of change in illiberal societies.

Kepplinger 18 Kepplinger, Hans Mathias [University of Mainz, Germany] "Hidden Traps: An Essay on Scandals." International Journal of Communication 12, 3153-3166 (2018) [Premier]

The calculation balancing costs and benefits can be estimated for individual scandals as well as for individual states. With respect to states, we can say: The less democratic a country is, the more worthwhile it is to report on violations as scandals, because there is no other possibility for reform and so the end may justify the means. The more democratic a state is, the more questionable it becomes to report on such events as scandals, because there are political and administrative alternatives in seeking solutions. As a consequence, we may conclude that in most liberal democracies, the negative side effects of reporting on scandals can be more severe than the positive effects. In most pseudo democracies and dictatorships, the opposite is true. This also holds for many western countries in the 19th and early 20th centuries, which at the time were still pseudo democracies.

#### Meta-analysis of studies shows that high media coverage of scandal leads to decrease in electoral support.

Sikorski 18 Sikorski, Christian Von [University of Vienna, Austria] "The Aftermath of Political Scandals: A Meta-Analysis" International Journal of Communication 12, 3109-3133 (2018) [Premier]

A classical study by Peters and Welch (1980) revealed that although most politicians in the U.S accused of corruption are reelected, both scandalized Democrats and Republicans suffered a significant net loss in votes (6%–11% from their expected vote). In line with these results, Banducci and Karp (1994) showed that scandal allegations had a direct impact on an incumbent’s vote margin (in U.S. congressional elections). Similarly, Brown (2006) showed that the majority of incumbents were reelected despite scandal allegations. However, morality scandals have a stronger effect on voter shares than do financial scandals, and Republican (compared with Democrat) incumbents lost more votes. Dimock and Jacobson (1995) examined the U.S. House bank scandal and found that the scandal “mainly affected a small subset of voters who were most offended by bank overdrafts and who did not assume that their representative had a clean record” (p. 1143). Fernández-Vázquez, Barberá, and Rivero (2015) analyzed Spanish local elections and showed that electoral consequences are contingent upon the particular gains/losses of the electorate. In cases where voters actually benefited from a corruption scandal (connected to the Spanish housing boom), they tended to retain political candidates. Politicians were punished only when citizens received no compensations for losses. In contrast, Kauder and Potrafke (2015) showed that involvement in a scandal had no effect on reelection prospects in Germany. In line with this, Riera, Barberá, Gómez, Mayoral, and Montero (2013) showed that scandals had no or (under specific conditions) only limited negative effects on incumbent support. Finally, Costas-Pérez, Solé-Ollé, and Sorribas-Navarro’s (2012) data reveal the contingency of scandals and the role of seriousness of scandal allegations (judicial charges) and the particular media coverage (number of news) of a given norm transgression or case. They find that scandals have no effect on loss of votes when media coverage is rather low and/or cases lead to no further judicial intervention. In contrast, when a political candidate is charged with corruption and the news media heavily reports it, loss of votes can rise to 14%.

#### Coverage of private conduct must be relevant to political virtues – it often is not.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

A second criterion is that the private conduct must reveal a substantial character defect that is relevant to the job. Citizens may reasonably want to know, for example, about someone’s tendency toward domestic violence when he is responsible for enforcing the law and regulating the finances of other people. But the appeal to character must be more specific than the common use of the character argument, which is undiscriminatingly general. The general claim that private conduct reveals character flaws that are bound eventually to show up on the job is a psychological version of the classical idea of the unity of the virtues. It assume that a person who mistreats his wife is likely to mistreat his colleagues; or that a person who does not control his violent temper is not likely to resist the temptation to lie. We should be wary of this argument because many people, especially politicians, are quite capable of compartmentalizing their lives in the way that the idea of the unity of virtues denies. Indeed, for some people, private misbehavior may be cathartic, enabling them to behave better in public. And private virtue is no sign of public virtue. We should remember that most of the leading Watergate conspirators in the Nixon administration led impeccable private lives. So did most of the nearly 100 political appointees who were indicted or charged with ethics offenses during the early years of the Reagan administration [14]. As far as character is concerned, we should be primarily interested in the political virtues—respect for the law and Constitution, a sense of fairness, honesty in official dealings. These virtues may not be correlated at all with personal ones. And the vices in which the press seems most interested—the sins of sex—are those that are probably least closely connected with the political vices.

### A2 1st Amendment

#### Turn: A lack of balance between privacy and disclosure destroys first amendment rights.

Harding 15. Harding, Sarah. (Lawyer w/ degree from Loyola University of Law) “Balancing Disclosure and Privacy Interests in Campaign Finance” Loyola of Los Angeles Law Review, vol. 48, no. 3, pp. 651-702, 7/1/15, <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2934&context=llr> [Premier]

In arriving at decisions like Citizens United and Doe v. Reed, the Court did not attempt to balance the interests of disclosure with the interests of privacy.234 Rather, it favored only one of these interests.235 The result of the Court’s lack of balance is that the privileges and security of the other interest are completely lost.236 The Court’s willingness to make a decision that disregards one interest is extremely problematic because of the high constitutional value of each interest.237 For example, anonymity, which was recognized by the Court itself as being an important interest in Patterson and McIntyre, can protect citizens from physical and professional reprisals.238 Additionally, as discussed above, the right of anonymity protects several other extremely compelling interests: freedom from persecution, the sanctity of the voting franchise, encouraging pluralistic values and thoughts, protecting spontaneity, enhancing privacy values, and protecting Internet speech.239 The loss of one of these constitutional rights could have the devastating effect of chilling speech and causing a lack of political participation by citizens.240 In Doe, the Court explicitly denied the right to the privacy of the names and addresses of signatories.241 In addition, the Court implicitly denied the right to be free from fear of retaliation, harassment, and intimidation, either from government entities or from private parties.242 While the Court made clear that petition-signers would be protected from fear of great retaliation, it did not ensure they would be protected from moderate or mild retaliation that may result from a non-highly controversial referendum petition.243 Had the Court balanced disclosure interests and privacy interests, it may have found that privacy should be preserved even when only mild retaliation could be expected. 244 The Court perhaps could have balanced the two interests by finding that any person who could demonstrate a probability of harassment would be excused from the disclosure requirements.245 Instead, the Court protected disclosure interests at the expense of privacy interests, thereby leaving individuals’ privacy interests almost entirely unprotected.246 The Court’s high threshold for harassment and reprisal means that the anonymity interest can almost never protect individuals from compelled disclosure.247 Of course, there will always be winners and losers in litigation. In compelled disclosure cases, courts will have to decide whether a disclosure law unconstitutionally intrudes on a right without a sufficient state interest, and either anonymity or information will lose.248 The Court’s most recent decisions choose disclosure at the expense of anonymity.249 However, in some situations it may be possible to favor disclosure while still protecting anonymity to a certain degree.250

#### The right to know is inconsistent with a journalist’s freedom to publish.

Richardson 4 Richardson, Brian [Department of Journalism and Mass Communications Washington and Lee University] “The Public's Right to Know: A Dangerous Notion”, Journal of Mass Media Ethics, 19:1, 46-55, DOI: 10.1207/s15327728jmme1901\_4. P 53 – 54. (2004) [Premier]

As journalists, our fundamental moral responsibility is to inform audiences truthfully. That obligation is based on three underlying assumptions about participatory democracy: 1. It requires an informed citizenry. 2. The information on which citizens base their decisions must be truthful, complete, and trustworthy. 3. Most citizens have neither the time nor the training—and possibly not even the motivation—to monitor their centers of power themselves, and those centers of power cannot be the sole monitors of themselves if democracy is to survive (Hutchins Commission, 1947). If we as journalists obey our moral obligation, then our freedom to publish becomes meaningful. “An obvious—and sometimes disturbing—feature of societies like ours is the extent to which the lives of their members Richardson 53 are influenced by what others do,” Montague (1997) wrote. “People who wish to make informed decisions regarding the course of their lives must therefore obtain information about the activities of others—information which the average person often finds almost impossible to acquire” (p. 75). The obligation to inform truthfully becomes meaningful, then, only as we consider what truthful information our audiences require. As an ethical and legal matter we cannot be governed simply by what our audiences demand. On the one hand, they will occasionally demand information that is manifestly inappropriate—invasions of privacy or revelations that cause unnecessary harm, for example. On the other, they will ignore information that will manifestly be useful to them in controlling the course of their own lives. As Hocking (1947) noted for the Hutchins Commission, “We say recklessly that [readers] have ‘a right to know’; yet it is a right which they are helpless to claim, for they do not know that they have a right to know what it is they do not yet know” (pp. 170–171). Our standard as journalists must be to provide audiences what they need to know: accurate, contextualized information that will help them control the course of their own lives.

#### The right to know undermines freedom of the press.

Richardson 4 Richardson, Brian [Department of Journalism and Mass Communications Washington and Lee University] “The Public's Right to Know: A Dangerous Notion”, Journal of Mass Media Ethics, 19:1, 46-55, DOI: 10.1207/s15327728jmme1901\_4. P 53 – 54. (2004) [Premier]

Merrill (1973) recognized the strategic use of the press’s claim to a public’s right to know: “It sounds more democratic than the simple term ‘freedom of the press,’” he said, “and shifts the theoretical emphasis from a private and restricted institution (the press) to a much broader and popular base (the citizenry)” (p. 461). However, Ericson (1998) reminded us, “As communication scholars put it, the media are gatekeepers. This very image vitiates their proclamations of the people’s untrammeled right to know” (p. 43). As a slogan, the people’s right to know might be good public relations. As an assertion of a right, it is dangerous to both the press’s freedom and its moral responsibilities. A fundamental difference between the expressed constitutional guarantee of freedom of the press and what proponents call an implied constitutional guarantee of the people’s right to know lies in O’Brien’s (1981) explanation of the difference between negative and positive freedoms. The Bill of Rights, including the First Amendment, was expressed in the terms of classical liberalism: That is, it provided freedom from government restraint, a negative freedom. Positive freedoms, including, presumably, an active right such as the people’s right to know, imply intervention by government as facilitator (O’Brien, 1981, after Berlin, 1958, on negative and positive liberties). Ironically, expression of a positive right results in negative implications: If government is charged with ensuring that the people have a positive freedom to know, then, as Montague (1997) said, the implications for the press are entirely negative. The press is told how it is obligated to act instead of being granted the freedom to act. Even if we try to express the people’s right to know as a negative freedom—“Congress shall make no law infringing on the right of the people to 52 Public’s Right to Know be informed,” for example—we are left with nothing helpful. Either it mandates an active right with no discretion area, or it recognizes a passive right with no provision for determining what constitutes an appropriate discretion area. As Goodale (1976) pointed out, the courts might well be left as the arbiter. To prevent that, the press is, and must be, granted the active right to publish; and hence, the moral responsibility to make morally defensible decisions about what to publish. Given the freedom to choose, journalists, like any moral actors, will occasionally choose badly, through faulty reasoning or simply yielding to temptation. We need not flog the recent anecdotal evidence of that. However, absent freedom to choose, journalists cannot ever act responsibly, because freedom is a precondition of responsibility. Absent the freedom to choose, we cannot act responsibly.

#### The only solution to transparency of candidates in conflict with privacy rights is a free press.

Lamotte 15. Lamotte, Sandee. “Do voters have the right to know presidential candidates' health histories?” CNN, December 15, 2015. <https://www.cnn.com/2015/12/14/health/presidential-candidate-health-disclosure/index.html> [Premier]

Today, Mariano feels that the only good solution is a free and inquisitive press. "The things that happened with Woodrow Wilson and his stroke, and FDR, and Kennedy -- can you do that now? It's harder to hide things today because you have 24/7 news. You guys are sharp, they've got to be on their toes." "I remember with Bill Clinton: He'd be giving a statement in the Rose Garden and he'd point to a reporter and his hand would be trembling," Mariano said, reminiscing about her time as White House physician. "And the next inquiry I had from a reporter was 'Oh my God, does he have Parkinson's disease?' No, but he does have a benign essential tremor." Whether they have the right to privacy or not, Annas said, it can be taken away from them in the real world. "The media can ask, or their fellow candidates can press them if they want to," Annas said. Which leaves us with the doctor's letters released by candidates as the only form of assurance about the health of presidential candidates. "I'm sure the doctors are swayed by their prestigious patient, but I think the public knows that, too," Annas said. "We take the results with a grain of salt, but it's better than nothing."

### A2 Mental Health Evaluations

#### Many past presidents have had mental illnesses and still lead the country. Being required to disclose that information could sway elections based on stigma and prejudice.

Lamotte 15. Lamotte, Sandee. “Do voters have the right to know presidential candidates' health histories?” CNN, December 15, 2015. <https://www.cnn.com/2015/12/14/health/presidential-candidate-health-disclosure/index.html> [Premier]

And then there's the specter of mental illness. "People have horrible prejudice against mental illness," said Annas, of Boston University "If you have a mental illness, you're depressed, you can't get out of bed that's going to affect your ability to do your job," Mariano said. A 2006 study by Duke psychiatrists applied today's diagnostic criteria to historical records of the first 37 presidents and found 18 of them met the criteria for psychiatric disorders, mostly major depression or anxiety. The study also found Teddy Roosevelt and Lyndon Johnson would have both been diagnosed with bipolar disorder. In fact, say the researchers, 10 of the 18 presidents exhibited enough symptoms of mental illness while in office to have affected their ability to lead the nation.

#### Required health exams fail – they’re impractical and biased

Lamotte 15. Lamotte, Sandee. “Do voters have the right to know presidential candidates' health histories?” CNN, December 15, 2015. <https://www.cnn.com/2015/12/14/health/presidential-candidate-health-disclosure/index.html> [Premier]

Independent presidential health exam? In 2008, a high-profile panel of doctors recommended that presidential and vice-presidential candidates be required to undergo a health exam by an independent team of doctors from the American College of Physicians. Dr. Connie Mariano was on that committee. "So we said in a perfect world, wouldn't it be great if we had a committee that performed physicals and said this person is good to go, just like we do for airline pilots, or in the military," said Mariano. "It would say: 'OK, I'm good for four to eight years, I hopefully won't die of some disease that I'm aware of, I'm mentally sane and I don't have any drug or alcohol or psychiatric issues and I want to run for office.' " You haven't heard about the recommendation because it didn't go anywhere. Mariano now thinks it's not practical in a polarized political world. "Part of that is that you have to have compliance by the person who is running for office," Mariano said. "A lot of them feel like that's an invasion of their privacy, they're not willing to share that. And part of it was they'll say 'Wait a minute, do the doctors reveal if they're Democrat or Republican? You know a Republican doctor can say that Democratic candidate is crazy.' "

#### Mental health not a barrier --- most presidents have some degree of mental health conditions

Gupta 1-15 [Dr. Sanjay Gupta, CNN Chief Medical Correspondent, 1 – 15 – 2018, “Gupta: 'Competent' or 'crazy' misses the point of presidential mental health”, <https://www.cnn.com/2018/01/12/health/presidential-mental-health-gupta/index.html//> [Premier]

Frances doesn't believe that Trump has narcissistic personality disorder, a popular amateur diagnosis on the internet. This is particularly important because Frances also happens to be the Duke University professor who wrote the criteria defining the disorder. With nuclear codes in hands, why doesn&#39;t the president get a thorough mental check? With nuclear codes in hands, why doesn't the president get a thorough mental check? I have often responded to those sharing their opinions with a smile and a shrug when approached by people wanting to have the "Trump is crazy" discussion. It is not out of lack of interest but because, after the umpteenth time, I know that the discussion often sadly leads to worsening misconceptions about the mentally ill. Point is, even if Trump was diagnosed with a mental illness, that is not necessarily a barrier to holding a job or even higher office. It was in 1972 when Thomas Eagleton was dropped as a Democratic vice presidential candidate after it was revealed that he had been hospitalized for depression. We seem hardly enlightened since then. Past presidents&#39; physicals: What we learned Past presidents' physicals: What we learned Fully half of US presidents between 1776 and 1974 had clinical evidence of mental illness during their lifetimes (half of them while in office), according to a 2006 study in the Journal of Nervous and Mental Disease. Half of those were depressed, including James Madison, Dwight Eisenhower and, perhaps most famously, Abraham Lincoln, who also suffered from psychosis. Lyndon Johnson, Theodore Roosevelt and John Adams were among the fifth of US presidents with bipolar disorder. And another fifth were alcoholics, including Richard Nixon, whose staff, according to an NPR interview with one of the study's authors, had to make sure he didn't make important decisions in the evening. Donald Trump&#39;s health: What we know so far Donald Trump's health: What we know so far A separate study in the Journal of Personality and Social Psychology from 2012 took it a step further when it concluded that John Kennedy was a psychopath but added that "certain features of psychopathy are tied to successful interpersonal behavior." In particular, it was the trait of "fearless dominance" -- a brashness accompanied by a compulsion to dominate social situations, a higher willingness to take risks and an immunity to anxiety -- that was "associated with better presidential performance, leadership, persuasiveness and crisis management," according to the study authors. Fearless dominance. When you consider the qualities of a good leader, trust, intellect, curiosity, empathy and discipline probably come to mind, but "fearless dominance" is a frightening term these experts think should be added to the list. Terms matter when we talk about mental health.

#### Most evaluations carry political and social biases and it would be used as a cuddle to undermine the democratic process

Baker 1-12 [Maggie Koerth-Baker, senior science writer for FiveThirtyEight, “A Competency Test For Trump Could Be A Bad Idea”, 1/12/2018, <https://fivethirtyeight.com/features/a-competency-test-for-trump-could-be-a-bad-idea//> [Premier]

Doctors, lawyers and soldiers have to prove that they’re mentally competent to do their jobs. Should the president? That’s what Rep. Brendan Boyle, a Pennsylvania Democrat, proposed on Tuesday, when he introduced a bill that would require the president-elect to pass a physical and mental medical examination before swearing in. Although written to broadly encompass anyone elected to the nation’s highest office, the bill is clearly aimed at President Trump. It’s even named after one of the president’s recent tweets: the Standardizing Testing and Accountability Before Large Elections Giving Electors Necessary Information for Unobstructed Selection Act. (That’s STABLE GENIUS in acronymese.) Trump’s mental health has been the talk of Washington for more than a year — mental health professionals have offered long-distance personality evaluations, there have been suggestions that Congress could invoke the 25th Amendment, and the public has debated whether the president shows signs of age-related cognitive decline. But the conversation reached fever pitch this past week after the publication of Michael Wolff’s book “Fire and Fury: Inside the Trump White House.” We are not here to adjudicate whether Trump is mentally ill, suffering from dementia or otherwise mentally incapacitated. (We do, though, have thoughts about whether it’s appropriate to discuss the matter.) Instead, we’re seeking to better understand whether it’s practical to screen a president for mental competency. For answers, we turned to law, medicine and the military — other industries where a person’s personal stability can have big impacts on the safety of others. Sure enough, evaluations like the one proposed by Boyle are done routinely in some of these other professions. But comparing how mental health is handled in these different jobs also demonstrates why transferring other industries’ norms wouldn’t be easy — or even desirable. There are tests for mental competency before someone can become a doctor, a lawyer or a soldier. The specifics vary by state for lawyers and by specialty for medicine and the military. All of them are broad entrance examinations, focused on whether a potential lawyer, doctor or soldier can do the job that they are proposing to take on. For example, to become a lawyer in Illinois, you have to pass a character and fitness review. Applicants fill out documents, including character references and medical history questionnaires, which are reviewed by five different committees, said Jayne Reardon, executive director of the Illinois Supreme Court Commission on Professionalism. If those committees think an applicant needs additional scrutiny, they can choose to hold a hearing. “It can be an adversarial process where the applicant gets a lawyer to represent them,” she said. And that process doesn’t end once you’re part of the club. Surgeons, for instance, undergo a review every two years by whatever hospital they are credentialed to work at, which basically serves as a broad professional check-up, said David Welsh, a surgeon and a member of the board of governors of the American College of Surgeons. Meanwhile, drill instructors in the military get mental health-specific evaluations annually because their jobs are so psychologically demanding, said Craig Bryan, a psychologist and executive director of the National Center for Veterans Studies at the University of Utah. Though the specifics of these institutional systems vary, there are a few similarities that could help shape a hypothetical presidential screening. First, all three professions are focused on behavior and potential performance on the job, not on whether someone has been diagnosed with a mental illness or personality disorder, or has reached a specific age. Someone with bipolar disorder, for instance, could still pass the fitness reviews Reardon described and become a lawyer — although, depending on their personal medical history, they might end up with a conditional license that requires them to keep taking their prescribed medication to remain one. All these testing systems are also universally applied. While some individuals might end up receiving a higher-than-normal level of scrutiny, there’s a basic level of testing that everybody in these professions has to take. Everyone is treated the same. No one is assumed to be A-OK and given a free pass. “It’s a very delicate balance because (people with mental health issues) have rights too,” Reardon said. “But their rights end where the clients are not being protected.” This balance is thought about a little differently in the corporate world, where it’s common to use tests of personality to screen people for jobs. But that’s usually implemented on a company-by-company basis, said Jeffrey Sonnenfeld, a dean of leadership practice at the Yale School of Management. There’s no universal entrance examination that licenses people to become corporate executives or members or a board of directors. And while Sonnenfeld said that can create risks, he was also opposed to implementing something like the universal screenings used in law, medicine and the military. The corporate world has relied, to varying degrees, on personality and mental competency tests as a filter in hiring and promotions for decades. But those tests have often proven to be scientifically flawed and bad for corporate culture. “In France they have handwriting analysis and even had phrenology in use until quite recently,” Sonnenfeld said. Neither of those systems is a scientifically valid way of learning about human personality and behavior. Meanwhile, the personality tests commonly used by U.S. companies can end up accidentally incentivizing a conformist workplace or scientifically enforcing discrimination against minorities and people with disabilities. Regardless of the test, the interpretation of the results is just as important as the way they’re gathered. These concerns — whether the metrics being employed to test someone’s mental competency are valid and whether the results are being interpreted in a way that is both fair for individuals and good for the institution — were shared by Elizabeth Suhay, a professor of government at American University whose work involves the interactions between science and politics. She was troubled by the idea of instituting a competency test for the presidency, especially in a polarized political climate. “It’s becoming pretty obvious to everybody that people are able to politicize facts just as much as values,” Suhay said. She drew a corollary to the impeachment process, which effectively allows Congress to define what counts as “high crimes and misdemeanors.” Impeachment is an open, democratic process, Suhay said. But it leaves a lot of room for politicization in the definition of what is a problem and what isn’t. A mental competency test for the presidency would likely do the same. But because it would come with a veneer of science, in the form of test results, it could carry a false sense of certainty and objectivity. But the stakes are high, she said. If you make the presidency dependent on passing a mental health test of some sort, you could end up undermining the foundations of democracy as people find ways to use the test to prevent opponents from running. At the same time, most voters don’t have transparent information about a candidate’s mental health. Both the risks to democracy and the risks of an incompetent president are real.

#### The tests are applied in such a way that violates the reasonability standard of due process --- they are also bad predictors

Creech 66 [WILLIAM A. CREECH, LL.B. 1958, Georgetown University. Member, North Carolina Bar. Former Chief Counsel and Staff Director, Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 1966, DUKE LAW JOURNAL, “PSYCHOLOGICAL TESTING AND CONSTITUTIONAL RIGHTS”, Vol. 1966: 332, <https://pdfs.semanticscholar.org/daa8/bfad5a3a8c08bb6ba382c466e2e5ed7001e4.pdf//> [Premier]

In the first instance, it must be pointed out that the "reasonableness" test has most frequently been applied to legislative action. 131 However, where departments and agencies rely upon general statutes for rule-making powers over their employees, it would be logically inconsistent to suggest that the legislature is constrained by notions of due process but that the various departments have a completely free hand to act. 132 If in accordance with traditional due process concepts the agencies may only act in a manner reasonably calculated to achieve their legitimate ends, 3 3 it could be argued that psychological testing is purely arbitrary and therefore does not meet this criterion. Even if some nexus can be shown between promoting the efficiency of the federal service and the use of psychological tests, the serious infringement on personal liberty which results from such tests would compel that the nexus be clearly indicated. To the extent that congressional hearings and numerous other studies indicate that psychological tests lack reliability and validity in employment situations and result in arbitrary personnel decisions, a prohibition of such techniques should result. 34

#### Violates due process --- the mind is also protected from undue search and seizure

Creech 66 [WILLIAM A. CREECH, LL.B. 1958, Georgetown University. Member, North Carolina Bar. Former Chief Counsel and Staff Director, Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 1966, DUKE LAW JOURNAL, “PSYCHOLOGICAL TESTING AND CONSTITUTIONAL RIGHTS”, Vol. 1966: 332, <https://pdfs.semanticscholar.org/daa8/bfad5a3a8c08bb6ba382c466e2e5ed7001e4.pdf//> [Premier]

There are those who take an even dimmer view of psychological testing and would ban it completely as a government personnel screening device. The argument may be expressed in the following terms: Because of the social stigma attached to adverse test results, the employee should be given "the same right[s] . .. as he would have in a criminal trial."'' 50 The search and seizure of the contents of men's minds by a forced submission to psychological testing should be denounced as offensive to "those canons of decency and fairness which express the notions of justice of English-speaking peoples."' 5 1 A comparison can be made to the pumping of a man's stomach in order to obtain evidence of illegal narcotics possession, a practice which was condemned by the Court in Rochin v. California. 52 To the extent that the analogy to criminal proceedings can be maintained, it is obvious that there are also self-incrimination objections to the utilization of test scores involuntarily received as a basis for adverse action against the employee. Confronted with this line of reasoning in the hearings, legal counsel for the executive branch answered that such decisions as Rochin involved forced searches and involuntary confessions. In contrast, it was stated, testing under government auspices is voluntary. The applicant or employee consents to it. 5 3 Unfortunately, this conclusion is not borne out by the hearings and individual cases studied by the Subcommittee on Constitutional Rights. A man can hardly be said to consent voluntarily when he knows that he will probably not be hired if he does not submit to testing, that he may be dismissed from his job, or that he will be reprimanded for insubordination if he fails to submit to a psychiatric examination which may involve testing. On the contrary, as Senator Ervin pointed out, "a fair, plausible case [can] be made out for the proposition that a job applicant is ordinarily [under] a form of economic coercion. '15 Furthermore, consent is meaningless unless the examinee knows to what he is consenting.155 He may know the questions, but he does not know the answers, the purposes for asking the questions, or the inferences which may be drawn as to his personality categorization. Most of the tests depend in substantial part for their success upon the ignorance of the examinee as to precisely what he is being tested about.156 In any event, should psychological testing be found to be constitutionally suspect, the issue of "voluntariness" would probably disappear, since the Government presumably could not maintain an unconstitutional condition as a prerequisite to employment. 57

#### Unconstitutional – they violate a 4th amendment right to privacy

Creech 66 [WILLIAM A. CREECH, LL.B. 1958, Georgetown University. Member, North Carolina Bar. Former Chief Counsel and Staff Director, Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 1966, DUKE LAW JOURNAL, “PSYCHOLOGICAL TESTING AND CONSTITUTIONAL RIGHTS”, Vol. 1966: 332, <https://pdfs.semanticscholar.org/daa8/bfad5a3a8c08bb6ba382c466e2e5ed7001e4.pdf//> [Premier]

The final constitutional blow to be struck against psychological testing derives from the evolving notion of a "right of privacy."' 58 This newest of constitutional rights was initially an aspect of the fourth amendment's search and seizure clause and the self-incrimination provision of the fifth amendment. 59 However, it received an independent status in Griswold v. Connecticut,'60 grounded on the penumbras of the specific guarantees of the Bill of Rights,161 the concept of "liberty" contained within the due process clause of the fourteenth amendment, 162 and the ninth amendment. 6 3 The Griswold case, of course, concerned Connecticut's ill-fated attempt to prevent by statute anyone, including married couples, from using contraceptive devices. Nevertheless, if the Supreme Court's recent excursions into other areas is any indication, we may confidently expect the right of privacy to be given an ever-widening scope. 164 Some commentators have suggested the extension of Griswold to sexual conduct outside the marital relationship, to wiretapping and eavesdropping, to official inquiries into the private lives of welfare recipients, 165 and to governmental efforts to compel individuals to disclose information through such means as legislative committees and the lie-detector. 6 Psychological testing is hardly removed in kind from these latter categories. 67 Of course, this constitutional right of privacy is not well dlefined.168 Nevertheless, its underlying philosophy was concisely stated many years ago in the following passage written by Mr. Justice Brandeis: The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone-the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment. 1 9 This approach suggests that the freedom from intrusion by the Government upon both the citizen's physical and spiritual being is a value which lies at the very core of our traditions. Furthermore, Mr. Justice Brandeis counseled vigilance against the "subtler and more far-reaching means of invading privacy [which] ... become available to the Government.' 170 Certainly the psychological test is a device which falls into this category. It has been said, however, that "the right of privacy ... is not an absolute," 7 1 which suggests that a balancing approach would be followed. Given the interest of the individual employee in personal privacy, the Government would be required to demonstrate an overriding interest in the use of psychological tests.' 72 At a minimum this burden would probably necessitate a showing that the tests utilized are accurate, that testing is a reasonable means to ferret out the emotionally unstable who in turn constitute a significant threat to the efficiency of the federal service, and that alternative methods to testing are not available. Even where a superior public interest may warrant an invasion of personal privacy, the intrusion should be accompanied with complete procedural safeguards for the individuals affected. 78

#### Any results would end up being contested in a court or public hearing

Creech 66 [WILLIAM A. CREECH, LL.B. 1958, Georgetown University. Member, North Carolina Bar. Former Chief Counsel and Staff Director, Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 1966, DUKE LAW JOURNAL, “PSYCHOLOGICAL TESTING AND CONSTITUTIONAL RIGHTS”, Vol. 1966: 332, <https://pdfs.semanticscholar.org/daa8/bfad5a3a8c08bb6ba382c466e2e5ed7001e4.pdf//> [Premier]

The possibility of a successful constitutional attack on psychological testing in a court action appears to be a real possibility in the near future. The testimony received by the Constitutional Rights Subcommittee shows that existing procedures for psychiatric evaluations and psychological testing are deficient in terms of protection of employee rights. The necessity for a court test, however, could be eliminated by changes in the current testing practices and procedures used by the Government. Various alterations in the present situation were suggested to the Subcommittee. One solution to at least part of the problem is to afford the employee, and perhaps the applicant, an effective means of challenging the psychological reports and the expertise of the psychologist. At the present time no such procedures are available. For example, the Committee on Standards for Government Employment of the District of Columbia Bar Association, reporting on a study of disability separation procedures, found that an employee has no effective legal recourse to an involuntary disability retirement which he feels is unwarranted.174 This is in sharp contrast to the means provided by Congress for armed forces personnel to challenge adverse retirement actions-which means include a full hearing and the right to counsel.175 It was recommended that such a system of hearing procedures be established for federal employees. Until such legislation becomes a reality, the Subcommittee was told, "a serious void, with irreparable ad-verse consequences to the individual, will continue to exist with regard to the Constitutional rights of the federal employee .... -176

#### Places candidate rights below other citizens

Creech 66 [WILLIAM A. CREECH, LL.B. 1958, Georgetown University. Member, North Carolina Bar. Former Chief Counsel and Staff Director, Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 1966, DUKE LAW JOURNAL, “PSYCHOLOGICAL TESTING AND CONSTITUTIONAL RIGHTS”, Vol. 1966: 332, <https://pdfs.semanticscholar.org/daa8/bfad5a3a8c08bb6ba382c466e2e5ed7001e4.pdf//> [Premier]

In the final analysis, a thorough-going reform of existing procedures relating to psychological testing is a matter which must be confronted by Congress. Congress must decide whether, in light of the evolving law surrounding the right of privacy and the employment relationship, a government employee's rights are inferior to those of any other citizen. Congressional hearings on testing have pointed the way to solutions. They have, from all indications, also initiated a much-needed dialogue between lawyers and others concerned with individual rights and the scientists, technicians, and professional medical men responsible for the new scientific instruments and devices. In the private sector, observance of the individual's rights will depend to a very great extent upon the intensity and continuity of that debate. However, insofar as a citizen's relations with his Government are concerned, Congress has it within its power to insure that individual rights and liberties are not seconded to technology.

#### No solvency --- process would become politicized and no one would actually invoke the 25th

Stetka 17 [BRET STETKA, editorial director at Medscape, February 17, 2017, “As Presidents Live Longer, Doctors Debate Whether To Test For Dementia”, https://www.npr.org/sections/health-shots/2017/02/17/514583390/as-our-leaders-live-longer-calls-for-presidential-dementia-testing-grow-louder//[Premier]

Mt. Sinai's Appel isn't sold on mandatory public screenings for presidents. Even with an external panel, the process would become politicized, he says. He also questions how to objectively determine what level of impairment renders a candidate unfit for office. "As a colleague of mine says, 'One candidate with half a brain may be better than the other candidate with a whole brain.' I fear that baseline cognitive screening is a rather facile solution." This isn't to say that Appel objects to steps to ensure mentally unfit politicians are removed from office. The 25th Amendment to the Constitution, which outlines the succession of high office if a president dies, resigns or becomes incapacitated, provides a logical process for removing a dementia-stricken president. Yet, Appel asks, will anyone actually apply it? "Regrettably, our current political climate makes it unlikely that such a measure will be invoked, even when necessary," he says. "Until the system is fixed, and the political culture changes, medical information is rather useless. ... To one side, it will be a smoking gun, and to the other side it will be fake news or alternative facts." Like Appel, Caplan doesn't hold out much hope that the public would be clued in if a president's cognition, including Trump's, starts to meaningfully decline. "What will they do if he starts to slip? Nothing!" Caplan declares. "If that were to happen, he'll be protected. ... They'll take over his Twitter feed. ... This is how it's always been."

#### Focusing on mental health illnesses of candidates and politicians reinforces the stigma surrounding mental illness.

Barclay and Resnick 2018. Barclay, Eliza and Resnick, Brian. Barclay oversees Vox.com's health, science, energy, and environment coverage. Formerly, she was a reporter and editor at NPR, and most recently edited the food blog, The Salt. Brian Resnick is a science reporter at Vox.com, covering social and behavioral sciences, space, medicine, and the environment. “Donald Trump’s fitness for office isn’t a medical question.” May 2nd, 2018. Vox.com <https://www.vox.com/science-and-health/2018/1/19/16866040/donald-trump-diagnosis-mental-health-behavior> [Premier]

Medicalizing Trump’s behavior also casts an unfair light on the mentally disabled and ill who, often, are perfectly capable of carrying out the duties of their jobs. Behind words like unhinged and crazy “lies the all too common assumption that a person who has a mental health disability cannot possibly be trusted, let alone successful,” the Bazelon Center for Mental Health Law, an advocacy group for the mentally disabled, [stated](https://twitter.com/BazelonCenter/status/951568748346998784) in January.A medical case against Trump also redirects us from the fairer, more objective categories we can use to judge him. These are the details that could come up in an impeachment proceeding, should Congress ever decide to bring the president to trial. As Vox’s Ezra Klein [explains](https://www.vox.com/2017/11/30/16517022/impeachment-donald-trump), the definition of an “impeachable offense” is pretty broad, and can encompass more than outright crimes — for instance, “egregious violation[s] of the public trust.”

### A2 Campaign Finance

#### Campaign finance disclosure laws place unreasonable burdens on citizens wishing to participate in the political process – threatens political participation and free speech.

Primo, 11. David M. Primo, Ph.D. “Full Disclosure: How Campaign Finance Disclosure Laws Fail to Inform Voters and Stifle Public Debate” Institute for Justice, October 2011, <http://www.ij.org/images/pdf_folder/other_pubs/fulldisclosure.pdf> [Premier]

Campaign finance disclosure laws place burdens on individuals who work together to speak out on a ballot issue. If they spend all but a minimal amount or receive virtually any contributions (monetary or in-kind) in support of their efforts, they enter a byzantine world of complicated paperwork and onerous regulations. Unless they are experts in campaign finance law, or can afford to hire one, these would-be speakers run the risk of making errors that could cost them thousands of dollars and lead to damaging lawsuits. University of Missouri economist Dr. Jeffrey Milyo demonstrated just how confusing these regulations can be. Milyo asked 255 ordinary citizens to complete the paperwork required to speak as a group on ballot issues in one of three states—Colorado, California or Missouri.4 Participants included non-student adults aged 25 to 64 in Columbia, Mo., as well as graduate and undergraduate students at least 20 years of age at the University of Missouri. Milyo surveyed participants in advance of the experiment to gauge their knowledge of disclosure requirements. Only seven percent of the respondents were aware that groups of citizens had to file forms with the government to speak as a group on a ballot issue. In other words, citizens wishing to participate in the political process may unwittingly break the law and expose themselves to government fines, government lawsuits and even lawsuits from political opponents. This threat is not hypothetical. Six residents of Parker North, Colo., banded together in 2006 to oppose the annexation of their neighborhood into a nearby town. They, like the 93 percent of those surveyed in Milyo’s study, were unaware that their loose collaboration required them to register as an “issue committee.” Supporters of the annexation, seeing an opening thanks to Colorado’s campaign finance disclosure laws, sued these residents for failing to register and keep track of their spending on materials like poster board and markers.5 Milyo’s experiment shows that compliance with disclosure laws is challenging even for citizens who are aware of them. Milyo presented the 255 participants with a scenario for a group called “Neighbors United.” This fictional group received a few contributions—some large, some small, some anonymous, some named, some monetary and some non-monetary—and made only one expenditure. This pattern realistically replicates that of a small group of like-minded citizens as opposed to a large interest group. The experiment was not designed to set the participants up for failure. It asked them to do no more than would be expected of a typical citizen participating in a ballot issue campaign. Yet fail they did. Overall, the mostly college ducated respondents completed just 41 percent of tasks correctly. Respondents had trouble reporting non-monetary contributions, such as a discount given by a T-shirt maker, as well as handling anonymous donations and aggregating contributions by donor. Only one participant asked to complete the Missouri forms realized that a campaign event resulting in $15 of contributions requires the filing of a statement providing details about the event. In a subsequent debriefing, nearly all participants expressed frustration with the forms— “Worse than the IRS!” wrote one respondent— and a sizable majority believed that knowledge of the red tape associated with disclosure would deter citizens from participating in the political process. These results are consistent with a basic tenet of economics: When something is taxed, you get less of it. Disclosure laws that burden citizens with confusing reporting requirements and the specter of fines and lawsuits are a de facto tax on speech. Cumbersome reporting requirements represent a very real threat to political participation.

#### People may support disclosure in the abstract, but when it comes to their own information are largely opposed to it – they fear it could cause retaliation or cost them their job – stifles political participation.

Primo, 11. David M. Primo, Ph.D. “Full Disclosure: How Campaign Finance Disclosure Laws Fail to Inform Voters and Stifle Public Debate” Institute for Justice, October 2011, <http://www.ij.org/images/pdf_folder/other_pubs/fulldisclosure.pdf> [Premier]

Disclosure laws place a second set of burdens on citizens. Individuals who contribute to ballot issue campaigns will have their name, address and often their employer reported publicly for donations above a certain (typically very low) threshold.6 For somebody who is publicly active in politics, this requirement may be a minor nuisance. But for somebody who wants to support a cause privately, government-forced disclosure may present a significant barrier. Such privacy concerns are heightened by easy access to information on the Internet. Beyond the information directly available from the government, several websites aggregate donors’ identities and contributions in ways that harness the latest technology. The Huffington Post’s Fundrace site uses Google Maps so viewers can see who in their neighborhood has made political contributions.7 There is now even a program that scans e-mail inboxes and then “allows you to see the political contributions of the people and organizations that are mentioned in the e-mails you receive.”8 Concern about privacy comes not just from political views being revealed, but also from personal contact information being posted online. Gigi Brienza learned that lesson the hard way when a simple campaign donation landed her on the target list of a domestic terrorist group (see sidebar p. 7). Disclosure laws, in other words, make it much more difficult for people to support policy positions anonymously. Even if they do not fear retaliation, they may simply desire the same privacy for contributions that their vote receives at the ballot box. This “fear factor” acts as another tax on participation and may lead citizens to forgo giving to ballot issue campaigns. When Dr. Dick Carpenter of the University of Colorado and the Institute for Justice asked survey respondents whether disclosure of their name and address would lead them to think twice about contributing, about 60 percent said that it would.9 When asked why, respondents cited retaliation fears more than any other reason except a general desire for privacy.10 Support for disclosure laws generally varies depending on whether the question is framed as the disclosure of other people’s information or one’s own, what Carpenter dubs the “disclosure for thee, but not for me” phenomenon.11 Eighty percent of voters favored the disclosure of contributors’ identities,12 but only 40 percent favored disclosure of their contributions if their name and address is revealed, and even fewer— just 24 percent—favored disclosure if their employer is revealed.13 Respondents expressed concern that their job could be in jeopardy or that they could face retaliation from a union for voting on “another side” of the issue.14 In the abstract, then, citizens may favor disclosure, but when the consequences of disclosure are personalized, their opinions change dramatically. If we are concerned about disclosure’s impact on political participation, what matters is not whether people like the idea of disclosure in the abstract, but whether it causes them to participate less. Carpenter’s survey and the experiences of people like Gigi Brienza suggest that it does.

#### Campaign finance disclosure is not important to voters.

Primo, 11. David M. Primo, Ph.D. “Full Disclosure: How Campaign Finance Disclosure Laws Fail to Inform Voters and Stifle Public Debate” Institute for Justice, October 2011, <http://www.ij.org/images/pdf_folder/other_pubs/fulldisclosure.pdf> [Premier]

Voters can obtain disclosure-related information in one of two ways. They can access a government or private database, typically now webbased, and review contributions and expenditures. Or they can obtain disclosure information indirectly from the media, campaigns and other “opinion leaders” or “elites.” A newspaper, for instance, may report on which interest groups have spent funds in support of or opposition to a ballot issue. There is good reason to question whether voters would ever access this information directly from state disclosure websites. Voters have an incentive to be “rationally ignorant,” gathering very little information in making voting decisions. Anthony Downs,15 who first developed this idea, noted that political information gathering is time-consuming, so people will do it only if the benefits outweigh the costs. As Downs found, for most voters gathering information is typically not worth the cost in time spent.16 The idea of “rational ignorance” is not a comment on the intelligence or open-mindedness of voters. It simply acknowledges that people have many demands on their time, and for many, spending time researching political issues may not top the list. So they make a voting decision based on what they already know. Thus, the notion that a voter will sit down at a computer and search databases for information on interest groups strains credulity. It is no surprise, then, that the Carpenter survey found that less than half of respondents claimed to have awareness of disclosure laws and only a third claimed to know where to access disclosure information.17 Since direct acquisition of disclosure information is unlikely, the second means of information acquisition—“information entrepreneurs”—is the typical focus for reformers.18 Information entrepreneurs include the news media, think tanks and other groups that disseminate information. Certainly the news media reports on campaign finance disclosure, and of course candidates and interest groups reference campaign finance information in advertising. But how prevalent, really, is this kind of activity for ballot issues? The answer, according to a review of campaign information in Colorado’s 2006 ballot issue election, is not much. Only 4.8 percent of newspaper articles, editorials and letters to the editor; think tank and nonprofit material; state-produced documentation; and campaign-generated documentation referenced disclosure information. That figured dropped to 3.4 percent in the two weeks leading up to the election.19 This finding is not an anomaly. Professor Raymond La Raja examined articles for state-level campaign finance from 194 newspapers covering all 50 states from 2002 to 2004. He found that each newspaper averaged only about three stories per year regarding campaign finance.20 And less than 20 percent of those stories fell into the category of “analysis”—the category that would provide information about contributors to campaigns.21 These studies establish that information about who contributes to ballot issues and other statewide races is not, in fact, used extensively by information entrepreneurs in communicating with voters. The experiment reported below complements this research by directly assessing voters’ interest in and use of disclosure-related information in the form it is most likely to be acquired—from elites. The results of the experiment buttress the above findings by showing that voters do not demand disclosure information.

### A2 Public Ownership of Government

#### Right to know based on public ownership of government falsely assumes a public property interest in government.

Mayer 14: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

The problem with this rationale is that it assumes that because a democratic government is supposed to be answerable to and responsive to its citizens, and is also funded by those citizens, this creates a property right in those citizens that extends to information held by the government. A democratic government does not, however, represent the simple situation of a single principal with a single agent who holds property on the principal’s behalf and so the principal can command the agent to transfer the property to the principal at the principal’s discretion. Instead, a democratic government represents a situation where a large and complex organization serves as the agent of a large number of principals in the aggregate. It is therefore more similar to a business corporation, where the shareholders have a right to access certain information to ensure that the management of the corporation is acting to further the collective (profit-making) interests of shareholders68 but not a right to individually access all of the property (including information) held by the corporation simply by virtue of being shareholders.69 Similarly, a single citizen in a democratic country does not have a property interest in any given asset, including specific information, owned by the government. Rather, the citizens collectively should have access to information that is related to the government’s obligations to those citizens, as will be discussed with respect to the accountability justification.

#### Public’s interest in self-governance and ownership does not justify knowledge of private-private interactions.

Mayer 14: Mayer, Lloyd Hitoshi [Professor of Law and Associate Dean at University of Notre Dame Law School] "Politics and the Public's Right to Know." Election Law Journal, Volume 13, p. 138. (2014) [Premier]

Furthermore, the propriety justification, even if accepted, does not reach private-private interactions. If the information about such interactions is held only by the private participants or other private parties, the argument that the information somehow belongs to the public generally is not sustainable even if the public “owns” information held by public entities. While information held by private parties that perform public functions or otherwise are quasi- governmental entities might be reached by this justification,70 the mere exchange of information between private parties relating to political matters such as the virtues of candidates for public office or the merits of pending legislation cannot be sufficient to render those private parties quasi-governmental entities. If it were sufficient, essentially all citizens and probably almost all other private entities would be so transformed, making the distinction between public and private entities meaningless and undermining any sense of a right of privacy on the part of individual citizens and what we normally consider private entities. The propriety justification therefore does not provide a sufficient justification either for the public’s right to know generally or for extending that right to information regarding purely private-private interactions. Some other basis must therefore be found for extending this right to private-private political interactions.

### A2 Character

#### The argument that politician’s private conduct holds symbolic value is over-demanding.

Thompson 10, Thompson, Dennis F. [Political Scientist and Professor at Harvard University, Founder of Safra Center for Ethics] "The Private Lives of Politicians." Raison-Publique. February 6, 2010. http://www.raison-publique.fr/article206.html [Premier]

Character is sometimes thought to be relevant in a different, more symbolic way. Officials represent us by who they are as much as by what they do. We need to know if they have the character fit for moral leadership—for serving as role models for our youth and virtuous spokespersons for our nation. But this conception of public office is too demanding, as most citizens seem to recognize. They seek leaders whose characters display the political virtues (such as honesty), but most do not believe that even the president should be held to higher moral standards in his private life than are ordinary citizens [15]. The question is not whether it would be desirable to have a leader who is as moral in his private as in his public life, but whether it is worth the sacrifice of privacy and the distortions of public debate that would be required to make private probity a job qualification.

#### The role model argument relies on unproven assumptions about their influence on others.

Doherty 07 Doherty, Michael G. [Principal Lecturer, University of Central Lancashire, UK] "Politicians as a Species of "Public Figure" and the Right to Privacy." Humanitas Journal of European Studies (2007) [Premier].

If a public figure becomes a role model through their pronouncements on a public issue or their principled stance on a social question, then any disjunction between their ‘role model persona’ and the reality of their private life on that issue, can be dealt with through the principles outlined above. It has been argued though that public figures become role models as an inherent consequence of their public profile. Lord Woolf in A v B plc (para. 11(xii)) found that even though he had not sought that distinction, the claimant was a role model on the basis of his sporting success. This meant that he should expect closer scrutiny by the media and be expected to conduct himself according to high standards. A similar argument, that ‘since celebrities embody certain moral values and lifestyles’ they can provide examples that people chose to adopt or reject, was accepted by the German Federal Constitutional Court (von Hannover: para. 25). Ultimately though, this ‘involuntary role model’ concept has been much criticized and judicially rejected. It rests on unsupported suppositions of how the behaviour of public figures influences the general public and is utterly inconsistent with the concept of informational autonomy (Phillipson, 2003: p.741; Aplin, 2007, p.46). In the Court of Appeal in Campbell (para. 151) it was said that if someone was a role model ‘without seeking that distinction’ then it was not necessarily in the public interest to show that they had ‘feet of clay’ (see also McKennitt: para. 65). Both Rudolf (2006) and Sanderson (2004) argue that the role model argument was implicitly rejected by the Court in von Hannover.

### A2 Medical Information

#### The right to information doesn’t necessarily imply it must be disclosed – economic and logistical barriers override

Streiffer et. al. 6. ROBERT STREIFFER, ALAN P. RUBEL & JULIE R. FAGAN. “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose,” *Journal of Medicine and Philosophy*, 31:4, 417-439, 2006 <https://www.tandfonline.com/doi/pdf/10.1080/03605310600860825?needAccess=true> [Premier]

Now, the mere fact that a person has a right to certain information does not by itself imply that those who possess the information should disclose it, for it may be that there are other, countervailing considerations of sufficient importance to override that right. This is acknowledged in the discussion of informed consent in the medical ethics literature by distinguishing between the information a patient needs to make an autonomous decision about his or her healthcare, and the information a doctor is morally required to provide, all things considered. Consider the case of a patient who is deeply concerned about the success rates of his doctor and hospital to the point where he wants detailed statistics on how the doctor’s and hospital’s patients have fared over the years. This may well be material to this particular patient’s decision, and thus its provision may well be included in the patient’s right to informed consent, but the economic and logistical costs of collecting such information may be prohibitive.4 Similarly, in the case of voting, there is a distinction between the information to which voters have a (prima facie) right and the information that candidates are morally required, all things considered, to disclose. The right to information necessary to make informed voting decisions must be weighed against what is fair and reasonable within the existing political system.

### A2 Trump Medical Records

#### Calls for Trump’s medical or mental health records are part of a leftist strategy of mockery that stigmatizes ableism and alienates Trump voters, turns case

Harnish 17, University of North Dakota PhD candidate in English, Andrew Harnish (2017) Ableism and the Trump phenomenon, Disability & Society, 32:3, 423-428. [Premier]

Given Trump’s rhetoric, his policing of normativity is unsurprising, but **the ableist mockery of Trump’s bodily difference by much of the left remains startling**. Throughout the campaign, **memes mocking Trump’s differences** circulated widely. **Given how often the left attacked Trump for his racist rhetoric, its willingness to traffic in ableism is troubling. It was also destructive to the cause of defeating Trump, because these same memes –** and the mockery of Trump for his famous ‘Make America Great Again’ trucker hat, a sartorial choice that does not seem out of place in rural communities – **only served to solidify Trump’s appeal to much of his white working-class base.** **Many white working-class Americans also feel nonnormative**, either because of economic anxiety or shame or, even more troublingly, because their tolerance of racial prejudice defies the norms of ‘polite’ society. Because conservative, ‘independent’ rural culture offers few narratives that treat non-normativity and difference as values to be welcomed and fostered, **Trump’s aggressive claims of his own greatness** and denigration of others **allow many of his rural, white working-class supporters to assert a new (yet retrograde) form of normativity. This is Trump’s form of normativity, in which everyone who endorses him is great, and everyone who objects to him** – or to whom he objects – **is worthy of derision, ableist mockery, and even outright violence.** Again, Trump’s assertions of his personal greatness could function as affirming of difference if he did not pair that rhetoric with the ableist denigration of bodily difference in others, if his campaign was not premised on ableist rhetoric, and if he did not promise to upend much of the regulatory and social service infrastructure that people with disabilities depend on.

The success of Trump’s toxic rhetoric and various misdirections means that people with disabilities and other minorities will bear the brunt of his policies. While those of us on the left have rightly denounced Trump’s rhetoric and policies, we have not offered a set of policy alternatives that are attractive to rural, working-class communities. So **the question for those who oppose Trump** in the United States and around the world **should be** not just ‘How do we constrain Donald Trump’s ableist and racist neoliberalism?,’ but also ‘**How do we find common cause with those whose particular mix of suffering, privilege, and isolation has caused them to fear their difference and embrace communities that discourage their thriving?**’ In answering these questions, **we must find ways to counter** the **ableist** and racist **rhetoric** that seems likely to continue to be deployed by the Trump administration. **We must argue all the more forcefully for the value of bodily difference, for the value of diverse perspectives and experiences, and find ways to relate an inclusive vision to those who have felt for too long that the only way to cope with bodily difference and economic pain is to deny them and denounce others**.

### A2 Corruption

#### Disclosure doesn’t solve – most campaign finance is small contributions, and the public doesn’t care about a candidates’ donors anyway

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

**First, the corruption interest, like the information interest, fails to justify disclosure of modest-sized contributions. Most donors are small fry**.' 42 **Their negligible influence poses little danger of corruption,** however defined. As one of the lawyers for the Buckley plaintiffs wrote a few years before the decision, "it is flatly unbelievable that a contribution of [$100] could have an undesirable impact." 43 Buckley itself acknowledged that many **small contributions "are too low even to attract the attention of the candidate, much less have a corrupting influence."**' 44 Rather than serving as one side of a corrupt trade or influencing the candidate excessively, **the typical small contribution earns only a thank-you card and subsequent appeals for more money.**

Second, even when somewhat larger sums are contributed**, very few voters actually give much consideration to the nature of candidates' donors when choosing whether to support them. The utility of disclosure as a technique to deter corruption collapses if its supposed enforcers, an outraged public, do not play their assigned role.** 146

There are several commonsense reasons that disclosed contributions sway so few voters. The most obvious one resembles the problems just discussed in connection with the information interest. **Raw data about contributors, while very easy to obtain, is difficult to digest and interpret.** The implications of any single allegedly "dirty" contribution can be understood only in the context of a candidate's entire campaign finance profile. "**Excessive" influence is also in the eye of the beholder. Different candidates may be equally indebted to their donors, so that voters will often find it difficult to distinguish between candidates on this basis**.1 47

More fundamentally, **conscientious voters trying to decide which candidate to support must balance corruption concerns against factors which will often be more important to them.** As David Adamany and George Agree summarized this problem a quarter century ago: **The theory of disclosure insists that voters will reject candidates at the polls when disclosure shows too much spending, misdirected spending, unsavory or disfavored financial sources, or excessive contributions. In elections, however, a citizen cannot express himself [or herself] solely on campaign finance practices; his [or her] vote for a candidate is a decision about many other issues as well .... [V]oters do not and should not give campaign finance practices heavy weight in making ballot choices, and therefore candidates rarely need fear that disclosure of such practices will result in political penalties at the polls.**14 1 This is not necessarily regrettable public apathy. Rather, it may represent rational prioritization by the electorate. **If a voter favors one candidate's substantive issue positions, discomfort with his or her campaign finance practices alone may not (and perhaps should not) alter that preference**. 9 Once again, disclosure makes sense only if we assume that sunlight leads voters to respond in some fashion we deem appropriate. But **there are several subsidiary assumptions embedded in this one: voters must be able to learn something useful, and they must choose to act on it**.

## Theory/T

### Spec – Privacy

#### Privacy must be defined clearly and precisely; there is no agreed upon definition

Parent 83, William A Parent, philosopher @ Santa Clara, “A New Definition of Privacy for the Law” Law and Philosophy, Vol. 2, No. 3 (Dec., 1983), pp. 305-338 [Premier]

American **privacy jurisprudence is in conceptual shambles. Our courts have yet to defend a credible conception of privacy. Instead they continue to work with spurious and sometimes even irrecon- cilable definitions.**1 **Law journal articles on privacy have only managed to contribute to the general confusion by advancing analyses that are equally impoverished. The absence of a clear, precise, and persuasive definition of privacy is particularly shocking and inexcusable when we consider the large, significant workload that the judiciary has assigned to this concept over the past twenty years: landmark cases ranging from the right to use contraceptives to abortion and euthanasia have become integral privacy doctrine**.

### Spec/Plans Good

#### Lack of specific guidelines hurts first amendment rights specifically in the context of online speech.

Harding 15. Harding, Sarah. (Lawyer w/ degree from Loyola University of Law) “Balancing Disclosure and Privacy Interests in Campaign Finance” Loyola of Los Angeles Law Review, vol. 48, no. 3, pp. 651-702, 7/1/15, <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2934&context=llr> [Premier]

Because the Court has not defined how lower courts should analyze compelled disclosure in certain situations, lower courts run the risk of blindly favoring disclosure regardless of the circumstances.261 The lower courts may recognize that the Supreme Court’s holdings in Citizens United and Doe v. Reed favor disclosure and simply find in favor of disclosure so long as they can find any justification for it.262 Following Citizens United, lower courts have followed much of the Supreme Court’s reasoning when assessing disclosure regulations, overwhelmingly reaching decisions that favor disclosure.263 These courts have been following the very few guidelines and exceptions promoted by the Court.264 However, Doe and Citizens United still provide states and lower courts with “considerable leeway” to develop and interpret disclosure regulations as they wish; as a result, courts may find these regulations constitutional without giving any regard to the anonymity interest.265 The right to anonymity is facing challenges in other areas of the law, such as communication in cyberspace, which may signify that anonymity is vulnerable in campaign finance as well.266 The lack of guidelines for disclosure and privacy in the cyberspace arena and the potential effects of this deficiency on everyday citizens online is concerning because cyberspace and campaign finance disclosure laws are becoming intimately intertwined.267 Information about campaign contributions is already available online in searchable databases.268 If lawmakers and courts sometimes allow the anonymity right to go by the wayside without firm conditions for when this is appropriate, citizens may not be able to insulate themselves when exercising their right to free speech, or, in the case of cyberspace, when “serv[ing] some useful public purpose like whistle-blowing.” 269 The anonymity interest in the cyberspace law arena is in a state of uncertainty because citizens and courts are still trying to determine how First Amendment rights such as anonymity should be applied to cyberspace communications.270 There is a debate about whether use of anonymity online to facilitate frank discussion should prevail over the threat that this anonymity will allow some people to be rude to, defraud, or endanger others.271 This conflict about which First Amendment interests courts should protect demonstrates what can happen to the anonymity right in the absence of guidelines.272 Senator Jim Exon introduced a bill in the 104th Congress that would have prohibited anonymous messages online that intended to “annoy, abuse, threaten, or harass” the receiver.273 Forbidding anonymous messages would disclose the identity of the sender and promote accountability, which could benefit the receiver of the message; however, it could also threaten the sender’s anonymity right.274 In some cases, an online speaker might require anonymity to protect herself from retaliation or harm if her identity were revealed.275 However, courts and lawmakers have established few guidelines for how to balance disclosure and privacy in cyberspace.276 This means that these rights could be completely unprotected and could leave unsuspecting citizens without either the protection from retaliation or protection from harassment.277 In conclusion, without guidelines—on how to protect the First Amendment, how to define fundamental First Amendment rights that need protecting, and how to assess the extent to which these rights should be protected—these rights could be lost in the future of campaign finance disclosure.278

#### Lack of specific guidelines has economic and social costs.

Harding 15. Harding, Sarah. (Lawyer w/ degree from Loyola University of Law) “Balancing Disclosure and Privacy Interests in Campaign Finance” Loyola of Los Angeles Law Review, vol. 48, no. 3, pp. 651-702, 7/1/15, <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2934&context=llr> [Premier]

Additionally, without guidelines on how to interpret and protect certain rights, there will be an increase in litigation because lower courts will need to perform a case-by-case analysis.279 This will be both time-consuming and expensive.280 Parties will bring case after case before the lower courts because the Supreme Court’s holdings in Citizens United and Doe v. Reed were fact specific and did not provide guidance on how to further interpret the holdings beyond those facts.281 Each new case will, of course, present a fresh set of facts, and lower courts attempting to apply the Supreme Court’s numerous and fractured precedents in unique situations will struggle to piece together a coherent approach.282 The expense of this litigation is problematic because many of those wanting to bring cases will be individuals, not corporations with deep pockets.283 Additionally, this litigation has a high social cost because litigation can last for many years, and much of it will not be completed before the next election.284 In this area of the law, which needs clear interpretation, the Court chose not to provide needed guidelines.285 The Court will likely continue a tradition of protecting the disclosure interest in certain situations and protecting the anonymity interest in other situations, but the law should not be developing erratically.286 As one scholar asks, “[h]as the tide turned in favor of disclosure?” 287 Without a firm and clear framework, the tide could turn forever in favor of disclosure to the detriment of the anonymity interest.288

### T – Right to Privacy

#### The moral right to privacy has eight possible components

Corlett 02, J Angelo – philosophy prof @ SDSU – “The Nature and Value of the Moral Right to Privacy” Public Affairs Quarterly, Vol. 16, No. 4 (Oct., 2002), pp. 329-350 [Premier]

The right to privacy is a moral right to the extent that it, like other moral rights, is conferred on a moral agent by the balance of human reason. Or, as Joel Feinberg states, one has a moral right when one has a claim the recognition of which is called for by moral principles or by the principles of an enlightened conscience.14 **The moral right to privacy is, I argue, a valid moral interest and/or claim that a moral agent has to one or more of the following:15 [1] to be left alone to pursue her own projects16 as she sees fit;17 [2] to either the lack of disclosure or to selective disclosure of information about herself;18 [3] to the absence of publicity about her personal affairs or her person;19 [4] to exposure or access to her proper domain;20 [5] to respect for her personal autonomy;21 [6] to respect and on the value of love and friendship;22 [7] to protec- tion from unwarranted invasions of intimacy;23 [8] to control over information about herself**,24 **over access others have to herself, and to the expression of her self-identity or personhood**.25 The moral right to pri- vacy is a valid claim and/or interest26 in being free to do what one wants to do.27 When it accrues, **this right imposes a moral duty on others to not interfere with her life as she chooses to live it privately. This makes the moral right to privacy a negative right**. It is a right which, when re- spected, provides her with a protective perimeter around that part of her life she desires to keep from others. That is, the moral right to privacy includes the right she has to, say, self-monitoring. The importance of this right, on "control-based" accounts of privacy, is that it protects right holders from unauthorized intrusions and disclosures.28

#### The right entails not having undocumented personal information known by others

Parent 83, William A Parent, philosopher @ Santa Clara, “A New Definition of Privacy for the Law” Law and Philosophy, Vol. 2, No. 3 (Dec., 1983), pp. 305-338 [Premier]

**I propose that privacy be defined as the condition of not having undocumented personal information about oneself known by others**. To clarify this definition the notion of undocumented personal information must be explained. Very few legal scholars have attempted such an explication, but **it is of crucial importance if we are to present a conception of privacy that will lend itself to ready application by the courts**. Several accounts of personal information can be dismissed straightaway. To claim, for example, that whether a piece of infor- mation about A is personal depends entirely upon A's own attitude and sensitivity towards it cannot be reconciled with the incontrovertible fact that when a person willingly discloses intimate truths about himself, not caring how much of himself is known to others, he is indeed disclosing personal information about himself. Nor should we identify personal information with facts about a person that are no one else's business. After all, we do often and with warrant argue that investigative agencies charged with the responsibility of law enforcement are entitled to obtain personal information about citizens. Just because the infor- mation is someone else's business doesn't alter its sensitive and sometimes intimate nature. My suggestion is that personal information be understood to consist of facts about a person which most individuals in time do not want widely known about themselves. **They may not mind if a few close friends, relatives, or professional associates know these facts, but they would mind very much if the informa- tion passed beyond this limited circle of acquaintances**.3 In con- temporary America, facts about **a person's sexual habits, drinking habits, income, the state of** his **marriage, and** his **health belong to the class of personal information**. Ten years from now some of these facts may be a part of everyday conversation; if so their dis- closure would not diminish individual privacy.

#### Not all personal information is private – if it’s publicly documented, it belongs to the public domain

Parent 83, William A Parent, philosopher @ Santa Clara, “A New Definition of Privacy for the Law” Law and Philosophy, Vol. 2, No. 3 (Dec., 1983), pp. 305-338 [Premier]

**My definition of privacy excludes knowledge of documented personal information.** I do this for a simple reason. **Suppose that A is browsing through some old newspapers and happens to see B's name in a story about child prodigies who unaccountably fail to succeed as adults. B had become an obsessive gambler who com- mitted suicide. Should we accuse A of invading B's privacy? An affirmative answer needlessly blurs the distinction between the public and the private. What belongs to the public domain cannot without glaring paradox be called private** and consequently should not be incorporated within a viable conception of privacy.

### T – PACs

#### *[In response to an aff that focus on campaign contributions from groups like these]*

#### There’s no privacy tradeoff in the context of groups

McGeveran 03, William McGeveran, JD from NYU, clerked for Judge Lynch, “MRS. MCINTYRE'S CHECKBOOK: PRIVACY COSTS OF POLITICAL CONTRIBUTION DISCLOSURE” Journal of Constitutional Law, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1327&context=jcl> [Premier]

**Disclosure of a contribution made by a grou**p (such as a PAC, political party, or taxexempt organization) **to a candidate does not itself implicate the kinds of personal interest** described in Parts I.B-C-provided, of course, that the people who gave money to the group remain anonymous. See NAACP v. Alabama, 357 U.S. 449 (1958) (holding that the NAACP did not have to disclose membership lists); see also FEC v. Beaumont, 123 S. Ct. 2200, 2210 n.8 (2003) (finding restrictions on corporate contributions less troublesome under the First Amendment than restrictions on individual contributions because restrictions on corporations leave their individual members free to contribute on their own). Supreme Court **anonymity cases have been particularly concerned about individuals and vulnerable groups**. See Watchtower, 536 U.S. at 162-63 (emphasizing marginalization of plaintiff Jehovah's Witnesses); Trevor Potter, Buckley v. Valeo, Political Disclosure and the First Amendment, 33 AKRON L. REv. 71, 104 (1999) (noting "sympathetic" and small-scale plaintiffs who prevailed in McIntyre, American Constitutional Law Foundation, and Socialist Workers).

#### [He continues]

Many of the goals of disclosure, such as deterring corruption and providing information, can be advanced through other regulatory techniques without any sacrifice of data privacy at all. Public financing might be the most comprehensive approach. There are also contribution limits, independent advocacy restrictions, ballot access laws, and many more. Furthermore, **the disclosure of political activity by organizations does not implicate the problems** documented in Part I **because privacy is an individual interest**.2 46 Thus **there is no privacy-related objection to a requirement that the First National Bank or the NAACP reveal contributions and expenditures** 47 (unless they must also divulge the names of individuals who gave them money2 48 ). Under a regulatory framework, the number of non-disclosure options would grow even larger.249