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Solidarity with Chrystul Kizer: On Disparate Failures of Knowledge-Attribution and Survivors of Sexual Violence

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Abstract

I write in solidarity with Chrystul Kizer, a criminalized Black teen survivor of sexual violence in Wisconsin, to detail how her ongoing legal fight occurs in a tilted sociopolitical and epistemological landscape with weighted opponents. I offer a theory of disparate failures of knowledge-attribution for survivors of sexual violence, a structural epistemological problem that I call *constructed pragmatic encroachment* (CPE). CPE explains that pragmatic encroachment is a nonneutral knowledge-attribution problem whereby attributors are empowered to affirm or deny a subject’s knowledge-claim based on the subject’s constructed practical stakes. *Constructed practical stakes* here refers to the potential costs/consequences of acting on knowledge of some p for some subject, “S,” constructed by their practical environment. Examining CPE in Kizer’s self-defense case, I highlight why real-world pragmatic encroachment is exceptionally alarming for survivors of sexual violence, especially criminalized survivors. The epistemological problem is not merely whether people in powerful positions are frequently fallible, but the convergence of sociopolitical and epistemic *power to deny* what survivors know about our own experiences of violence, and *power to punish* survivors for acting on what we know.

I. Introducing Constructed Pragmatic Encroachment

Survivors of sexual violence are experts of their own experiences of violence. We know. Facing potential punishment from loved ones, friends, colleagues, and/or the state for affirming what we know we experienced and how we responded, we still know. However, in a world with interlocking power imbalances, survivors’ ability to act as experts or authorities of our own experience of sexual violence is often highly contested and policed. This differs for survivors across race, gender, sexuality, disability, citizenship status, criminalized history, and more. People in positions of power frequently challenge *survivors’ knowledge-claims* to violence (and/or pending danger) and *survivors’ actions* based on those claims of violence (and/or pending danger). Although some survivors may find friends, family, classmates, coworkers, or other people who affirm what we know about our own experience(s) of sexual violence, survivors must

still contend with challenges from powerful gatekeepers in our lives as we navigate next steps in the aftermath of violence.

The common denial of survivors' knowledge-claims to violence and/or danger are often couched in a challenge to a survivor's (or survivors') credibility and/or intent for disclosing about violence. At first glance, this problem may appear to be about strengthening a survivor's epistemic position, or an attributor's individual epistemic virtuosity to assess survivors as knowers, and/or dominant sociopolitical rape myths (see Fricker 2007; Medina 2013; Jenkins 2017). Survivors face several epistemic and hermeneutic barriers to knowledge-attribution at the level of faulty individual attributors and faulty interpretive lenses. However, I aim to examine a structure of knowledge-attribution itself to explore how and why various attributors are empowered to adjudicate survivors' testimonies and often demand (what is sometimes ever-more) corroboration for our testimonies.

Unfortunately, the United States criminal injustice system is an exemplar landscape to identify a tilted structure of knowledge-attribution for survivors of sexual violence.¹ Powerful people's ability to deny survivors' knowledge-claims to sexual violence combined with the ability to punish survivors for how we acted on our knowledge of violence is particularly consequential within the US criminal injustice system. In this article, I write in solidarity with Chrystul Kizer, a criminalized Black teen survivor of sexual violence in Wisconsin, to detail how her ongoing legal fight occurs in a tilted sociopolitical and epistemological landscape with weighted opponents. Kizer, like all survivors of ongoing violence, is an expert on her own experience of sexual violence, but her expertise is subject to significantly consequential debate in the courtroom. As third-person attributors in the criminal injustice system, attorneys and judges are empowered by the state to deny Kizer's knowledge-claims to violence and to challenge her acts of self-defense based on whether her knowledge-claims are actionable for her in Wisconsin. The Wisconsin prosecutor's case against Kizer, unfortunately, highlights a structural epistemological problem for survivors of sexual violence. The problem is not merely whether people in powerful positions are frequently fallible, but the convergence of sociopolitical and epistemic *power to deny* what survivors know about our own experiences of violence, and *power to punish* survivors for acting on what we know. This is a real-world case of a disparate failure of knowledge-attribution for a survivor of sexual violence.

I offer a theory of disparate failures of knowledge-attribution for survivors of sexual violence, a structural epistemological problem that I call *constructed pragmatic encroachment* (CPE). CPE explains that pragmatic encroachment is a nonneutral knowledge-attribution problem whereby attributors are empowered to affirm or deny a subject's knowledge-claim based on the subject's constructed practical stakes. *Constructed practical stakes* here refers to the potential costs/consequences of acting on knowledge of some *p* for some subject, "S," constructed by their practical environment. I use the modifier "constructed" to name that what is "at stake" for a subject is arranged by different sociopolitical features of the world, namely, the subject's situatedness and material circumstances, which constitute their practical environment.² Further, I argue that how pragmatic encroachment presents a problem for knowers in the world is not neutral and it is thoroughly constructed by world features. In short, CPE suggests that pragmatic concerns, an *extra-epistemic condition*, encroaches on knowledge-attribution for differently situated subjects. An *extra-epistemic condition* here means a condition on knowledge-attribution that is not related to a subject's epistemic position, one's position as it relates to their ability to accurately track the validity of some *p*, for example, belief formation, belief, evidence, and so on.

Important to note is that I theorize CPE to track the sociopolitical world arrangements that empower third-person attributors to adjudicate differently situated subjects' knowledge-claims on the basis of constructed practical stakes for differently situated knowers. This is necessary to shed light on Kizer's case, and other real-world cases of pragmatic encroachment, where third-person attributors deny what survivors of sexual violence know about their own experiences of violence. Third-person CPE is a materially consequential denial of marginalized survivors' own experiences of sexual violence.

II. The Unjust Case against Chrystul Kizer

In 2018, seventeen-year-old Chrystul Kizer, a Black teen girl, was brought before the Kenosha County Court in Wisconsin for allegedly killing a thirty-four-year-old white man, Randall Volar, whom she first met at the age of sixteen as a result of child sex-trafficking (Contrera 2019; Branigin 2020; Contrera 2020; Fortin 2020; Smith 2020).³ Kizer is also accused of arson and car theft (see State of Wisconsin vs. Chrystul D. Kizer and #FreeChrystul for more details). She was released from jail in 2020 on a \$400,000 bond (originally set at \$1 million) paid by the Chicago Community Bond Fund, which was made possible in part by an influx in community donations (Branigin 2020; Smith 2020). Kizer faces a life sentence if convicted. At the time, the court was tasked to decide if and how the Wisconsin sex-trafficking-victim laws should be applied to the case. In "Chrystul Kizer Released on Bond in Homicide Case," Deneen Smith reports:

The prosecution of Kizer is essentially on hold as the appellate court considers the affirmative defense issue. Wisconsin law shields sex trafficking victims from prosecution for offenses that are a "direct result" of trafficking. At the circuit court level, Wilk limited use of that defense in the case. Defense attorneys appealed his ruling. (Smith 2020)

Judge David Wilk ruled that the Wisconsin affirmative defense law is not available to Kizer (or other trafficking victims charged with violent crimes in future cases) stating, "a blanket affirmative defense to all acts leads to an absurd result" (Contrera 2019). However, Kizer testified that she acted in self-defense after Volar pinned her to the floor, saying, "I didn't intentionally try to do this" (Fortin 2020). She knew that she was in danger and acted on that knowledge.

The DA and defense, then, compete to convince the judge, who is the presiding attributor in the case, that their attribution or denial of Kizer's knowledge-claim in her testimonies to violence prove or disprove that Kizer's actions were the direct result of trafficking. They each contest Kizer's constructed practical stakes as either indicating that Kizer *knowingly acted with criminal intent* or Kizer *knowingly acted in self-defense* on the night in question. The competing assessments concern *how* the different attributors in the case are empowered to attribute or deny Kizer's knowledge-claim as a survivor in danger on the night in question based on her constructed practical stakes. As attorneys, the different third-person attributors have significant authority in this US legal power arrangement to determine: whether Kizer knew she was in danger and acted on that knowledge, what type of survivor (protected victim or unprotected criminal) Kizer is in relation to the law, what Kizer's case may set as a precedent for other survivors, and what are legally protected responses to sexual violence. They are

empowered to convince the judge that Kizer either *knowingly acted with criminal intent* and thus *should not* be protected by the Wisconsin affirmative defense law or *knowingly acted in self-defense* and thus *should* be protected by the Wisconsin affirmative defense law. The case is not solely about whether the attorneys and judge believe that Kizer is a survivor. It is about the legal, sociopolitical power of the attorneys and judge to attribute or deny Kizer's knowledge-claim as an accused survivor based on her ever-increasing practical stakes in this nonneutral world arrangement.

Unfortunately, this is a real-world case of constructed pragmatic encroachment, where the very high stakes for Kizer play a significant role in how her knowledge-claim to violence is assessed by third-person attributors. The third-person attributors in the case are arguing over whether Kizer's knowledge-claim is actionable for her in her specific context as a survivor in Wisconsin. CPE can explain how nonneutral world arrangements, constructed practical stakes, and knowledge-attribution converge in this unjust case.

III. CPE as a Methodological Departure from SPE

CPE is a departure from *standard pragmatic encroachment* (SPE), a theory that posits that pragmatic considerations for a subject, like features of a subject's practical environment or a subject's practical stakes, come to bear on whether a subject, "S," knows a true proposition, "p" (Fantl and McGrath 2009; Kim and McGrath 2019). SPE theorists argue that pragmatic encroachment is a problem that arises because we want to "put knowledge to work," such that the relationship between knowledge and pragmatics is thicker than previously considered by analytic epistemology (Fantl and McGrath 2009). Although CPE is inspired by SPE literatures, it is a methodologically different epistemological account of pragmatic encroachment. I make a sharp departure, in large part, because SPE is an exceptionally jarring account when extended to explain pragmatic encroachment in the lives of survivors, especially in Kizer's experience at the intersection of sexual violence and criminalization. Kizer is an expert of her own experiences of sexual violence and risk assessment in the face of ongoing danger. Her expertise (and other survivors' expertise) in third-person cases of pragmatic encroachment gets dismissed as such when explained using a theory of standard pragmatic encroachment (more on this in the second and third parts of section IV). Thus, I must first distinguish CPE from SPE as a *methodologically different epistemological account*.

CPE as a Knowledge-Attribution Account of Pragmatic Encroachment

CPE is a knowledge-attribution account of pragmatic encroachment, whereas SPE is a knowledge-possession account of pragmatic encroachment. In "Distinguishing Knowledge Possession and Knowledge Attribution: The Difference Metaphilosophy Makes," Kristie Dotson clarifies the differences between a knowledge-possession account and a knowledge-attribution account:

Simply put, Knowledge Possession (KP) inquiries aim to answer the question: "does some S know some p?" KP accounts concern, in most cases, considerations used to assign relatively high or low epistemic status. Epistemic status refers to positive or negative assessments of one's epistemic position. Knowledge Attribution (KA) inquiries, on the other hand, aim to assess "whether one would attribute

certain knowledge capacities to some S with respect to some p.” By knowledge capacity, I mean someone’s real, imagined or potential capacity to know some p or be epistemically competent with respect to some domain of inquiry in each knowledge context. Ultimately, I claim that the assumption that KP accounts can be used, without modification, as KA accounts runs the risk of distorting the knowledge capacities of relatively powerless knowers. It does this, in part, by not attending to the different demands for establishing actual world possibility for KP vs. KA accounts. (Dotson 2018, 476)

Notably, KP accounts and KA accounts differ significantly in their aims, construction, and possible extensions. KP accounts are ideal theories, which are not “susceptible to [empirical] proof,” nor are they about “*actual* circumstances of S knowing p” (477). KA accounts are “absolutely about the powers of discrimination between whether one knows (or can know) or does not know (or cannot know)” (477). KA accounts assess real-world knowledge-attribution using the resources of the theory itself to explain actual circumstances of knowing (478). In this way, a KA account can be assessed for how well it can track complex, interrelated features of real-world knowledge-attribution. A KA theorist can test their theory in this feedback loop between the theory of knowledge-attribution and actual practices of knowledge-attribution.

I introduce CPE as a KA account to explain that real-world knowledge-attribution includes constructed cases of pragmatic encroachment whereby third-person attributors are empowered to deny a subject’s knowledge-claim on the basis of the subject’s constructed practical stakes, an extra-epistemic condition that encroaches on knowledge-attribution. I will not suggest that this theory of pragmatic encroachment should be adjusted into a KP account to substantiate a normative relationship between knowledge and pragmatics. Rather, I argue that to suggest that pragmatic encroachment describes a normative relationship between knowledge and pragmatics is to endorse structural epistemic disparity. The disparity may be challenging to identify, however, given the KA/KP methodological difference between CPE and SPE, so I begin here.

As Dotson argues, KA accounts should attend to what she calls relational dependence of knowledge-attribution, which “refers to how deeply contingent KAs are on the relations between the attributor, knower, social/political milieu, material circumstances, and mechanisms of attribution” (478). Mechanisms of attribution are clarified as referring “to what features of the context an attributor might cite for triggers of a given attribution of knowledge, whether those triggers are real or imagined” (478). Although Dotson points to a significant error in Jason Stanley’s use of an unmodified KP account to assess real-world knowledge-attribution (Stanley 2015), her critique is also illuminating for the general SPE debate.

Pragmatic Encroachment is a Disparate Failure-of-Knowledge-Attribution Problem

Significantly, the SPE theorist’s signature move from a description of pragmatic encroachment as a neutral problem represented by how “ordinary speakers” use “know” to a normative KP account of pragmatic encroachment does not attend to the relational dependence of knowledge-attribution. SPE theorists, inspired by Keith DeRose’s hypothetical bank cases, neglect the relational dependence of knowledge-attribution in idealizing the general, hypothetical exemplar cases of “ordinary speakers”

to challenge traditional, invariantist KP accounts of knowledge (DeRose 1992). For instance, Stanley builds his challenge based on intuitions sparked by the hypothetical bank cases. John Hawthorne builds his challenge on hypothetical winning lottery ticket cases (Hawthorne 2004; Stanley 2005). And Jeremy Fantl and Matthew McGrath build their case from intuitions about a hypothetical Fox News story (Fantl and McGrath 2009). They explain pragmatic encroachment as a neutral, ordinary, and apolitical problem that occurs simply when subjects put knowledge to work in their lives. In abstracting away from the question “whether one would attribute certain knowledge capacities to some S with respect to some p” when S has high practical stakes, to a KP account that asks, “does some S know some p,” SPE theorists idealize an apolitical, power-neutral relationship between real-world attributors, subjects, and mechanisms of attribution. The “ordinary speaker’s intuition” about hypothetical exemplar cases is the springboard from which the transition to a normative theory of knowledge is based. SPE theorists ignore the real-world, relational dependence of knowledge-attribution in shifting away from a question of *whether a real-world attributor would attribute knowledge* to a particular subject in relation to their practical stakes to an idealized, normative account of *whether a subject should be ascribed knowledge* considering their practical stakes.

Hence, there is a direction-of-fit problem for SPE accounts. SPE theorists argue that traditional KP accounts cannot explain real-world KA cases of pragmatic encroachment, then idealize this presumably neutral epistemological problem into a KP account. They err both in arguing that traditional KP accounts do not fit real-world KA—they are not designed to—and in arguing that real-world KA is a KP problem. Thus, I am highlighting that SPE theorists mistake a failure-of-knowledge-attribution problem as a failure-to-know problem in their endeavor to substantiate pragmatic encroachment as a normative, KP account of knowledge. This happens because they build neutrality into their theories of real-world pragmatic encroachment in presuming that pragmatic encroachment organically materializes as a neutral epistemological problem in the world. By ignoring the contingent, nonneutral relations of real-world knowledge-attribution and idealizing the presumed neutral activity of real-world knowledge-attribution, SPE theorists use a skewed account of real-world pragmatic encroachment to posit a thicker relationship between knowledge and pragmatics than previously considered by nonpragmatist theories of knowledge, traditional invariantist KP accounts. In making this methodological error, SPE theorists mistake a *failure-of-knowledge-attribution problem* in real-world cases of pragmatic encroachment as an ideal model of the normative relationship between knowledge and pragmatics. This subtle error means that nonneutral denials of subjects’ knowledge claims on the basis of subjects’ constructed practical stakes are *idealized as subjects’ failures to know* in light of heightened practical stakes.

However, I introduce constructed CPE as a KA account of real-world failures-of-knowledge-attribution constructed by nonneutral world arrangements. More specifically, I claim that tracking real-world, third-person denials of subjects’ knowledge-claims requires parsing out “the relations between the attributor, knower, social/political milieu, material circumstances, and mechanisms of attribution” (Dotson 2018, 478). As a knowledge-attribution account of pragmatic encroachment that attends to the relational dependence of knowledge-attribution, CPE will highlight how nonneutral world arrangements disparately produce pragmatic encroachment as a failure-of-knowledge-attribution problem for marginalized knowers. This theory of pragmatic encroachment accounts for sociopolitical differences in how third-person attributors

are empowered to deny differently situated subjects' knowledge-claims and how differently situated subjects' practical stakes are constructed by nonneutral world arrangements.

I agree with SPE theorists that attributors do attribute knowledge and deny knowledge based on whether some proposition is actionable for some subject, but I maintain that this is constructed by nonneutral world arrangements that empower attributors to act as arbitrators of subjects' knowledge-claims. Notably, I suggest that insofar as third-person knowledge-attribution has real, material consequences that limit some subjects' ability to participate in some epistemic communities as knowers, CPE illuminates a serious problem. Subjects can have a strong epistemic position in relation to "p" such that they know, but a third-person attributor can deny this in light of pragmatic concerns. Hence, rather than arguing that sociopolitically marginalized people's knowledge-claims are particularly at risk of seemingly "coming and going" or being lost in nonneutral practical environments (as follows from SPE), I contend that there exists a disparate nonneutral epistemological problem whereby various third-person attributors have *power to deny* subjects' knowledge-possession in failing to attribute knowledge to a subject with high constructed practical stakes.⁴ This unequally impacts various subjects.

Differently situated subjects have different constructed practical stakes that encroach on attributions or denials of knowledge. Subjects with "more at stake" are expected to meet higher epistemic standards for knowledge-attribution of some proposition than those with "less at stake." This describes a structural relationship between knowledge-attribution and constructed practical stakes that *guarantees disparity* whereby the expectation or demand flows from the real-world function of knowledge-attribution—not an error on the part of an individual attributor. Subjects are expected to meet higher epistemic standards for knowledge-attribution than other subjects with less at stake given the very purpose of the role of knowledge-attributors to attribute or deny differently situated subjects' knowledge-claims on the basis of how constructed practical stakes constitute an extra-epistemic condition on knowledge. In this way, individual attributors do not simply make an error in often denying knowledge of subjects with higher stakes but are fulfilling the role of attributors as adjudicators of knowledge by assessing subjects' knowledge-claims with regard for subjects' constructed practical stakes in their practical environment. There is an inherent disparity, then, built into how attributors attribute and deny subjects' knowledge-claims that is the result of a structural relationship between knowledge-attribution and constructed practical stakes. By structural relationship between knowledge-attribution and constructed practical stakes, I mean an epistemological arrangement whereby there is a designated role for attributors of knowledge within an epistemic community to affirm or deny subjects' knowledge-claims with regard to subjects' constructed practical stakes.⁵ Thus, CPE is a methodologically different account of pragmatic encroachment that aims to illuminate a disparate structural problem that is both sociopolitical and epistemological.

IV. Returning to Chrystul

Pragmatic encroachment is a failure-of-knowledge-attribution problem that unequally impacts survivors of sexual violence as recognized experts on their own experiences (or knowers). There are real material consequences for survivors when third-person attributors are empowered to deny knowledge-claims of survivors of sexual violence

on the basis of survivors' constructed practical stakes. This is certainly evident in the Wisconsin case against Chrystul Kizer.

DA Graveley, the Defense, and High Stakes

First, consider the district attorney's argument that Kizer *knowingly acted with criminal intent* in the case. District Attorney Michael Graveley does not dispute that Volar committed felony sex crimes against Kizer and other teen and preteen Black girls. Graveley was involved in the ongoing police investigation of Volar, who was "arrested and charged with child enticement, second-degree sexual assault of a child, and using a computer to facilitate a child sex crime on Feb. 22, 2018" (Branigin 2020). The police also seized videotapes of some of Volar's assaults of Kizer and other girls prior to his death (Smith 2020). Hence, Graveley argues that Kizer committed a premeditated murder with the goal of car theft, thus the affirmative defense afforded to victims of sex trafficking does not apply in this case. He cites inconsistency in Kizer's testimonies to police and journalists as well as Kizer's text messages and social media posts about the incident. Further, he is quoted in *The New York Times* as saying, "permitting vigilante justice, which is the narrative from some seeking dismissal, is a highly subjective, slippery slope" (Fortin 2020). Graveley, then, argues that the judge should deny Kizer's knowledge of danger because Kizer was not at risk of experiencing additional danger on the night in question—as if Volar's likelihood to inflict violence was zero or negligible that night because Graveley can *later* postulate a possible motive for Kizer—and there is too much at stake for future applications of the affirmative defense law. He is able to construct an interpretation of Kizer's knowledge on the basis of the stakes of the case, which are ultimately not about Kizer's epistemic position or the credibility of her testimonies of violence. He assigns the weight (or, said otherwise, the burden) of her own stakes as an accused survivor and the stakes of an infinite number of hypothetical future accused survivors to argue both that Kizer is not the type of survivor whom the law is intended to protect and that Kizer's alleged actions are not legally protected by the affirmative defense law. The DA argues that Kizer's alleged actions are not protected by the affirmative defense law because they were not the direct result of violence, but of a "vigilante" premeditated intent. Thus, his argument is that Kizer knowingly acted with criminal intent on the night in question and the affirmative defense should not apply to her (nor to future accused survivors whom Kizer represents in this case).

Next, consider the defense attorneys' argument that Kizer *knowingly acted in self-defense* in the case. Defense Attorneys Carl Johnson, Jennifer Bias, and Larisa Benitez-Morgan counter the DA's argument that Kizer knowingly acted with criminal intent by arguing that Kizer acted in self-defense as a victim of sex trafficking and was a minor when she first met Volar. They argue that the affirmative defense should be available to Kizer for these reasons (Contrera 2019; Branigin 2020; Contrera 2020; Fortin 2020; Smith 2020). Benitez-Morgan is quoted in Anne Branigin's report for *The Root* as stating that "[Chrystul] was a child, and I think we need to keep sight of that" (Branigin 2020). The defense's argumentative strategy is to highlight Kizer's status as a minor victim in order to convince the judge that her stakes as a minor explain her knowledge of danger that forced her to act in self-defense on the night in question, so her alleged actions are the direct result of violence protected by the law. Although the DA's argument does not hinge on whether the judge should believe that Kizer is a child survivor—he concedes this point—the defense grounds their argument on Kizer's youth to argue that Kizer is the type of survivor whom the law is intended to

protect and thus the affirmative defense law should apply to her case. They are seeking to convince the judge that there is an unjust sociopolitical bias against Black youth such that adults tend to view Black children as adult-like or as older than they actually are. And there is an unjust sociopolitical bias against Black girls; specifically in this case, it is the adultification of Black girls that Monique Morris calls “age compression” in her book *Pushout: The Criminalization of Black Girls in Schools* (Morris 2016). Hence, the defense grounds their argumentative strategy in exposing adultification as a sociopolitical bias to argue that Kizer *knowingly acted in self-defense* as a child victim of violence.

The DA’s invention of criminal intent relies on the sociopolitical effectiveness of adultification to construct Kizer as an adultlike criminal based on “inconsistencies” in the testimonies of a *child survivor*, who must testify to police and other investigators who are gathering evidence to evaluate the extraordinary charges pressed against her. If he can convince the judge to view Kizer through adultification, then he can further convince the judge to disregard consideration for the extraordinary circumstances in which Kizer is expected to maintain consistent testimony. The DA does this to present Kizer as *not* the type of survivor whom the law was intended to protect, who are “real” child victims whose actions are legally protected by the affirmative defense, not so-called “vigilante” criminals. He is counting on the judge’s adherence to a protected victim/unprotected criminal dichotomy to strengthen his case by citing ever-increasing constructed practical stakes of his production of Kizer as a “vigilante” survivor.

Important to note is that the DA’s case against Kizer does not hinge merely on whether she is believed to be a child victim of sexual assault, but whether her knowledge-claim that “Volar’s continuous violence was dangerous to her” is legally actionable under Wisconsin anti-sex-trafficking laws. He denies that Kizer can use her knowledge-claim as a basis for action for her in this case to claim that her alleged action was the direct result of trafficking. In this way, the DA can concede the point that he believes that Kizer is a survivor of sexual violence while arguing that she is not the type of survivor whose actions, the alleged crimes and the produced motive for the alleged crimes, are those that the affirmative defense *should* protect. The DA’s argument against Kizer relies on how he can leverage constructed practical stakes of the case against Kizer to undermine her testimony of self-defense. The argument is at least a two-prong strategy that deploys both the epistemological failure-of-knowledge-attribution problem and the sociopolitical persuasiveness of adultification. The DA exercises his epistemic power to deny that Kizer’s knowledge-claim is actionable for her considering the extraordinary constructed practical stakes of the case—Kizer as an accused survivor and as a representation of an infinite number of future possible accused survivors. He leans on the ability to leverage an extra-epistemic condition on knowledge to argue that the stakes are too high to grant that Kizer really acted on knowledge of danger. Adultification, then, is an important staple for the DA’s invention of criminal intent to reframe Kizer’s actions from those of a survivor knowingly responding to danger to those of a nonvictim criminal knowingly acting with criminal intent.

The DA presents a case against Kizer to the judge that denies Kizer’s claim to know about her own experience of violence based on her constructed practical stakes in this legal context. The defense presents an anti-adultification, self-defense counterargument that hinges on convincing the judge that Kizer is a child victim who knowingly acted in self-defense, an affirmative defense for Kizer’s alleged actions within the scope of the shield laws. Their counterargument pushes back against adultification, but it does not address how and why the DA has expanded and heightened the constructed stakes

against Kizer to determine whether the affirmative defense is applicable. If the Wisconsin shield laws are designed to protect survivors who respond to sex trafficking with typically criminalizable acts, then why are hypothetical implications of other survivors who also fatally act in direct response to violence (self-defense) presented as a negative potential consequence of affirming Kizer's knowledge and self-defense? How does Kizer become responsible for weighing the potential consequences of her survival and that of an infinite number of possible potential others (whose experiences might also fall under the shield laws) in order to prove that she knowingly acted in self-defense? Because the DA is leveraging compounded constructed practical stakes against Kizer to contest her knowledge of her own experience of violence.

Volar's confirmed sexual violence as the core problem that sets everything in motion seemingly gets backgrounded, and constructed practical stakes are foregrounded as a problem for Kizer to overcome. A failure-of-knowledge-attribution problem is leveraged as a failure-to-know problem, introducing a *nonaccidental epistemic burden* for Kizer.⁶ A nonaccidental epistemic burden is a burden to strengthen one's epistemic position in relation to some "p" despite having an adequate (or better) epistemic position in relation to some "p." Kizer and her defense team have a skewed, uphill battle to wage to convince the judge that he should affirm Kizer's knowledge-claim given the heightened constructed practical stakes of the case against her. By undermining Kizer's ability to use her knowledge of Volar's ongoing violence as an actionable reason to defend herself, the DA requires that Kizer and her defense team produce more evidence and argumentation to support what Kizer already knows about her own experience of violence. Pragmatic encroachment as a failure-of-knowledge-attribution problem is a key prong of the district attorney's case to prosecute Kizer.

It's a Tilted Competition When Attributors Compete

The district attorney and defense team present competing arguments to deny or attribute Kizer's knowledge-claim based on different assessments of the constructed practical stakes for Kizer as a survivor of sexual violence under Wisconsin law. As key third-party attributors in a criminal case where the subject, Kizer, has extraordinarily high practical stakes, their roles as attributors whose arguments are used to adjudicate the case has significant, material consequences. A SPE account of pragmatic encroachment that posits that neutral world arrangements give rise to pragmatic encroachment is insufficient to explain why there are competing assessments, why the denial of Kizer's knowledge prevails, and the significant, material consequences of pragmatic encroachment in this case. I will use a summarizing schematic to clarify this point. Let S refer to Chrystul Kizer, p to "Randall Volar's violence put S in danger," c to Kizer's context, t to the time of the alleged murder, arson, and theft, and @ to a broad range of permissible actions. Thus, Kizer's contested testimony may be represented as:

Chrystul's Testimony (CT): I knew that p in c at t, therefore I acted on p in c at t.

Moreover, at least two pairs of arguments presented by the defense and DA either affirm or deny CT. The affirmation of CT is represented in Pair A:

- (1) S knows p in c at t, therefore S can use p as a reason to perform some @ in c at t.
- (2) There exists some permissible @ that are legally protected responses to knowledge of p.

The denial of CT is represented in the Pair B:

(1*) S does not know p in c at t, therefore S cannot use p as a reason to perform some @ in c at t.

(2*) There exists some impermissible @ that are not legally protected responses to knowledge of p.

The defense attorneys argue that given Kizer's stakes as a child victim of Volar's ongoing violence at the time in question, (1) and (2) apply. Pair A is an affirmation of CT that represents the defense's argument that Kizer knowingly acted in self-defense, thus her alleged actions are permissible as a direct result of trafficking and should be ruled as legally protected by an affirmative defense. In contrast, the DA argues that given Kizer's stakes as a "vigilante" survivor at the time in question and as a representative of an infinite number of possible future "vigilante" survivors, turning S into $S + S^{1 \dots \infty}$, (1*) and (2*) apply. Pair B is a denial of CT that represents the DA's argument to reject Kizer's knowledge-claim and to reject p as an actionable reason for Kizer coupled with an argument that Kizer's actions are not permissible actions that are the direct result of trafficking, thus not legally protected by an affirmative defense. The DA ultimately argues for prosecution of premeditated crimes based on his claim that Kizer knowingly acted with criminal intent, given (1*) and (2*). The pairs highlight that Kizer's practical stakes are in dispute for knowledge-attribution. Ultimately, the judge in the case weighed the arguments made in Pair A and Pair B and ruled that the affirmative defense is not available to Kizer given Pair B. While Kizer awaits an appeal decision, the world arrangements that construct her criminalization and the rejection of her testimonies of survival as an actionable defense are anything but neutral. How pragmatic encroachment shows up as an epistemological problem in this case does not extend from the so-called neutral activity (or function) of knowledge-attribution.

Thus, an SPE account of pragmatic encroachment based on a neutral world arrangement is ill-equipped to explain the disputed practical stakes in this case. Recall that SPE accounts posit that how knowledge-attribution happens is a socially and politically neutral arrangement in which attributors are generally accurately assessing the stakes of subjects' practical environments to attribute or deny knowledge. SPE theorists argue that pragmatic encroachment extends from the presumed socially and politically neutral human activity of "putting knowledge to work," or said otherwise, determining whether some p is actionable for some S in c at t. It is evident in Kizer's case, however, that the third-person attributors are nonneutrally designated epistemic powers to determine whether p is actionable for Kizer as a survivor of sexual violence. They are empowered to do so per their professional roles as state actors in a legal case and their sociopolitical roles as law enforcement. The evaluation of Kizer's testimony does not extend merely from a neutral activity of acting on knowledge, but rather from a criminal (in)justice system with state actors who are empowered to evaluate whether her testimony is actionable under a set of laws and within sociopolitical interpretations of permissible responses to sexual violence. The judge in the case acts as the presiding third-person attributor who denies CT, "I knew that p in c at t, therefore I acted on p in c at t," based on the constructed practical stakes for Kizer in this practical environment. He is a state-appointed, third-person attributor whose need for the information is to rule on whether her actions are criminalizable, a historically contingent, socially, and politically constructed concept. This third-person case of pragmatic encroachment

highlights that real-world pragmatic encroachment is constructed by nonneutral world arrangements.

SPE is a Seriously Jarring Approach to Real-World Pragmatic Encroachment

An account of pragmatic encroachment that holds that third-person pragmatic encroachment merely neutrally arises from the function of knowledge-attribution cannot robustly explain 1) why there are competing assessments of CT that hinge on how Kizer's survivorhood factors into the case, 2) which assessment of CT is accurately tracking Kizer's knowledge, and 3) why any given assessment of CT rises above another. Furthermore, an SPE account that maintains neutral world arrangements gives rise to third-person pragmatic encroachment but acknowledges that subjects from sociopolitically marginalized groups are most likely to have heightened practical stakes cannot robustly explain these questions. To illustrate this, consider the following analysis of Kizer's third-person case of pragmatic encroachment from an SPE framework.

Applying an SPE framework to pragmatic encroachment to Kizer's case, the epistemological problem arises from Kizer's need to use *p* in her decision calculus to decide how to respond to her encounter with Volar at *t*. The SPE theorist would stipulate that Kizer generally has the same epistemic position in relation to *p* as prior to *t*. This means if she knew *p* prior to *t*, then she knows *p* at *t* and if she did not know *p* prior to *t*, then, she does not know *p* at *t*. Any third-person attributor would consider her practical environment at *t* and prior to *t* to be extraordinarily demanding and assess that the practical stakes for knowledge are considerable. Kizer is in a high-stakes situation, so the standard for knowledge is exceptionally high. Given the extraordinary, heightened stakes, the SPE third-person attributor would assess that whether Kizer knows *p* such that it is actionable for her practical reasoning requires an extraordinary epistemic position in relation to *p*. SPE third-person attributors are most likely to suggest that Kizer did not know *p* and *p* is not actionable for her as they tend to deny knowledge in high-stakes cases. In this neutral-world-arrangements approach to pragmatic encroachment, an attributor can affirm that Kizer is a survivor of sexual violence, while denying that she knows *p* in *c* at *t*, like Pair B. Because knowledge-attribution is about what is actionable for Kizer in *c* at *t*, her survivorhood can be weighed as relevant only insofar as it explains her heightened practical stakes. On an SPE account, Kizer loses knowledge of her own experience of danger in *c* at *t* and her own experiences of sexual violence more broadly. The third-person attributor will deny CT.

The SPE approach, then, can predict the argument made by the DA and affirmed by the judge in the case. It also suggests that this argument is an accurate assessment of whether Kizer knows *p* in *c* at *t* given her practical stakes. This is a problem. SPE can acknowledge that some subjects are more likely to have high practical stakes than others and that pragmatic encroachment has particularly awful sociopolitical implications for those subjects, while maintaining that real-world pragmatic encroachment simply is an epistemological dilemma whereby the pragmatic encroaches on knowledge. They can say, "That's how knowledge works, no matter how tragic this is for some subjects. And third-person attributors in Kizer's case are merely assessing whether they can certify that *p* is actionable in the stakes-situations under consideration." Now, that is jarring. The SPE theorist suggests that the practical stakes are such that *one can fail to know about their own experiences*.

An SPE approach to Kizer's case can claim that this is an extraordinary third-person case of pragmatic encroachment in which neutral world arrangements are such that

Kizer fails to know about her own experiences. The SPE theorist can argue that the epistemological problem in the case is that Kizer's extraordinary practical stakes significantly encroach on her ability to know *p* in this practical environment. In this way, they can distinguish the fact that knowledge is the kind of thing that a subject can act on and the fact that there are extraordinary stakes. They can acknowledge that there are heightened practical stakes for marginalized subjects and maintain that the pragmatist condition on knowledge means marginalized subjects must meet high epistemic standards to know in a marginalizing practical environment. Neutral world arrangements give rise to pragmatic encroachment, even if nonneutral world arrangements unevenly distribute practical stakes, so marginalized subjects can fail to know in some practical environments. Thus, an SPE theorist can argue that the DA is accurately assessing the epistemology of Kizer's stakes-situation in argument Pair B, even if the stakes-situation is in a particularly awful marginalizing practical environment. There is a "neutral" epistemological problem: when stakes are high, putting knowledge to work is difficult in the case in which (1*) and (2*), therefore the epistemology of the case does not support the application of an affirmative defense. But this argument for a failure-to-know problem is available only because SPE theorists disregard the relational dependence of knowledge-attribution and how nonneutral world arrangements empower third-person attributors to deny a subject's knowledge-claim. As a KP account, an SPE approach to Kizer's case is methodologically flawed such that the approach will misidentify a failure-of-knowledge-attribution problem as a failure-to-know problem.

A CPE theory of pragmatic encroachment as a nonneutral epistemological problem is necessary to track the relations of power that empower the DA to attribute or deny Kizer's knowledge-claim and to use this epistemic authority to produce an alternative assessment of stakes based on his denial of Kizer's knowledge-claim. The DA is not a neutrally designated third party with a bird's-eye view of Kizer's knowledge-possession who merely passively attributes or denies knowledge according to the epistemology of the case. He is an attorney empowered by the state to wield significant epistemic authority over whether Kizer's knowledge-claim is actionable for her in this legal context. And as the DA in this case he exercises the power of the state's criminal justice system to press charges against Kizer based on his assessment of her constructed practical stakes. The DA is an active, nonneutrally designated third-person attributor whose ability to materially impact Kizer with his attribution or denial of her knowledge-claim initiates the extraordinary pragmatic encroachment in the case.⁷ The defense attorneys come in as additional third-person attributors to defend Kizer with a competing assessment of Kizer's constructed practical stakes because that is their designated role as state agents. The judge presides over this case of pragmatic encroachment to rule on how Kizer's constructed practical stakes encroach on what she knows. Although Kizer attributes knowledge to herself in this extraordinary practical environment, her epistemic authority over her own knowledge is trumped by the epistemic authority of these different third-person attributors. They wield the power of knowledge-attribution in this case of pragmatic encroachment. There is not a failure-to-know problem, but a failure-to-attribute-knowledge problem.

The judge and DA fail to attribute knowledge of danger to Kizer based on her practical stakes, which are constructed by the very practical environment that empowers them to do so. This is Pair B. Although they are arguably biased for their adultification of Kizer, their failure to attribute knowledge of danger to Kizer does not hinge on their individual bias as fallible attributors. The failure-of-knowledge-attribution problem is a

structural problem that flows from the real-world function of knowledge-attributors to certify that subjects' knowledge-claims are actionable. Their designated third-person knowledge-attribution roles wield epistemic power over Kizer's first-person knowledge-attribution within an epistemological system that relies on knowledge-verification via third-person attributors. The DA and judge can pose the question, "how can you be sure that Volar's alleged danger constitutes violence along the spectrum of sexual violence on the night in question; there is too much at stake in claiming that your alleged actions are the direct result of sex trafficking," because they are empowered to leverage a structural relationship between knowledge-attribution and constructed practical stakes built into the very function of legal knowledge-attribution.

Recall that Kizer's case is a contested argument on whether her knowledge of danger is actionable for her such that the Wisconsin affirmative defense should be available to legally protect her as a survivor of sexual violence. The DA and judge deny CT while acknowledging that Kizer is a survivor of sexual violence because the case is heavily influenced by how Kizer's contested constructed practical stakes in relation to what she knew on the night in question indicate whether the affirmative defense is applicable. This is the backgrounded move in SPE accounts of pragmatic encroachment that posit that neutral world arrangements give rise to pragmatic encroachment. As third-person attributors, the DA and judge can claim that the problem at issue in the case is merely a neutral epistemological problem compounded by unfortunate circumstances. They are empowered to effectively table the issue that Kizer is a youth survivor of sexual violence by backgrounding the relations of power that designates them as attributors of knowledge who do not have unmediated access to Kizer's actual knowledge-possession. The DA can then pursue the argument that Kizer *knowingly acted with criminal intent* as a "vigilante" survivor, who also represents an infinite number of possible future "vigilante" survivors. He builds this case for prosecution by arguing that social media posts are like unmediated access to what Kizer knew on the night in question. In this way, he produces a practical environment in which the stakes of the case are ever-increasingly skewed against Kizer who must now prove that she did know that she was in danger and acted on this knowledge.

Thus, Kizer and her attorneys and advocates are structurally forced to overcome a nonaccidental epistemic burden to prove that *she is* the kind of survivor whom the affirmative defense should protect because she did know *p*. A nonaccidental epistemic burden, again, is a burden to strengthen one's epistemic position in relation to some "p" despite having an adequate (or better) epistemic position in relation to some "p." The burden in Kizer's case is to increasingly find evidence, testimony, and argumentation that strengthens the claim that Kizer *knowingly acted in self-defense* as an ongoing survivor of sex trafficking. The failure of third-person knowledge-attribution and the subsequent nonaccidental epistemic burden in this case are constructed by nonneutral world arrangements that are problematically skewed to support Pair B over Pair A. Further, if the Wisconsin shield laws are the only or primary legal grounding that the defense can build their case on, then the case illustrates a larger problem for other similarly situated survivors like Kizer. Because if the law was not intended to protect survivors like Kizer and is not applicable to survivors like Kizer, then there is a whole group of survivors, likely disproportionately survivors of color, that district attorneys can leverage constructed practical stakes against to justify their criminalization. Constructed pragmatic encroachment, then, is a seriously concerning epistemological problem for survivors of sexual violence, more than may first appear.

V. When Failures of Knowledge-Attribution and the Power to Punish Collide

Standard pragmatic encroachment (SPE) theorists argue that pragmatic encroachment is a normative failure-to-know in demanding practical environments, but I argue that pragmatic encroachment is a failure-of-knowledge-attribution problem constructed by nonneutral world arrangements. Constructed pragmatic encroachment (CPE) is a knowledge-attribution (KA) account according to which third-person attributors are empowered to deny a subject’s knowledge-claim based on a subject’s constructed practical stakes. Looking at the underbelly of SPE’s argument that pragmatic encroachment arises as a neutral epistemological problem, I use CPE to explain that pragmatic encroachment is a disparate nonneutral epistemological problem in the world. *Figure 1* is a summary of the differences between SPE and CPE.

I strongly disagree with positing pragmatic encroachment as a normative relationship between knowledge and pragmatics, but my account differs from other criticisms of SPE that reject normative pragmatic encroachment by explaining real-world pragmatic encroachment as due merely to ascriber bias. The cognitive (or psychological) critiques argue that real-world attributor bias explains speakers’ tendency to deny knowledge-attribution in high-stakes practical environments. For instance, in “Contextualism, Subject-Sensitive Invariantism and Knowledge of Knowledge,” Timothy Williamson argues that psychological bias explains the pragmatic encroachment phenomenon as an attributor’s attention to the practical costs of error biases in their assessment in mistaking a mere “illusion of epistemic danger” (Williamson 2005, 226). In “Knowledge Ascriptions and the Psychological Consequences of Changing Stakes,” Jennifer Nagel critiques Williamson’s psychological bias challenge to propose that the denial of knowledge-attribution is the attributor’s egocentric bias, when the attributor’s stakes differ from those of the subject (Nagel 2010). Ultimately, the critiques aim to defend nonpragmatist theories of knowledge by providing alternate explanations for the intuitive groundwork SPE provides for pragmatic encroachment.

My aim, however, is to highlight that real-world pragmatic encroachment is a constructed, nonneutral epistemological phenomenon best explained by attending to relational dependence of knowledge-attribution. This means that my account expands beyond analysis of fallible individual attributors’ psychology or cognitive processing.

| | Standard Pragmatic Encroachment (SPE) | Constructed Practical Encroachment (CPE) |
|----------------------------|--|---|
| Type of account: | Knowledge-possession account | Knowledge-attribution account |
| Target of Analysis: | Subject | Attributor |
| Problem: | Failure to know | Failure of knowledge-attribution |
| World Arrangements: | Neutral | Nonneutral |

Figure 1. Differences between SPE and CPE

In framing real-world instances of pragmatic encroachment as “attributor bias,” cognitive critiques misidentify the *failures-of-knowledge-attribution problem* for pragmatic encroachment as existing solely at the level of individual attributor cognition. The misidentification follows from the methodological approach to SPE explained in section III. As critics are focused on negating SPE in favor of nonpragmatist KP accounts of knowledge, they cite psychological research as a counterexample to the intuitions-based KP accounts for pragmatic encroachment. An apolitical account of nondisaggregated data on representative attributors’ cognitive assessments of knowledge draws from a KP account of knowledge as a mental state (Williamson 2005), which is an ideal theory that does not attend to the complexities of nonideal, or real-world, knowledge-attribution. In this way, we agree that KP accounts of pragmatic encroachment are misguided, but we diverge in our approach to and explanation of real-world pragmatic encroachment.

Ultimately, I introduce CPE to describe nonneutral failures of knowledge-attribution as they unequally impact differently situated knowers, namely survivors of sexual violence. I use CPE to name a type of structural failure of knowledge-attribution for marginalized survivors of sexual violence, where disparate socio-epistemic power relations within an epistemological system empower inaccurate attributors to deny what survivors know about their own experiences of violence. Sadly, the unjust case against Kizer exemplifies this problem of real-world pragmatic encroachment. Kizer is a Black girl survivor who knew she faced ongoing danger and navigated extraordinary circumstances, but third-person attributors are empowered to deny her knowledge-claim *and* inject criminal intent into her acts of survival. In this way, the unfortunately common opening scenario, where powerful people in survivors’ lives deny and police survivors’ responses to sexual violence, is precisely about whether survivors’ knowledge-claims about their experiences of violence are actionable for them within an oppressive epistemological system. This means that pragmatic encroachment is especially consequential for criminalized survivors, overwhelmingly survivors of color and poor survivors in the US (Richie 2012; Thuma 2019; Kaba 2020).

Third-person attributors designated by US state adjudication processes seek to assess whether accused survivors knowingly acted to cause harm to determine whether and to what extent a survivor should be punished. Thus, the idea that the US criminal (in)justice system can facilitate a “fair” trial based on a “proper or good investigation” if only state actors had better epistemic practices, for example, viewed survivors as credible victims, is dubious. Instead, the epistemological barriers that criminalized survivors face as knowers involves nonaccidental epistemic burdens to prove that they acted on knowledge of their survivorhood. Or said otherwise, criminalized survivors are structurally set up at a steep disadvantage in the US criminal (in)justice system, when state adjudicators have sociopolitical and epistemic *power to deny* what survivors know about their own experiences of violence and *power to punish* survivors for acting on their knowledge of danger and survival. In the end, we should all be far more concerned and jarred by the uphill sociopolitical and epistemological fight that Chrystul Kizer and other survivors of sexual violence must fight. Solidarity isn’t about sympathy for survivors most violently oppressed by a state, but an empathetic commitment to recognize and resist the quicksand that pulls some down faster than the same quicksand that pulls us all down.⁸ Free Chrystul Kizer.⁹

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Retreat. Last, thank you Chrystul Kizer for fighting for yourself, though you shouldn't have to do so. I hope to add to the chorus of survivors who stand with you for your full freedom.

Notes

1 Thank you Angela Davis and Mariame Kaba for the term *criminal (in)justice system*, because it more accurately names the legal arm of the US settler state than the most used term, *criminal justice system* (Davis 2003; and Kaba 2020).

2 For a deep dive into situatedness and/or standpoint theory, see Code 1991; Harding 2004.

3 Jessica Contrera offers a correction for Volar's name (Contrera 2022). He is Randall Phillip Volar III, rather than simply "Randall Volar" as previously reported by most news outlets.

4 I borrow Stewart Cohen's critical description of standard pragmatic encroachment as knowledge seemingly "coming and going" here. It's an illustrative and succinct description, so I use it with credit to Cohen (Cohen 1999; 2019).

5 I am building an account that points at one way that colonial epistemologies function to disregard marginalized folks' knowledge. I am concerned that certain colonial epistemologies obscure structural epistemological problems as mere individual level problems, where problems flow from faulty (or mistaken) subjects and/or attributors, rather than as features of an oppressive epistemology. And though I know that some traditional philosophers may think that I am using "knowledge" incorrectly, I am not. I am contesting the "common sense-ness" of equivocating KP and KA in colonial epistemological accounts, particularly those turning on mechanisms of attribution that invisibilize mechanisms of attribution. Moreover, there is no version of pragmatic encroachment that is not thoroughly constructed by world features. This is not an account of "situated pragmatic encroachment" such that CPE is merely SPE adjusted for "situatedness." Hopefully, this is clear in the *drastic* methodological divergence here on KA accounts versus KP accounts. But this will become clearer in section IV.

6 I see nonaccidental epistemic burdens as the smoke of a larger epistemological fire, namely a type of burden-based *epistemic oppression*. Epistemic oppression refers to a persistent epistemic burden that hinders one's participation in knowledge-production. Epistemic burden here is an irregular requirement to meet one or more extra-epistemic conditions to exercise epistemic authority. An extra-epistemic condition is a condition on knowledge that is not related to a subject's epistemic position, one's position as it relates to their ability to accurately track the validity of some proposition (like belief, perception, belief-formation, evidence, and so on). Epistemic authority is the ability to use what one knows within a given community of knowers to participate in knowledge-production, especially to act as an expert on one's own experiences. I will expand on this type of epistemic oppression in future work, but I offer my working framework here to clarify how I am thinking of epistemic oppression that flows from CPE.

7 Please remember that CPE is not a theory about tracking bias, vicious attributors, a DA's or judge's lack of intersectional analysis, or the like. Or said otherwise, this is not about whether individual attributors are racist, sexist, vicious epistemic agents, and so on, though they may be. The DA and judge could both be Black women, instead of White men, and the problems of constructed pragmatic encroachment would remain.

8 I am inspired, here, by Tarana Burke's philosophy about "empowerment through empathy" that grounds Me Too International. Thank you, Tarana. Learn more about Burke and Me Too International, the organization beyond the hashtag: <https://metoomvmt.org/the-work/> and <https://metoomvmt.org/framework/>.

9 There were positive updates for Chrystul Kizer in 2022. In a 4-3 ruling, the court affirmed the use of an affirmative defense in Kizer's case (Contrera 2022; Free Chrystul Kizer at <https://www.facebook.com/freechrystul/>). This means that Kizer and her defense team can present evidence that her actions were indeed a direct result of trafficking. As the case continues with uncertainty on whether a jury will acquit on some or all charges, the Free Chrystul Kizer campaign and other supporters are demanding that the DA drop all charges against Chrystul. Sadly, this ongoing battle to prove what Kizer knows about her experiences of violence and self-defense is emblematic of extraordinary undue burdens on survivors. I suggest here that one category of burdens that becomes apparent in tracking CPE in the lives of survivors are nonaccidental epistemic burdens (see section IV). Although the 2022 ruling is a major win for Chrystul, the ongoing burden on her to keep defending herself, again and again, after surviving Volar's sexual abuse since she was sixteen years old, is unjust. Chrystul deserves freedom. It's beyond time to drop all charges. #FreeChrystul.

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