

Protecting Victim-Survivors

Oct. 27, 2016

Campus Community,

Last Friday, our Board of Trustees continued its conversation about our legal obligations under Title IX to protect the confidentiality and privacy of victim-survivors of sexual assault and interpersonal violence. A panel of national and University of Kentucky experts discussed with our Board in substantial detail how we handle these cases. These experts also described the “chilling effect” created when newspapers report details of assaults that lead to the identification of victim-survivors.

On Monday, we filed our legal brief outlining our unwavering commitment to protect the confidentiality and privacy of victim-survivors of sexual assault and interpersonal violence. This brief is part of litigation with the Office of the Attorney General of Kentucky and the Kentucky Kernel over a series of stories regarding allegations of sexual misconduct involving a former professor and students. You can read our brief in its entirety here: [http://uknow.uky.edu/sites/default/files/uk--brief_on_appeal--complete .pdf](http://uknow.uky.edu/sites/default/files/uk--brief_on_appeal--complete.pdf)

We believe strongly in our moral and ethical obligation to protect the privacy of victim-survivors. And we believe strongly the law mandates that we do so. The U.S. Constitution, federal Title IX law, the federal Violence Against Women Act, the decisions of federal appellate courts as well as the highest courts of two states, the federal Office for Civil Rights, and (until recently) the Attorney General of Kentucky all require us to protect the privacy rights of student victim-survivors of sexual assault.

The critical question is whether we are able to continue protecting the confidentiality and privacy of victim-survivors who courageously come forward to report details of their victimization. The protection of victim-survivor privacy requires more than the redaction of names. It requires the redaction of any information that might reasonably lead to the identification of victim-survivors as well as the intimate details of the sexual assault.

Experts from our Violence Intervention and Prevention (VIP) Center told our Board last week that clients and community members have shared their concerns about the news stories on this issue and how their confidentiality might be violated. This is true for victim-survivors who have sought assistance in previous years under the assurance of confidentiality as well as victim-survivors coming forward for the first time. Although privacy concerns are often raised by survivors, the frequency and intensity of concern expressed has drastically increased.

Our University has been cited as a national leader in providing training and support for victim-survivors. We were the first institution of our size nationally to create and implement a mandatory campus climate survey to more deeply examine these issues and we are acting on the data we have gathered. Our research shows that one in seven women on our campus will be the victim of sexual assault or violence this year. We know the vast majority of these students do not report and they often cite fear of losing privacy for hesitancy in coming forward or seeking assistance.

We know from the first two years of results from our campus-wide survey that, unfortunately, there has not yet been an appreciable decrease in the number of cases of victimization. But our VIP advocates shared with our Board that far fewer victim-survivors are coming forward this year

compared to last. In Fall 2015, the VIP Center had 59 clients between July and October. In the same period this year, the number dropped to 38. The decline in the number of clients at the VIP Center underscores the chilling impact that news reports are having on the willingness of victim-survivors to come forward.

Against that backdrop, we are asking the courts in Kentucky to re-affirm what courts across the country and the federal Office for Civil Rights have said is necessary for the protection of victim-survivors. It also has been the position of the Office of the Attorney General for the last 13 years, until this case, when there was a reversal of opinion.

I hope you will understand my strong desire to continue to communicate with you directly. A number of media outlets have had in their possession for several weeks the letters from two victim-survivors and a letter from a group of advocates for victim-survivors. But the media have chosen, in most cases, to not print them. The media also gave scant attention to the in-depth conversation at the Board meeting about the importance of confidentiality and the very real threat of a “chilling effect” from media publication of details of assault. We have heard much about the importance of open records laws. But the voices of victim-survivors and advocates who have spoken about their concerns that confidentiality and privacy are threatened through the media’s actions have not been highlighted by the media.

We respect the views of the Kentucky Kernel and the Attorney General. We simply believe they are wrong on this very important issue. We believe strongly that only the victim-survivor should have the ability to tell her or his story – and do so at a time and in a way they determine to be healthy and beneficial for their recovery and healing. No one else has that right – not the media and certainly not anyone who simply has the time to file an Open Records request.

It is our responsibility to respect those who have the courage to come forward by protecting their rights and supporting their healing processes. That privacy is fundamental to victim-survivors reaching out for help in a period of significant need. And it puts us in a position to provide them with all the resources we have to protect them and help them heal.

One of those resources available is the VIP Center, located in the lower level of Frazee Hall and available by phone at 859-257-2884. We encourage you to call or walk-in the Center if you have been impacted by violence.

Thank you for your interest in this issue and your commitment to being a community in which everyone can feel a sense of safety and belonging.

Eli Capilouto
President