

EPISTEMOLOGIES OF CRIMINALIZATION: TRACKING EPISTEMIC OPPRESSION IN THE
LIVES OF BLACK GIRL SURVIVORS

By

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ABSTRACT

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Working with Girls for Gender Equity, the ‘metoo’ movement, and the Firecracker Foundation, I learned from youth Black girl organizers and survivors and adult advocates and allies that the state primarily offers Black girl survivors ankle monitors and parole officers over healing resources and pathways to recovery. I came to suspect that there is a problematic intersection between criminalization, how Black girls are expected to respond to violence, and how the state determines what survivors know about their own experience(s) of violence. The problem is not merely whether people in powerful positions *believe* Black girl survivors, but the convergence of socio-political and epistemic *power to deny* what survivors know about their own experiences of violence and *power to punish* survivors for acting on “contested” knowledge. Criminalized Black girl survivors in the US navigate an oppressive landscape of violence that goes beyond state agents not believing Black girl survivors. This is the focus of this dissertation.

While criminalized Black girl survivors in the US face social and political disempowerment, they also face epistemological disempowerment through state-sanctioned non-accidental epistemic burdens. A non-accidental epistemic burden is a burden to strengthen one’s epistemic position in relation to some proposition, *p*, despite having an adequate (or better) epistemic position in relation to some *p*. As the US criminal injustice system requires survivors overcome state-sanctioned non-accidental epistemic burdens to claim self-defense, criminalized Black girl survivors are epistemically oppressed by a persistent and irregular epistemic burden to

prove what they know about their own experiences of sexual violence. I explicate this argument in five chapters.

In chapter one, I claim that pragmatic encroachment is a non-neutral knowledge attribution problem whereby attributors are empowered to affirm or deny a subject's knowledge claim on the basis of the subject's constructed practical stakes, or *constructed pragmatic encroachment (CPE)*. 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. In chapter two, I critique standard pragmatic encroachment as a methodologically flawed theory in order to illuminate real-world pragmatic encroachment as a disparate epistemological problem for survivors. In chapter three, I explain that a settler colonial obfuscation of Black girl survivorhood exists such that Black girl survivors navigate a criminalizing metaphysical and socio-epistemic quagmire. I claim that punitive attributors leverage a historical construction of Black girl survivors as "fast-tailed swindlers" to override self-defense as "knowing criminal intent." Next, I explicate an argument for third-person CPE as epistemic oppression in chapter four to bring home the main argument of this dissertation. Criminalized Black girl survivors face epistemic oppression in the US criminal injustice system in the form of state-sanctioned non-accidental epistemic burdens. This chapter extends the insights of chapter three to underscore that survivors are non-neutrally criminalized and burdened to overcome an insatiable criminal injustice system designed to maintain settler power, not healing or justice for survivors of sexual violence. I conclude with considerations for possible objections to the project and implications of the project. Ultimately, I aim to support radical Black feminist futures for survivors free from power struggles for belief, safety, and resources.

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This dissertation is dedicated to Gran'mo Adelaide B. Wade Haynes, my great-great grandmother, my guide, a Black Texan, and the first community organizer I learned about.
Thank you for keeping me.

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Introduction

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.

In a world with interlocking power imbalances, survivors' ability to act as experts or authorities of their own experiences 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 differently challenge survivors' knowledge claims and survivors' actions based on knowledge of violence and/or pending danger. Knowledge attribution, a process of some knowledge gatekeepers affirming or denying what others know, is a deeply political activity. As a first-year student at Spelman College, I first connected my survivorhood to larger systems of oppression during the annual Toni Cade Bambara scholars/writers/activists speak-out on sexual violence. A small group of mostly Black girl survivors took the microphone in front of the Camille Olivia Hanks Cosby, Ed.D. Academic Center to name our experiences of childhood sexual abuse and/or campus assault as an interconnected political, gendered-racial justice issue¹. We affirmed the feminist saying, "the personal is political," refused silence for the sake of racial solidarity, and rejected "the assumed

¹ Although we did not know or connect Bill Cosby's sexual violence to our event in Spring 2012, the speak-out in front of the building named for his wife is notable. I hope Camille Cosby and all of the survivors are well and safe. For details about Bill Cosby, sexual violence, and severed ties to Spelman College, check out <https://www.nytimes.com/2015/07/27/arts/spelman-college-terminates-professorship-endowed-by-bill-cosby.html>

race and class neutrality of gender violence” (Betsch Cole & Guy-Sheftall 2003; Richie 2012).

As a young labor organizer and budding anti-violence activist, I began a political and intellectual quest to understand how sexual violence is a composite of various power structures by learning from Black girl survivors in the United States. I seek to map landscapes that undermine survivors as experts of their own experiences as both a social and political problem and an epistemological problem of *power*.

Black girl survivors of childhood sexual abuse in the US are an important group to study to understand sexual violence as a convergence of disempowering systems of oppression. Aishah Shahidah Simmons, an award-winning Black feminist cultural creator and long-time survivor-activist, wrote a powerful introduction to her anthology, *Love with Accountability: Digging Up the Roots of Child Sexual Abuse* (2019), that highlights the importance of child sexual abuse to the larger fight against sexual violence. She writes, “For too many victim-survivors of adult rape, child sexual abuse is a precursor. Ending sexual violence starts with ending child sexual abuse, and ending child sexual abuse starts in the family, in religious institutions, schools, and other spaces in communities” (pp. 17). Understanding sexual violence as extraordinary abuses of power by some individual(s) over vulnerable people within close proximity, the fight to end sexual violence is strengthened by examinations of marginalized survivors afforded limited power in society, children, especially Black girl children. Black girl survivors are, unfortunately, uniquely positioned to illuminate a landscape in which powerful people can challenge and/or deny survivors’ knowledge claims to sexual violence (Saar et. al 2016; Wright 2016; Huntchinson 2019). In the US, Black girl survivors navigate a socio-political landscape of disempowerment informed by the legacy of institutionalized plantation slavery, the rise of what

Beth Richie (2012) calls “the prison nation,” and the intersection of anti-black racism and cisheteropatriarchy manifest as pervasive sexual violence. There is an awful interplay between violence in interpersonal relationships and violence organized by the state in the lives of Black girl survivors, specifically criminalized Black girl survivors.

The story of Joan Little in North Carolina highlights the interplay between interpersonal violence and state-sanctioned violence. While imprisoned in Beaufort County, Little defended herself against Clarence Alligood, a jailer who sexually assaulted her (Davis 1975; Thuma 2019). As Angela Davis analyzes in “Joan Little: The Dialectics of Rape” (1975), Little’s compounded criminalization spotlights public disregard for the rape of Black women, the limits of race-neutral accounts of sexual violence, and the role of the state in organizing violence against women. Joan Little was charged with first-degree murder, extraordinary disregard for her vulnerability as an incarcerated Black woman subjected to Alligood’s power as a white male and state agent. Prosecutor William Griffin maintained that Little “lured” Alligood to her cell to escape, an anti-Black womankind rape myth intended to recast Black survivors as seductresses and swindlers of men, rather than victims of male violence and anti-Black racism (King 1975; Thuma 2019).

Although Little was the first woman to be acquitted for murder for self-defense against sexual assault, the state continues to criminalize survivors for their acts of resistance as non-victim “criminals.” As the abolitionist group *Survived and Punished* explain in their “Analysis & Vision” section on their website:

In the face of epidemic rates of domestic and sexual violence, anti-violence advocates have partnered with police and district attorneys to try to find protection

for survivors, and to institutionalize gender violence as a “crime.” However, this pro-criminalization approach to addressing violence has created a racial divide between “good victims” and non-victim “criminals.” A “good victim” is one who readily accesses and cooperates with the criminal legal system in order to prosecute and incarcerate their batterer or rapist. But when a survivor of sexual or domestic violence is only supported when seen as a “victim of crime,” survivors who are already criminalized are not recognized as people in need of support and advocacy. Survivors are criminalized for being Black, undocumented, poor, transgender, queer, disabled, women or girls of color, in the sex industry, or for having a past “criminal record.” Their experience of violence is diminished, distorted, or disappeared, and they are instead simply seen as criminals who should be punished (2016).

A classed and racialized dichotomy of victimhood centered on a crime framework of sexual violence exists such that whole groups of survivors are dismissed *as survivors*. State agents (often alongside mainstream media journalists) frame criminalized survivors as non-victim “criminals” to dismiss their experiences of sexual violence, acts of self-defense, and right to pathways to healing. Thus, criminalized Black girl survivors in the US, at the cross-section of childhood sexual abuse and criminalization, can lead the way to expose sexual violence as structural violence rooted in disempowerment and punishment.

With the popularization of the slogan “believe survivors” as a socio-political demand to counter pervasive denials of many survivors’ knowledge claims to sexual violence in the US, there are on-going movements to address social and political barriers for survivors. Anti-violence advocates demand that people in power (e.g., principals, religious leaders, politicians) believe

survivors because we need powerful people to grant access to resources for survivors (like shelter, unemployment benefits or paid time off work, school leave, etc.), to change policies and laws that compound violence in institutions, and to normalize addressing the harms of sexual violence. In short, we need them to do things with their power that improve the social and material conditions of survivors. These issues may appear to be primarily social and political, but the charge to “believe survivors” is also an epistemic demand for people to engage survivors as knowers, as experts of their own experiences of sexual violence.

Working with Girls for Gender Equity, the ‘metoo’ movement, and the Firecracker Foundation, all incredible anti-violence organizations led by adult Black girl survivors, during my graduate studies informs this project to map sexual violence, power, and knowledge attribution. I learned from youth Black girl organizers and survivors and adult advocates and allies that the state primarily offers Black girl survivors ankle monitors and parole officers over healing resources and pathways to recovery. Hence, I came to suspect that there is a problematic intersection between criminalization, how Black girls are expected to respond to violence, and how the state determines what survivors know about their own experience(s) of violence. The problem is not merely whether people in powerful positions believe Black girl survivors, but the convergence of socio-political and epistemic *power to deny* what survivors know about their own experiences of violence and *power to punish* survivors for acting on “contested” knowledge. Criminalized Black girl survivors in the US navigate an oppressive landscape of violence that goes beyond state agents not believing Black girl survivors. This is the focus of this dissertation, *Epistemologies of Criminalization: Tracking Epistemic Oppression in the Lives of Black Girl Survivors*.

While criminalized Black girl survivors in the US face social and political disempowerment, they also face epistemological disempowerment through state-sanctioned non-accidental epistemic burdens. A non-accidental epistemic burden is a burden to strengthen one's epistemic position in relation to some proposition, *p*, despite having an adequate (or better) epistemic position in relation to some *p*. As the US criminal injustice system requires survivors overcome state-sanctioned non-accidental epistemic burdens to claim self-defense, criminalized Black girl survivors are epistemically oppressed by a persistent and irregular epistemic burden to prove what they know about their own experiences of sexual violence. I explicate this argument in five chapters. First, I turn to pragmatic encroachment literature to examine a structure of knowledge attribution that empowers third-person attributors to adjudicate survivors' testimonies and often demand (what is sometimes ever-more) corroboration for our testimonies.

Pragmatic encroachment is 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 knows a true proposition, '*p*' (Kim & McGrath, 2019; Fantl & McGrath, 2009). I will refer to this as standard pragmatic encroachment (SPE). SPE theorists point out 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 & McGrath, 2009). In chapter one, I claim that pragmatic encroachment is a non-neutral knowledge attribution problem whereby attributors are empowered to affirm or deny a subject's knowledge claim on the basis of the subject's constructed practical stakes, or *constructed pragmatic encroachment (CPE)*. 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 socio-political features of the world, namely, the subject’s situatedness and material circumstances, which constitute their practical environment. Chapter one introduces CPE as a departure from SPE to spotlight a failure-of-knowledge-attribution-problem for survivors.

In chapter two, I critique SPE as a methodologically flawed theory in order to illuminate real-world pragmatic encroachment as a disparate epistemological problem for survivors. I turn to the unjust criminal case against Chrystul Kizer, a criminalized Black teen survivor in Wisconsin facing multiple felony charges for knowingly acting in self-defense in the midst of on-going violence. This chapter introduces third-person cases of constructed pragmatic encroachment as a failure-of-knowledge-attribution-problem that gives rise to non-accidental epistemic burdens. Third-person attributors are empowered to deny criminalized Black girl survivors’ knowledge claims to violence and challenge their self-defense based on whether survivors’ knowledge claims are actionable for them. In other words, it is not the case that survivors cannot know they are in danger when the stakes are especially high, as SPE would suggest, but rather third-person attributors are more likely to deny that survivors know when the stakes are especially high. Detailing CPE as key to the district attorney’s case against Kizer, this chapter importantly clarifies that third-person CPE is a materially consequential denial of marginalized knowers/survivors’ own experiences of sexual violence. I further situate CPE as a non-neutral epistemological problem by explaining that constructions of “knowing subjects” play an important role in Black girl survivors’ experiences of pragmatic encroachment in chapter three.

In chapter three, I explain that a settler colonial obfuscation of Black girl survivorhood exists such that Black girl survivors navigate a criminalizing metaphysical and socio-epistemic quagmire. A *settler colonial obfuscation of survivorhood*, here, refers to a historical, replicating formation of settler colonialism that elusively constructs survivorhood so that it is difficult to accurately categorize actual survivors as subjects belonging to the category ‘Survivors.’ Further, a *criminalizing metaphysical and socio-epistemic quagmire* is a very, very bad punitive situation whereby people (here, Black girls in the US) are metaphysically constructed and socio-epistemically assessed outside of legible, hegemonic survivorhood when they experience violence. This quagmire involves both *constructed subjects*, categories of potential and actual knowers constructed by contingent geo-political formations and *socio-epistemic assessments*, third-person determinations of who some subject is as a potential knower of some p or broad p-relevant inquiry. I claim that punitive attributors leverage a historical construction of Black girl survivors as “fast-tailed swindlers” to override self-defense as “knowing criminal intent.” The controlling image of Black girl survivors as “fast-tail swindlers” is a hegemonic construction of Black girls as insatiable, hypersexual beings who con or use adults via sexual favors. punitive, third-person knowledge attributors do not *just neutrally tend to* deny survivors’ claims to self-defense when the practical stakes are high and pursue criminalization. There are historical, non-neutral structures that grant them *power* to do so.

When third-person attributors deny what survivors know with regard for their constructed practical stakes and require additional labor to prove what they know, they introduce a non-accidental epistemic burden for survivors. This is epistemic oppression based on persistent and irregular epistemic burdens for differently situated survivors with varying constructed practical

stakes. I explicate this argument for third-person CPE as epistemic oppression in chapter four to bring home the main argument of this dissertation. Criminalized Black girl survivors face epistemic oppression in the US criminal injustice system in the form of state-sanctioned non-accidental epistemic burdens. This chapter extends the insights of chapter three to underscore that survivors are non-neutrally criminalized and burdened to overcome an insatiable criminal injustice system designed to maintain settler power, not healing or justice for survivors of sexual violence. I conclude with considerations for possible objections to the project and implications of the project. Ultimately, I aim to support radical Black feminist futures for survivors free from power struggles for belief, safety, and resources.

1 – Introducing Constructed Pragmatic Encroachment

Introduction

For many survivors of sexual violence, we intimately know some version of the question, “Are you sure it was rape (or sexual harassment or another experience along the spectrum of sexual violence); there’s too much at stake to be wrong about your experience.” This question is often followed by additional questions and requests for more evidence to substantiate our testimony to violence. And there are a variety of outcomes from this line of questioning that end with a survivor’s knowledge being affirmed, negated, or something in between. The common denial of survivors’ knowledge is often couched in a challenge to a survivor’s (or survivors’) credibility and/or intent for disclosing about violence, which at first glance may appear to be about strengthening a survivor’s epistemic position, or an attributor’s individual epistemic virtuousness to assess survivors as knowers, and/or dominant socio-political rape myths (see Fricker, 2007; Medina, 2013; Jenkins, 2017; Alcoff, 2018). Survivors face a number of epistemic and hermeneutic barriers to knowledge attribution at the level of faulty individual attributors and faulty interpretative lens. Though, 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. And I contend that pragmatic encroachment literature is a helpful place to begin.

Broadly, pragmatic encroachment is 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 knows a true proposition, ‘p’ (Kim & McGrath, 2019; Fantl & McGrath, 2009). I will refer to this as standard pragmatic encroachment (SPE). SPE theorists point out 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 & McGrath, 2009). They argue that epistemic norms of action or practical reasoning are at issue in cases of pragmatic encroachment. I find the idea that real-world attributors evaluate whether a subject has knowledge in regard to whether it is actionable for a subject to be compelling. It is compelling as a theory that may explain the relationship between knowledge and practical stakes embedded in questions posed to survivors of sexual violence, like “are you sure it was rape” and “how do you know.” In other words, I propose that tracking pragmatic encroachment in the lives of survivors of sexual violence is one helpful way to examine how knowledge attribution works. However, SPE theories misrepresent pragmatic encroachment as a normative, socio-politically neutral failure-to-know-problem. And I contend that how pragmatic encroachment presents a problem for knowers in the world is not neutral and it is thoroughly constructed by world features. I will refer to this as constructed pragmatic encroachment.

Constructed pragmatic encroachment (CPE) is a knowledge attribution account of disparate pragmatic encroachment according to which real-world attributors attribute or deny knowledge to a subject based on the subject’s constructed practical stakes in relation to some proposition, ‘p,’ and/or some broader p-relevant inquiry. 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 socio-political features of the world, namely, the subject’s situatedness and material circumstances, which constitute their practical

environment.² In other words, CPE is a theory that 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, etc.

Importantly, 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

² For a deep dive into situatedness and/or standpoint theory, check out Lorraine Code's (1991) *What Can She Know? Feminist Theory and the Construction of Knowledge* and Sandra Harding's (2004) edited book, *The Feminist Standpoint Reader: Intellectual and Political Controversies*.

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. And I call a requirement for subjects with high stakes to meet higher epistemic standards for knowledge attribution a *non-accidental epistemic burden*.

I use *non-accidental epistemic burden* to refer to a burden to strengthen one's epistemic position in relation to some 'p' (by acquiring more evidence, for example) despite having an adequate (or better) epistemic position in relation to some 'p.' It is non-accidental because it is a burden that is built into the structure of knowledge attribution, rather than an accident of a fallible attributor or faulty epistemic resources for knowledge attribution. Thus, CPE's non-accidental epistemic burden on knowers is a form of epistemic oppression, where knowers face persistent and irregular epistemic burdens that hinder their participation in knowledge production. With CPE, I aim to demonstrate that a non-accidental epistemic burden on knowers is a form of epistemic oppression. I detail this problem in chapter four.

In this chapter, I claim that real-world pragmatic encroachment is a non-neutral knowledge attribution problem whereby attributors in third-person cases are empowered to deny a subject's knowledge claim on the basis of a subject's constructed practical stakes. The argument unfolds in three sections. I overview three foundational theories for standard pragmatic encroachment (SPE). Next, I challenge the SPE "ordinary speakers" intuition to problematize pragmatic encroachment as a neutral phenomenon. Finally, I argue that pragmatic encroachment is a failure-of-knowledge-attribution-problem rather than a failure-to-know-problem.

An overview of standard pragmatic encroachment (SPE)

As the theory of constructed pragmatic encroachment (CPE) reimagines pragmatic encroachment as developed by standard pragmatic encroachment (SPE) theorists, I begin with an overview of SPE. SPE theories articulate a *failure-to-know-problem* whereby pragmatic considerations encroach on whether a subject knows some proposition. Standard accounts of pragmatic encroachment entail that subjects *lose* knowledge when their practical stakes are high enough that acting on what they “know” comes into question. To illustrate this, consider a truncated version of Keith DeRose’s (1992) bank cases:

Bank Case A: During their Friday night drive home, Keith and his wife consider visiting the bank to deposit their paychecks, when they notice very long lines. Keith suggests that they forgo depositing the paychecks tonight, given the long lines, and to return Saturday morning to deposit their paychecks. His wife worries that the bank will not be open on Saturday morning, but Keith assures her, ‘No, I know it’ll be open. I was just there two weeks ago on Saturday. It’s open until noon.’

Bank Case B: The couple are driving up to the busy bank on Friday to deposit their paychecks, as in Case A, and again, Keith suggests returning on Saturday morning. In this case, we have the added detail that the couple recently wrote a large check that will bounce if they do not deposit their checks before Monday. Though as confident as he was before when his wife asks if he knows that the bank will be open on Saturday, Keith concedes, ‘Well, no. I’d better go in and make sure’.

The bank cases are exemplar of pragmatic encroachment because they illustrate two contexts with differing practical stakes, in which the speaker, Keith, denies that he knows that the bank will be open, despite no change in his evidence or general epistemic position. When his future

financial stability is questioned in Case B, the practical stakes for knowing that the bank will be open on Saturday are higher. But if his evidence and epistemic position in Case A are the same as in Case B, then either (1) he speaks falsely in Case B as his evidence and epistemic position are such that he does know that the bank will be open or (2) he speaks truthfully in Case B, but falsely in Case A, because his evidence and epistemic position are not such that he knows that the bank will be open. This puzzle highlights a possible scenario in which knowledge and pragmatics are intertwined such that traditional invariantist knowledge possession accounts are challenged to explain why a subject would deny what they previously, confidently asserted. SPE theorists take up the task of explaining the relationship between knowledge and pragmatics in the bank cases (and other similarly puzzling cases).

Utilizing an invariant view of knowledge, or the view that knowledge standards in different contexts are unchanging, SPE theorists argue that the practical stakes (or pragmatic demands) of a subject's practical environment constitute an additional extra-epistemic condition on knowledge (Hawthorne, 2004; Stanley, 2005; Fantl & McGrath, 2009). There are arguably three foundational books for SPE that argue for a pragmatist condition on knowledge to explain the odd knowledge problem that the bank cases illustrate. John Hawthorne's (2004) *Knowledge and Lotteries* and Jason Stanley's (2005) *Knowledge and Practical Interests* argue for a pragmatic condition according to which it is appropriate to use p as a premise in practical reasoning. And Jeremy Fantl and Matthew McGrath (2009) argue for a pragmatic condition on knowledge according to which what one knows is warranted enough to justify action and belief in *Knowledge in an Uncertain World*. In the bank cases, Keith finds himself in a precarious situation in Case B, precisely because his practical environment requires that he knows that the bank is open on Saturday morning to avoid financial trouble. Pragmatic encroachment, then, is

best understood as a problem in which the epistemic norms of action or practical reasoning encroach on knowledge for SPE theorists.

As Stewart Cohen (2019) highlights in “Pragmatic Encroachment and Having Reasons,” SPE is a particularly jarring problem, if true, because it means that “one’s knowledge can come and go as one’s practical situation changes” (p. 101). While attributor contextualism and subject-sensitive invariantism (SSI) differ on whether it’s shifting contextual epistemic standards or it’s epistemic norms of action that better explain the pragmatic encroachment puzzle, both positions ultimately suggest that subjects can lose knowledge when the stakes are high. On contextualist accounts of the bank cases, Keith loses knowledge in Case B because his epistemic position is not strong enough to meet the knowledge standards of the new high-stakes context. And on invariantist accounts of the bank cases, Keith’s knowledge that the bank is open, only counts as knowledge, if it is actionable or consistent with practical reasoning. Knowledge, then, is presented as incredibly unstable, simply “coming and going” to use Cohen’s (2019) phrasing. I summarize this problem by calling it the *failure-to-know-problem* for SPE.

Moreover, SPE theorists contend that pragmatic encroachment exists as an epistemic dilemma because of the very function of knowledge attribution. Knowledge attribution functions as an epistemic gatekeeping mechanism to affirm or deny that what one knows is actionable for them. As Jeremy Fantl and Matthew McGrath (2009) explain

“...arguably part of the point of knowledge-attribution is ‘epistemic gatekeeping,’ to use David Henderson’s (2009) term. In attributing knowledge to a person, we are certifying that her epistemic position is good enough to be a basis for action and belief in *all* the stakes-situations under consideration. Which stakes-situations are

under consideration is typically determined by which people or communities might have a need for the relevant information” (p. 56).

Hence, the ‘epistemic gatekeeping’ function of knowledge attribution is about co-signing or denying that what a subject knows is something they can act on. And if there are high stakes-situations in which an attributor cannot certify that the subject’s epistemic position can ground the subject’s actions, like in Case B, then a failure-to-know-problem exists. In first-person cases, where the subject and the attributor are the same person, one may deny that they know some p in light of their demanding stakes-situation. And in third-person cases, where an attributor is a third-party weighing in on a subject’s stakes-situation, an attributor may deny that the subject in question knows some proposition in light of the subject’s stakes-situation. And although I find this function of knowledge attribution argument compelling to explain the mere existence of pragmatic encroachment, I disagree with the assumed neutral construction of “which stakes-situations are under consideration” and by whom.

A challenge to the “ordinary speakers” intuition

SPE accounts are normative theories of knowledge built on intuitions about whether an “ordinary speaker” would attribute knowledge to some subject in a hypothetical test case, like DeRose’s (1992) bank cases. Importantly, DeRose (1992) inspires the SPE debates in analyzing the semantic value of the word ‘know,’ and its extension, by an “ordinary speaker,” a “linguistic turn” in analytic epistemology on knowledge-ascriptions (Brown & Gerken, 2012). In *The Case for Contextualism*, DeRose (2009) clarifies that “the best grounds for accepting contextualism come from how knowledge-attributing (and knowledge-denying) sentences are used in ordinary,

non-philosophical talk” (p. 47). He argues that contextualism is best supported by an ordinary language account of how everyday people use “know” because it captures

“[how] speakers in some contexts do (in fact, with propriety, and with apparent truth) seriously describe subjects as ‘knowing’ propositions when those subjects meet certain moderate epistemic standards with respect to the propositions in question” (DeRose, 2009, p. 67).

Hence, SPE accounts often begin with descriptions of whether “ordinary speakers” speak truthfully when using ‘know,’ and its extension, in high stakes situations.

For example, Stanley (2005) relies on “intuitions about the [bank] cases” to argue for subject-sensitive invariantism (SSI), explaining that

Though I certainly do not take all of the intuitions *we* [emphasis added] have in the [bank] cases as indefeasible, I will not discuss except in passing the first of these options. The role of these intuitions is not akin to the role of observational data for a scientific theory. The intuitions are instead intended to reveal the powerful intuitive sway of the thesis that knowledge is the basis for action. Someone who denies that we have many of these intuitions is denying the pull of the link between knowledge and action. But the *value* of knowledge is explicable in part by its links to action; it is for this reason that skepticism threatens agency. Those who deny these intuitions are in effect maintaining that some other notion, such as appropriately confident belief, is intuitively the genuinely valuable one. It is because I find this reaction so implausible that I will not seriously consider rejecting these intuitions. Nevertheless, while my central interest is to evaluate accounts that make as much sense of these intuitions as possible, the central claims of this book

hold, even if some of the above intuitions are less robust than others. I will leave it to the reader to decide which arguments in the book are strengthened or weakened by her particular pattern of intuitions (p. 12 – 13).

The intended intuitive sway, here, is meant to draw readers into a different descriptive reading of the bank cases than the shifting contexts one offered by attributor contextualists. This is a short, but crucial move to point to pragmatic encroachment as a real-world phenomenon that highlights the knowledge as a basis of action thesis. In drawing on the “intuitions *we* [emphasis added] have” about the cases, Stanley (2005) calls readers to use their intuitions as “ordinary speakers” to assess “whether one would attribute certain knowledge capacities to some S with respect to some p” in the selected hypothetical cases. And as noted in the excerpt, Stanley (2005) does not discuss the intuitions further, but rather uses them to motivate a normative account that explains or “make[s] sense of these intuitions.”

Similarly, John Hawthorne (2004) uses problems that arise in claiming to know if one has a winning lottery ticket, or knowing the “lottery proposition,” as exemplar of “features of *our* [emphasis added] ordinary practice” (p.18). Fantl and McGrath (2009) introduce their argument for a pragmatic condition on knowledge in their book, *Knowledge in an Uncertain World*, with a fictional Fox News story concerning whether “scientists in charge of the [gigantic atom smasher] machine *know* that the machine is safe” (p. 1). They draw readers in with this fictional, but plausible story to prompt similar intuitions about knowledge and action as a “perfectly natural question for you to ask” (p.1). The methodological strategy common across these SPE texts and others is to begin with a description of pragmatic encroachment, a real-world phenomenon, then generalize that description to argue that pragmatic encroachment exemplifies the normative

relationship between knowledge and pragmatics. Thus, intuitions about “ordinary speakers” are key to the development of pragmatic encroachment as a normative failure-to-know-problem.

It is significant that SPE accounts conceptualize subjects and attributors as universal, apolitical “ordinary speakers.” Ordinary speakers are generic, real-world subjects and attributors who use “know” to commonly refer to first-person or third-person knowledge attribution. This is meant to capture the casual, everyday use of “know” as opposed to more technical use by say folks in an epistemology seminar, for example. And the universal, apolitical conception of ordinary speakers is intended to describe how real-world speakers cite pragmatic considerations to determine their use of “know.” This is helpful in so far as it highlights that pragmatic encroachment exists. But the assumption that how ordinary speakers tend to deny knowledge in high stakes situations is merely the neutral result of the relationship between knowledge and pragmatics (or what it means to know) is rather suspicious. The activity of “putting knowledge to work” and the so-called “value of knowledge” as actionable are constructed by non-neutral features of the world itself. Let’s return to the bank cases.

In the various articulations of the bank cases, the financial situatedness of the subject and his/her wife as well as the confines of debt accruing banking systems are features of the world that create how the practical stakes of the case encroach (DeRose, 1992; Stanley, 2005; DeRose, 2009). The subject’s statements, “I know that the bank is open on Saturday” in the low-stakes case, and, “I don’t know that the bank is open on Saturday” in the high-stakes case are precisely about how features of the world construct pragmatic encroachment. First, the couple’s financial situation is one in which not depositing their checks before Monday will result in a “very bad situation” (DeRose, 2004). This suggests a couple of things are likely true about the couple’s financial situation: the couple’s current banking account balance is insufficient to cover the

pending deduction, the couple is not situated with a banking account where the bank covers the amount of the deduction or such that they can easily pay the bounced check fee to avoid the “very bad situation,” and significant financial decisions depend on the couple’s combined income. Second, the historical, socio-political formation of particular types of banking systems significantly construct the couple’s financial dilemma, from the hours of operation to its very existence as a debt accruing business venture.

Although the couple’s dilemma may be a common one for many people such that one might call it “ordinary” and representative of “ordinary speakers,” it is not one that is universal or socially and politically neutral. Financial situatedness varies for couples based on differing socio-political features of the world like direct deposit, inheritances, well-paying jobs, credit scores, access to banking accounts with minimal, high, or no fees for over-withdrawal, the type of bank, social safety-nets, and more. This non-exhaustive list is also contingent on the very existence of banks and banking systems, which are socio-political features of the world.³ The subject in Case B is not neutrally in a pragmatically demanding situation that makes it difficult to act on knowledge of the bank’s hours. As a first-person case, the subject and the attributor are the same person so they say, “I don’t know that the bank will be open,” citing the particular stakes constructed by their practical environment against whether they know that the bank will be open. Hence, a subject’s practical environment constructs their stakes for putting knowledge to work and/or valuing knowledge for their ability to act on that knowledge. In this way, the SPE theorists err in their description of pragmatic encroachment by presupposing universal speakers navigate a neutral epistemological dilemma.

³ Banks and banking systems also differ geographically. There are different banking arrangements around the world. I think that it is fair to presume that the exemplar bank cases are located in the United States which has debt accruing banking. The cases are meant to be universal, so this specificity is not explicitly mentioned. Wherever the couple is situated, they are experiencing pragmatic encroachment as constructed by particular features of the world.

Additionally, recent discussions of SPE that draw on cognitive psychology research, rather than intuitions about hypothetical cases, maintain that pragmatic encroachment is a neutral epistemological dilemma, sometimes noting one with social and political implications. The argument is that psychological research supports the ‘ordinary speakers intuition’ that everyday people really do tend to deny that some subject knows some proposition in high stakes situations. For instance, N. Ángel Pinillos (2012; 2019) makes this argument in “Knowledge, Experiments, and Practical Interests” and “Skepticism and Evolution.” Pinillos argues that real-world cognitive bias supports a normative subject-sensitive theory of knowledge. He explains that speakers tend to deny a subject’s knowledge as a result of cognitive bias developed through evolution, a biological human need to be skeptical of others’ knowledge claims for their own survival. This position, then, states that pragmatic encroachment is an epistemological phenomenon that neutrally exists as a consequence of ordinary speakers’ evolutionary survival tactics.⁴ Wesley Buckwalter (2019) similarly uses presumably neutral social cognition research on pragmatic encroachment, while dissimilarly highlighting that implications of pragmatic encroachment differ for socio-politically advantaged and disadvantaged groups. In “Epistemic Injustice in Social Cognition,” Buckwalter (2019) builds on Stanley’s (2015) SSI account of pragmatic encroachment in *How Propaganda Works* to propose that “the practice of silencing constitutes epistemic injustice by causing certain mental state representations of knowledge” (pg. 295). He uses “neutral” social cognition research as evidence of non-neutral practices of silencing that cause faulty epistemic representations of knowledge that in turn cause epistemic injustice on the

⁴ This is a particularly dubious claim to entertain for anyone who takes seriously forms of epistemological and epistemic marginalization – it’s just evolutionary, not a pernicious colonial mis-telling of dominant epistemologies. See Gayatri Chakravorty Spivak’s (2010) ““Can the Subaltern Speak?”” revised edition, from the “History” chapter of Critique of Postcolonial Reason” in *Reflections on the History of an Idea: Can the Subaltern Speak?* edited by Rosalind C. Morris.

psychological level (and possibly on a philosophical level).⁵ Significantly, Buckwalter (2019) concludes that

“Silencing is the practice of interfering with speech and communicative action. Action-ability judgments are an important aspect of epistemic judgments and can directly cause judgments about what others knows...The causal model is supported by a range of well-replicated findings utilizing several experimental paradigms relating actionability, communication, and knowledge judgments. At the same time, there is no substitute for a direct test, and further research is necessary to test the causal model in contexts of oppression” (pg. 305).

I wonder what he means by “contexts of oppression,” particularly if the range of well-replicated psychological research merely attends to contexts absent oppression – contexts that are clearly fabricated such that they do not reflect that in the (current) real-world systems of oppression are pervasive, not simply special marginal contexts. And it is important to critically interrogate the positioning of such research as the standard or core to which research on “contexts of oppression” might be added without necessitating a reevaluation of the current psychological research. Hence, Buckwalter (2019) presents everyday pragmatic encroachment as a neutral epistemological phenomenon that can explain non-neutral practices of injustice.

To be clear, I am not taking issue with the existence of pragmatic encroachment for my account of constructed pragmatic encroachment (CPE). I agree that pragmatic encroachment does exist and exists as a significant epistemological problem. However, I am taking issue with *how* SPE accounts postulate pragmatic encroachment as an epistemological problem in the

⁵ Buckwalter leaves open the possibility of epistemic injustice on “the philosophical level” as a way of saying his account can be used to support SPE theories of knowledge. In other words, he gestures at a normative failure-to-know-problem.

world. In using an ‘ordinary speakers intuition’ to (a) challenge traditional invariantist theories of knowledge and (b) launch a normative pragmatist theory of knowledge, SPE theorists confuse a historically contingent, socio-political epistemological problem as a neutral epistemological problem. The tendency of so-called ordinary attributors to deny subjects’ knowledge claims in high stakes situations is not a phenomenon that organically materializes as a byproduct of an encroaching relationship between pragmatics and knowledge. Or said otherwise, how pragmatic encroachment shows up as a problem is constructed by non-neutral features of the world that create pragmatically demanding environments for subjects and empowers attributors to adjudicate whether subjects know in light of that pragmatically demanding environment. This is particularly obscured in the ordinary speakers intuition that suggests that ordinary attributors *accurately* deny subjects’ knowledge claims because knowledge is the sort of thing that should *be actionable* for a subject. But ordinary attributors are not passive, neutrally empowered actors with a bird’s eye-view of a subject’s knowledge possession. The role of the ordinary attributor is an important non-neutral world feature that distinguishes how pragmatic encroachment exists as a real-world epistemological problem.

SPE accounts present attributors as neutral adjudicators of knowledge by describing pragmatic encroachment as a neutral epistemological problem whereby ordinary attributors *just do* attribute or deny knowledge based on an intertwined relationship between knowledge and pragmatics. In building a normative theory of knowledge on the ordinary speakers intuition, SPE theorists take for granted that an “ordinary” attributor, whoever they may be, is someone imbued with power by socio-political world arrangements to attribute or deny that some “ordinary” subject knows some proposition. As the subject and attributor are the same person in first-person cases of pragmatic encroachment, a first-person attributor is empowered to weigh their own

constructed practical stakes to determine whether some p is actionable for them. The first-person attributor is pressured by non-neutral world conditions to accurately self-assess their stakes-situation to avoid the potential material consequences of being wrong about what they know, like in the “very bad situation” in the bank cases. And thus, their constructed need to act on some proposition drives their self-evaluation as an attributor. Or said otherwise, they are not merely navigating a neutral epistemological problem (as the ordinary speakers intuition suggests), instead world arrangements construct a non-neutral epistemological problem that demands that they question whether it is accurate to attribute knowledge to oneself given their constructed practical stakes. The first-person attributor faces pragmatic encroachment as a result of the function of first-person knowledge attribution and how pragmatic encroachment presents a specific problem for them. This is constructed by non-neutral world arrangements. Additionally, a third-person attributor is differently empowered to weigh some subject’s constructed practical stakes as a third-party adjudicating whether that subject knows some p . And I will highlight that how third-person attributors are empowered to deny a subject’s knowledge claim on the basis of the subject’s constructed practical stakes is a result of socio-political power arrangements.

In SPE accounts, ordinary third-person attributors are elusive third parties who simply tend to deny a subject’s knowledge claim in high-stakes situations. An ordinary third-person attributor is presumed to be any third person weighing in on some subject’s knowledge of some proposition. But, is any possible ordinary speaker empowered to act as a third-person knowledge attributor? Where does the third-person attributor derive their power of knowledge attribution? And when there are multiple third-person attributors with conflicting assessments of a subject’s knowledge claim (or lack thereof), which attributor’s knowledge attribution presides? Why? SPE’s assumption that how pragmatic encroachment shows up as a problem in everyday contexts

is a neutral byproduct of the function of knowledge attribution bypasses these questions. I contend that a third-person attributor can deny a subject's knowledge claim on the basis of a subject's constructed practical stakes because non-neutral world arrangements empower some third parties to act as third-person attributors. In this way, pragmatic encroachment is a failure-of-knowledge-attribution problem and not a failure-to-know-problem as SPE argues. Next, I clarify pragmatic encroachment as a failure-of-knowledge-attribution-problem, a key distinction between CPE and SPE.

Third-person pragmatic encroachment is a failure-of-knowledge-attribution-problem

A CPE account of pragmatic encroachment is a theory that targets the role of a third-person attributor as an empowered third-party whose denial of knowledge attribution is a serious epistemological problem. In contrast, SPE's neutral real-world function of knowledge attribution argument foregrounds an ordinary subject as the target of analysis whose high stakes organically encroaches on knowledge, a serious epistemological problem. After all, a SPE theory of pragmatic encroachment is at the core an argument about the function of real-world knowledge attribution. And as noted in the first section, Fantl and McGrath (2009) specify that the function of knowledge attribution is arguably to certify that what one knows is actionable for them across a range of stakes-situations, or said otherwise, differing practical stakes. SPE theorists suggest that knowledge attribution is precisely about determining whether 'S knows some p' in order to judge whether and to what extent some subject can use p as grounds for some action or range of actions, e.g., practical reasoning, in one's decision calculus, etc. Thus, the SPE theorist suggests that the presumably neutral everyday practice of knowledge attribution involves an ordinary third-person attributor evaluating pragmatic considerations for some subject, S, in some context,

c, at some time, t, to determine if ‘S knows some p in c at t’. In proposing this account of the real-world function of knowledge attribution to explain why and how pragmatic encroachment exists, SPE theorists subtly obscure that third-person attributors are somehow designated to fulfil an adjudication role over a subject’s stakes-situation. They background the role of third-person attributors *as a role that arises from somewhere and derives power of adjudication from somewhere*.

The presumption that real-world knowledge attribution functions according to neutral world arrangements makes the role and power of the third-person attributor elusive while targeting the subject’s practical stakes as the extra-epistemic problem. Thus, because SPE theorists presuppose that pragmatic encroachment materializes as a neutral epistemological problem for ordinary subjects – ‘the ordinary speakers intuition’ – they incorrectly argue that pragmatic encroachment is a failure-to-know-problem for subjects. But as I argued in section two, the problem of real-world pragmatic encroachment is constructed by non-neutral world-arrangements. It is from non-neutral world arrangements that the role of third-person attributors arises and from which third-person attributors derive their power as adjudicators of knowledge. Thus, the problem of pragmatic encroachment is at the level of attribution whereby socio-political world arrangements empower some third-party person to adjudicate whether ‘S knows p in c at t.’ My point of departure from SPE, then, concerns how non-neutral features of the world empower some third-person attributor(s) to deny a subject’s knowledge claim on the basis of the subject’s constructed practical stakes.

The role of third-person attributors as adjudicators of knowledge is a socio-political power arrangement within an epistemological system that relies on a *mechanism for knowledge attribution*. In a case of pragmatic encroachment, a third-party to a subject’s stakes-situation

must be empowered by some world arrangement to meaningfully attribute or deny some subject's knowledge claim on the basis of their constructed practical stakes. Otherwise, they are just a really nosey and imposing neighbor, who the subject can (and probably should) ignore. But the third-person ordinary attributor in SPE accounts is presumed to be just this kind of elusive someone who oversees cases of pragmatic encroachment, which neutrally arise from the presumed neutral human activity of "putting knowledge to work." This is also described as the neutral role of an attributor to determine whether some *p* is actionable for some *S* in *c* at *t*. In this way, a third-person ordinary attributor can be *any* person and *any* third person can generally, accurately assess the practical stakes of some subject's practical environment to attribute or deny knowledge. However, I reject the idea that how pragmatic encroachment exists as a significant epistemological problem in the world that merely arises as a neutral world phenomenon whereby any third-person attributor *just does* oversee some subject's knowledge claim. A third-person attributor is a designated role in an epistemic community that holds significant power to determine how stakes in a subject's practical environment are relevant for consideration of whether *p* is actionable for *S* in *c* at *t*. They are a third-party to the stakes-situation with designated epistemic authority to affirm or deny a subject's knowledge claim. The third-person attributor does not just neutrally come to be in a position of authority over a subject's knowledge claim because some subject aims to put their knowledge to work. Non-neutral world arrangements construct the relationship between third-person attributors and subjects.

In third-person cases of pragmatic encroachment, third-person attributors wield significant epistemic authority over knowledge attribution of some subjects. Their attribution of knowledge or denial of knowledge for the subject has real material consequences for the subject. This cannot be explained by presuming neutral world arrangements whereby third-person

knowledge attribution just does track a pragmatist condition on knowledge. A presumption of neutral world arrangements does not account for real-world power arrangements of knowledge attribution. Hence, I propose that it is important to view pragmatic encroachment as constructed by non-neutral world arrangements to track relations of power. And this is particularly important for third-person cases of pragmatic encroachment. The world is arranged such that attributors are socially and politically empowered third parties with significant epistemic authority to attribute or deny knowledge to differently situated subjects based on subjects' constructed practical stakes. And when there are competing assessments of some S knows p in c at t , knowledge attribution or denial is determined by features of non-neutral world arrangements. This means that the socio-political world is arranged such that how competing third-person attributors accurately attribute or deny knowledge to a differently situated subject on the basis of their constructed practical stakes can have real material consequences for subjects.

Thus, tracking relations of power in third-person cases of pragmatic encroachment is essential to highlight how third-person attributors can *fail* to accurately attribute knowledge to a differently situated subject with high constructed practical stakes. This is a shift to third-person attributors as the target of analysis for pragmatic encroachment to illuminate that pragmatic encroachment is a failure-of-knowledge-attribution-problem rather than a failure-to-know-problem. And this is an important distinction for survivors who must answer third-person attributors who look at survivors' high stakes and determine that survivors are not sure of their own experiences of violence. Third-person attributors' power to attribute or deny survivors' knowledge claims to violence is not a neutral epistemological problem, but the result of non-neutral world arrangements.

In this chapter, I introduce constructed pragmatic encroachment (CPE) as a departure from standard pragmatic encroachment (SPE). While SPE theories argue that pragmatic encroachment is a failure-to-know-problem that represents a normative relationship between knowledge and pragmatics, CPE is a theory that pragmatic encroachment is a constructed, real-world knowledge attribution problem. Real-world pragmatic encroachment is such that a subject can know some *p*, but be denied attribution in third-person knowledge attribution cases on the basis of their high, constructed practical stakes in relation to *p*. Again, this is constructed by non-neutral world arrangements in which pragmatic encroachment arises as a *failure-of-knowledge-attribution problem* rather than a *failure-to-know-problem*. Importantly, the problem of pragmatic encroachment differs from a SPE account because SPE and CPE are two methodologically different approaches to pragmatic encroachment. In the next chapter, I clarify this key difference between SPE as a normative, pragmatist theory of knowledge and CPE as a real-world theory of pragmatic encroachment.

2- Disparate Failures of Knowledge Attribution: The Unjust Case against Chrystal Kizer

In “Distinguishing Knowledge Possession and Knowledge Attribution: The Difference Metaphilosophy Makes,” Kristie Dotson (2018) articulates the importance of adjusting a knowledge possession account to a knowledge attribution account. Dotson (2018) clarifies the differences between the two in the following excerpt:

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 (p. 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” (p. 477). And KA accounts are “absolutely about the powers of discrimination between whether one knows (or can know) or does not know (or cannot know)” (p. 477). KA accounts assess real-world knowledge-attribution

using the resources of the theory itself to explain actual circumstances of knowing (p. 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. 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, therefore I begin with the differences as KA and KP accounts. As Dotson (2018) 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" (p. 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" (Dotson, 2019, p. 478). While Dotson (2018) points to a significant error in Stanley's (2015) use of an unmodified KP account to assess real-world knowledge attribution, her critique is also illuminating for the general SPE debate. 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 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. 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. As I noted in chapter one, the ‘ordinary speakers 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 non-neutral 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 non-pragmatist 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 non-neutral denials of a 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, CPE is a KA account of real-world failures-of-knowledge-attribution constructed by non-neutral world arrangements. More specifically, 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, p. 478). CPE, then, is useful to track the socio-political 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 real-world pragmatic encroachment, specifically in the lives of Black girl survivors. Moreover, I aim to shed light on why this non-neutral epistemological problem, a failure-of-knowledge-attribution, is more jarring than it might first appear.

As a KA account of pragmatic encroachment that attends to the relational dependence of knowledge attribution, CPE will highlight how non-neutral world arrangements disparately produce pragmatic encroachment as a failure-of-knowledge-attribution-problem for marginalized knowers. This KA theory of pragmatic encroachment accounts for socio-political 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 non-neutral world arrangements. While I agree with SPE theorists that attributors do attribute knowledge and deny knowledge based on whether some p is actionable for some S, I maintain that this is constructed by non-neutral world arrangements that empower attributors to act as arbitrators of subjects' knowledge claims. Notably, in so far 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 socio-politically marginalized peoples' knowledge claims are particularly at risk of seemingly "coming and going" or being lost in non-neutral practical environments, I argue that there exists a disparate non-neutral epistemological problem whereby various third-person attributors have power to deny subject's knowledge possession in failing to attribute knowledge to a subject with high constructed practical stakes. And this problem unequally impacts marginalized peoples as knowers. Importantly, CPE highlights a serious failure-of-knowledge-attribution-problem that disparately encroaches on Black girl survivors of sexual violence as knowers. Third-person attributors are empowered to deny knowledge claims of marginalized survivors of sexual violence on the basis of survivors' constructed practical stakes, which has real material consequences for Black girl survivors. In this chapter, I highlight a Wisconsin case against Chrystal Kizer, a Black teen survivor of sexual violence, as a particularly consequential case of pragmatic encroachment.

Real-world pragmatic encroachment: The unjust case against Chrystul Kizer

Consider the case of Chrystul Kizer to demonstrate that pragmatic encroachment is a constructed real-world failure-of-knowledge-attribution-problem with serious consequences for survivors of sexual violence. 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, who she first met at the age of sixteen as a result of child sex trafficking (Contrera, 2019; Contrera, 2020; Branigin, 2020; Smith, 2020; Fortin, 2020). Kizer is also accused of arson and car theft (see State of Wisconsin vs. Chrystul D. Kizer 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). Chrystul Kizer faces a life sentence in prison if convicted. The court must 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 (2020) reports the following:

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.

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 that, “a blanket affirmative defense to all acts leads to an absurd result” (Contrera, 2019). However, Kizer

testified that she acted on self-defense and she did not intend to kill Volar (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 on criminal intent* or Kizer *knowingly acted on 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 on the basis of her constructed practical stakes. As attorneys, the different third-person attributors have significant authority in this U.S. 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 on criminal intent* and thus *should not* be protected by the Wisconsin affirmative defense law or *knowingly acted on 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 socio-political power of the attorneys and judge to attribute or deny Kizer's knowledge claim as an accused survivor on the basis of her ever-increasing practical stakes in this non-neutral world arrangement.

First, consider the district attorney's argument that Kizer *knowingly acted on criminal intent* in the case. District Attorney Michael Graveley does not dispute that Volar committed

felony sex crimes against Kizer and other teen and pre-teen Black girls. Graveley was involved in the on-going 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, Graveley 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). He, then, argues that the judge should deny Kizer’s knowledge of danger because Kizer was not at stake of experiencing additional danger on the night 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 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 infinite hypothetical future accused survivors to argue both that Kizer is not the type of survivor that 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 a “vigilante” premeditated intent. Thus, his argument is

that Kizer knowingly acted on criminal intent on the night in question and the affirmative defense should not apply to her (nor future accused survivors whom Kizer represents in this case).

Next, consider the defense attorneys' argument that Kizer *knowingly acted on self-defense* in the case. Defense Attorneys Carl Johnson, Jennifer Bias, and Larisa Benitez-Morgan counter the DA's argument that Kizer knowingly acted on criminal intent by arguing that Kizer knowingly acted on self-defense as a victim of sex trafficking and was a minor when she first met Volar. They argue that the affirmative action defense should be available to Kizer for these reasons (Contrera, 2019; Contrera, 2020; Branigin, 2020; Smith, 2020; Fortin, 2020). Benitez-Morgan is quoted in Anne Branigin's (2020) report for The Root as stating that "[Chyrstul] was a child, and I think we need to keep sight of that." 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 on 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 that 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 socio-political 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 socio-political bias against Black girls, specifically in this case, it is the adultification of Black girls which Monique Morris (2016) calls "age compression" in her book *Pushout: The Criminalization of Black Girls in Schools*. Hence, the defense ground their argumentative strategy in exposing adultification as a

socio-political bias to argue that Kizer *knowingly acted on self-defense* as a child victim of violence.

The DA's invention of criminal intent relies on the socio-political 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. Additionally, he relies on the socio-political effectiveness of adultification to leave unquestioned his production of motive for Kizer from a digital avatar of Kizer on social media in tweets and Facebook posts. If he can convince the judge to view Kizer through adultification, then he can further convince the judge to accept an artificial premise in his argument that Kizer simply *is* an age compressed racialized trope of a "vigilante" criminal so a digital avatar of her online *is* her. And thus, he can effectively use the tweets and Facebook posts of this digital avatar as if it is unmediated testimony from Kizer herself. The DA does this in order to present Kizer as *not* the type of survivor that the law was intended to protect, which 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.

Importantly, the DA's case against Kizer does not merely hinge on whether Kizer 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's knowledge claim is actionable for her in this case to claim that her responses to violence were 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 to self-defense. The argument is at least a two-prong strategy that deploys both the epistemological failure-of-knowledge-attribution problem and the socio-political 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 infinitely 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 danger to those of a non-victim 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. And the defense presents an anti-adultification, self-defense counterargument that hinges on convincing the judge that Kizer is a child victim who knowingly acted on self-defense, an affirmative defense for Kizer's alleged actions as 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 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 infinitely possible potential others (whose experiences might also fall under the shield laws) in order to prove that she knowingly acted in self-defense? This is allowed because the DA is leveraging compounded constructed practical stakes against Kizer to contest her knowledge of her own experience of violence.

Randall Volar's confirmed sexual violence as the core problem that sets everything in motion gets seemingly backgrounded and constructed practical stakes are foregrounded as a problem for Chrystul Kizer to overcome. A failure-of-knowledge-attribution-problem is leveraged as a failure-to-know-problem, introducing a non-accidental epistemic burden for Kizer. Kizer and her defense team have a skewed, uphill battle to climb 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 on-going 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 Chrystul Kizer case.

It's an unequal competition when attributors compete

The district attorney and defense team present competing arguments to deny or attribute Chrystul Kizer's knowledge claim on the basis of 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, Chrystul Kizer's contested testimony may be represented as the following:

Chrystul's Testimony (CT)- I knew that p in c at t, therefore I acted on p in c at t. Moreover, there are at least two pairs of arguments presented by the defense and DA to 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 on-going violence at the time in question, (1) and (2). Pair A is an affirmation of CT that represents the defense's argument that Kizer knowingly acted on 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 infinitely possible future "vigilante" survivors, turning S into S + S^{1...∞}, (1*) and (2*). 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 on 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 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, a 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 non-neutrally designated epistemic power 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 socio-political roles as law enforcement. The evaluation of Kizer's testimony does not merely extend 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 socio-political interpretations of permissible responses to sexual violence. The court 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 non-neutral world arrangements.

SPE as a seriously jarring approach

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 give rise to third-person pragmatic encroachment but acknowledges that subjects from socio-politically 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 a SPE framework.

Applying a 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, considerably higher than the first-person high stakes Bank Case B, 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 . The SPE third-person attributor is 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 only relevant in so far 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 socio-political implications for those subjects, while maintaining that real-world pragmatic encroachment simply is an epistemological dilemma whereby the pragmatic encroaches on knowledge. 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.

A SPE approach to Chrystul 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 non-neutral world arrangements unevenly distribute practical stakes, so marginalized subjects can fail to know in some practical environments. Thus, a 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 and 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 only available because SPE theorists disregard the relational dependence of knowledge attribution and how non-neutral world arrangements empower third-person attributors to deny a subject’s knowledge claim. As a KP account, a 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 non-neutral 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 injustice system to press charges against Kizer based on his assessment of her constructed practical stakes. The DA is an active, non-neutrally designated third-person attributor whose ability to materially impact Kizer with his attribution or denial of Kizer's knowledge claim initiates the extraordinary pragmatic encroachment in the case. 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. And 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 Chrystul Kizer on the basis of 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 concerns 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 on criminal intent* as a “vigilante” survivor, who also represents infinitely 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 non-accidental epistemic burden to prove that she is the kind of survivor that the affirmative defense should protect because she did know p. A non-accidental 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 on self-defense* as an on-going survivor of sex trafficking. The failure of third-person knowledge attribution and the subsequent non-accidental epistemic burden in this case are constructed by non-neutral 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 jarring epistemological problem for survivors of sexual violence, moreso than it may first appear.

CPE and Black girl survivors of sexual violence

While SPE theorists argue that pragmatic encroachment is a normative failure to know in demanding practical environments, I argue that pragmatic encroachment is a failure-of-knowledge-attribution-problem constructed by non-neutral world arrangements. CPE is a knowledge attribution (KA) account according to which third-person attributors are empowered

to deny a subject’s knowledge claim on the basis of 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 non-neutral epistemological problem in the world. *Table 1* is a summary of the differences between SPE and CPE discussed in these first two chapters. The chart includes columns for standard pragmatic encroachment (SPE) and constructed pragmatic encroachment (CPE) and

	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	Non-neutral

Table 1 – Differences between SPE and CPE

four rows. The four rows detail the type of account, target of analysis, problem, and world for the two approaches to pragmatic encroachment.

While I strongly disagree with positing pragmatic encroachment as a normative relationship between knowledge and pragmatics, 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 (2005) argues that psychological bias explains the

pragmatic encroachment phenomenon as an attributor's attention to the practical costs of error biases their assessment in mistaking a mere "illusion of epistemic danger" (p. 226). And Jennifer Nagel (2010) critiques Williamson's (2005) psychological bias challenge to propose that the denial of knowledge-attribution is the attributor's egocentric bias, when the attributor's stakes differ from the subject in "Knowledge Ascriptions and the Psychological Consequences of Changing Stakes." Ultimately, the critiques aim to defend non-pragmatist 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, non-neutral epistemological phenomenon best explained by attending to relational dependence of knowledge attribution. This means that my account expands beyond analysis of fallible individual attributor's psychology or cognitive processing. 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 four. As critics are focused on negating SPE in favor of non-pragmatist KP accounts of knowledge, they cite psychological research as a counterexample to the intuitions based KP accounts for pragmatic encroachment. An apolitical account of non-disaggregated data on representative attributors' cognitive assessments of knowledge draws from a KP account of knowledge as a mental state (Williamson 2000), which is an ideal theory that does not attend to the complexities of non-ideal, or real-world, knowledge attribution. In this way, we agree that KP accounts for pragmatic encroachment are misguided, but we diverge in our approach to and explanation of real-world pragmatic encroachment.

Ultimately, I introduce CPE to describe non-neutral failures of knowledge attribution as it unequally impacts differently situated knowers. I use CPE to name a type of structural failure of knowledge attribution for marginalized survivors of sexual violence. Detailed in chapter four, the inequitable assessment of criminalized Black girl survivors as “knowingly acting with criminal intent” over “knowingly acting in self-defense” points to a burdens-based epistemic oppression. Framing U.S. Black girl survivors like Chrystul Kizer as “knowingly acting with criminal intent,” third-person attributors leverage survivors’ disparate practical environment and responses to sexual violence against their knowledge of survivorhood. In this way, the unfortunately common opening questions, “are you sure it was sexual violence” and “how do you know it was sexual violence,” are precisely about whether survivors’ knowledge claims about their experiences of violence are *actionable* for them within an oppressive epistemological system. Third-person attributors designated by U.S. state adjudication processes seek to assess whether accused survivors knowingly acted to cause harm in order to determine whether and to what extent a survivor *should* be punished. Thus, I contend that the idea that the U.S. criminal (in)justice system can facilitate a “fair” trial based on a “proper or good investigation” if only state actors had better epistemic practices, e.g. viewed survivors as credible victims, is dubious. Instead, I argue that the epistemological barriers that survivors face as knowers involves a non-accidental epistemic burden to prove that they acted on knowledge of their survivorhood. In the next chapter, I detail the larger, historical geo-political context Black girl survivors in the US navigate as survivors and knowers, a settler colonial obfuscation of survivorhood, which further brings non-neutral world arrangements into focus.

3- Constructed Subjects: A Criminalizing Metaphysical and Socio-Epistemic Quagmire

The world arrangements in which third-person knowledge attributors are empowered to deny Black girl survivors' knowledge claims to self-defense is far from neutral. This includes the very notion of survivors of gender-based violence. Constructed pragmatic encroachment for survivors of sexual violence in the United States context involves both extraordinary constructed practical stakes and criminalizing constructions of "non-victims." The subject of pragmatic encroachment is constructed for third-person attributors who determine whether 'some S knows some p.' Within a powerful settler colonial legal institution, US judges, prosecutors, and other police wield state power to both deny survivors' knowledge claims to self-defense and leverage an exclusionary construction of sexual violence survivorhood. And criminalized survivors of sexual violence are burdened to educate and convince state actors of their survivorhood and acts of self-defense. How can a US state actor leverage a constructed failure-of-knowledge-attribution-problem into an argument for the criminalization of survivors? When survivors are constructed as non-victim criminals, state actors are empowered to both deny what survivors know about their own experiences of violence and criminalize some of the most vulnerable survivors, Black girl children.

In this chapter, I claim that punitive attributors leverage a historical construction of Black girl survivors as "fast-tail swindlers" to override self-defense as "knowing criminal intent." The controlling image of Black girl survivors as "fast-tail swindlers" is a hegemonic construction of Black girls as insatiable, hypersexual beings who con or use adults via sexual favors. I explain that a *settler colonial obfuscation of survivorhood* exists such that Black girl survivors navigate a *criminalizing metaphysical and socio-epistemic quagmire*. A *settler colonial obfuscation of survivorhood*, here, refers to a historical, replicating formation of settler colonialism that

elusively constructs survivorhood so that it is difficult to accurately categorize actual survivors as subjects belonging to the category ‘Survivors.’ Further, a *criminalizing metaphysical and socio-epistemic quagmire* is a very, very bad punitive situation whereby people (here, Black girls in the US) are metaphysically categorized and socio-epistemically assessed outside of legible, hegemonic survivorhood when they experience violence. This quagmire involves both *constructed subjects*, categories of potential and actual knowers constructed by contingent geo-political formations and *socio-epistemic assessments*, third-person determinations of who some subject is as a potential knower of some p or broad p-relevant inquiry. This chapter is necessary to further situate constructed pragmatic encroachment (CPE) as a non-neutral epistemological problem whereby constructions of “knowing subjects” play an important role in Black girl survivors’ experiences of pragmatic encroachment.

The main claim develops across four sections. First, I explain the importance of locating subjects as constructed by historical geo-political formations for CPE. Second, I highlight the historical geo-political formation of the settler United States that constructs illegible subjects of sexual violence, a *settler colonial obfuscation of survivorhood*. Third, I detail the controlling image of Black girl survivors as mere “fast-tail swindlers,” a construction of a knowing subject with criminal intent. Finally, I end by explicating a *criminalizing metaphysical and socio-epistemic quagmire* in which punitive attributors override Black girl survivors’ knowledge claims to self-defense. Indeed, punitive, third-person knowledge attributors do not *just neutrally tend to* deny survivors’ claims to self-defense when the practical stakes are high and pursue criminalization. There are historical, non-neutral structures that grant them *power* to do so.

Locating subjects as survivors in the US

The world arrangements that give rise to pragmatic encroachment are important to map how constructed pragmatic encroachment (CPE) operates in the lives of differently situated subjects. This includes where different subjects are located and how their geo-political context constructs subjects as potential and actual knowers. And this is another point of departure from standard pragmatic encroachment. The conception of subjects in standard pragmatic encroachment is based on traditional invariantist theories of knowledge in which knowers are objective, independent, rational subjects. As Donna Haraway (2004) explains in “Situated Knowledges: The Science Question, traditional epistemological theories present the potential ‘knowing subject’ as objectively performing the “God trick” of “speaking authoritatively about everything in the world from no particular location or human perspective at all” (pp. 86). The orthodox potential knowing subject is conceptualized as above/beyond subjective socio-political bias, politically neutral, existing without a particular worldly epistemic standpoint, and epistemically self-sufficient, or independent of an epistemological community (Code, 1991; Code, 1993; Nelson, 1993; Harding, 2004). This conception of the knowing subject is the ‘ordinary speaker’ in standard pragmatic encroachment theories (SPE).

Ordinary speakers, as explained in chapter one, are generic, real-world subjects (and attributors) who use “know” to commonly refer to first-person or third-person knowledge attribution. The ordinary subject in SPE is intentionally conceived as potentially anyone and everyone so that SPE theorists can move from an intuition about real-world pragmatic encroachment to a normative knowledge possession account. But CPE is a knowledge attribution account of pragmatic encroachment that is designed to track actual practices of knowledge

attribution, as distinguished in chapter two, so the geo-political context for differently situated subjects matters. Third-person knowledge attributors attribute or deny subjects' knowledge claims with regard to a subject's constructed practical stakes within their particular geo-political context. Subjects in the geo-political context of the United States are constructed as potential and actual knowers by the historical contingencies of that context, *constructed subjects*. For survivors of sexual violence, their categorization as subjects belonging to the category 'Survivors' is historically constructed by an exclusionary construction of sexual violence survivorhood.

In the geo-political context of the United States, survivorhood is defined in the mainstream within an exclusionary race-neutral, carceral framework. Beth E. Richie (2012) terms the universalization of gender vulnerability in mainstream US anti-violence discourse as the "everywoman analysis" in *Arrested Justice: Black Women, Violence, and America's Prison Nation*. She explains the shifting political usefulness of the conceptual framework in the following:

In the earliest conceptual formulations, this analysis was an intentional and strategic move to avoid the stereotyping of those who use violence and the women who experience it...Originally, this construction of "*any woman could be a battered woman*" and "*rape is a threat to every woman*" was a strategic way to avoid individualizing the problem of domestic and sexual violence and to focus on social dimensions of the problem of gender violence...Later, during the era of legal and legislative reform when promoting public awareness campaigns and public policy proposals, anti-violence activists used the everywoman analysis to influence those who had the power to create institutional and legal change. Research began to

assess the extent of the violence toward “every woman” as opposed to *all* women as a way to convince people in power of the importance of the issue (Richie, 2012, p. 90).

The everywoman analysis transformed from a radical feminist rejection of individualizing gender-based violence into a universal analysis that “assumed race and class neutrality of gender violence” (Richie, 2012, p. 91). Within the everywoman framework of sexual violence, survivors of gender-based violence are understood as raceless, classless, victims of crime.

The image of an ‘every woman’ victim in the US is a shift from a framework of sexual violence as experienced by all women to an implicitly narrow framework of sexual violence as experienced by a small subset of women. The raceless, classless, universal depiction of ‘the rape victim’ or ‘the domestic violence victim’ became synonymous with white middle-class women who properly report gender-based violence as a crime to the state. As the organization *Survived and Punished* notes, “anti-violence advocates have partnered with police and district attorneys to try to find protection for survivors, and to institutionalize gender violence as a “crime” ... this pro-criminalization approach to addressing violence has created a racial divide between “good victims” and non-victim “criminals” (2016). A survivor of gender-based violence is hegemonically defined within an exclusionary crime framework of sexual violence as a state-recognized victim of crime through the institutionalization of US anti-violence movements. The narrow framework of ‘everywoman’ reinforced a construct of “genuine” victims along gendered-racial lines, such that legible victims are those who fit norms of submissive, cis-heterosexual, white middle-class femininity while all other victims are suspect. Unfortunately, this operates in

survivors' experiences of constructed pragmatic encroachment in the US as a non-neutral epistemological problem constructed through settler colonialism.

Settler colonial obfuscation of survivorhood in the US

For constructed pragmatic encroachment in the United States, third-person attributors can have an inaccurate view of survivors *as survivors* because contemporary images of marginalized survivors as “non-victim criminals” are constructed by a settler colonial obfuscation of survivorhood. A *settler colonial obfuscation of survivorhood* refers to a historical, replicating formation of settler colonialism that elusively constructs survivorhood so that it is difficult to accurately categorize actual survivors as subjects belonging to the category ‘Survivors.’ As the US’ on-going occupation of Indigenous lands is built on state-sanctioned sexual violence, especially rape of enslaved African and Indigenous peoples (Deer 2015; Hill-Collins 2004; Davis 1975), a settler colonial obfuscation of survivorhood is an intentional tactic of conquest.

As Sarah Deer, a Mvskoke lawyer, argues in *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (2015), rape is a tool of settler conquest as an invasion and violation of one’s bodily autonomy and a nation’s political sovereignty. The settler state establishes itself, in part, by brutally erecting state institutions run by invading conquerors, like boarding schools, to separate Indigenous children from their communities and wield formal and informal power over Indigenous children. Deer (2015) highlights this widely utilized U.S. tactic when she writes

Targeting children is one of the most sinister methods of attacking a community, because it can destroy a society from the inside out. American Indian children were

easy victims for this strategy, which reached its peak in the early twentieth century. In an effort to promote assimilation of tribal people, after war failed to exterminate all of us, the government endorsed the widespread removal of children from their communities to be “educated” in government and church-run boarding schools throughout the United States and Canada. Under the authority of the U.S. government, Native children were forcibly removed from their homes and taken to boarding schools at a rate exceeding 70 percent in some communities. This era brought a new level of sexual violence to indigenous communities in the form of sexual abuse of children...In some, corruption and cover-ups allowed for the continuous sexual abuse of Native children for decades. There was rarely any option for filing grievances in these situations – indeed, children were powerless to take any action to stop the abuse (pp. 70-71).

State-sanctioned rape and other forms of sexual violence are institutionalized tactics of conquest. The settler state attacked Indigenous communities with war tactics of child abduction and sexually violent assimilation schools. The settler state introduces new contexts of danger/vulnerability to violence in Indigenous communities and state institutions through forced contact with settlers. Settlers who violate children in these contexts are granted significant power over their victims by the state. They wield this power to sexually violate children, who consequently have less socio-political and epistemic power, and power to dismiss (or rewrite) survivors’ knowledge claims of resistance (or self-defense) as misbehavior. The settler colonial arrangement that imbues settlers with significant power over large numbers of vulnerable children shapes the legal landscape for survivors to testify to their experiences of sexual violence.

The settler state legally empowered settlers who enslaved African peoples to sexually invade and violate their legal property. The institution of slavery afforded settlers legal rights to the bodies of African peoples as mere property and denied enslaved African peoples legal standing as survivors of rape (McLaurin 2002; Hill-Collins 2004; McGuire 2010). This social and legal arrangement is state-sanctioned sexual violence. In *Celia, A Slave (2002)*, Melton McLaurin historicizes the legal illegibility of sexual violence against enslaved women and girls in writing:

The sexual politics of slavery presented an exact paradigm of the power relationships within the larger society. Black female slaves were essentially powerless in a slave society, unable to legally protect themselves from the physical assaults of either white or black males. White males, at the opposite extreme, were all powerful, with practically unlimited access to black females. The sexual politics of slavery in the antebellum South are perhaps most clearly revealed by the fact that recorded cases of rape of female [enslaved persons] are virtually nonexistent. Black males were forbidden access to white females, and those charged with raping white females were either executed, or, as in Missouri, castrated, and sometimes lynched. Although on occasion a male [enslaved person] was charged with raping a female [enslaved person], such cases were extremely rare, and convictions even rarer. Indeed, conviction was impossible since [enslaved] women were not protected from rape by law, no matter the color or her attacker (pp. 113).

McLaurin's analysis of the overwhelming power imbalance between enslaving settlers and enslaved African women and girls spotlights a geo-politically skewed landscape for survivors. Enslaved African women and girls, and really all enslaved African peoples, were not

recognizable by the state as survivors of sexual violence. The settler colonial state empowered enslaving settlers and others by not only making sexual violence state-sanctioned, but also by making sexual violence against African peoples legally illegible. In US settler courts, enslaved African peoples had no legal power to contest their rape(s), or other sexual assaults and violations (like forced reproduction), while settlers enjoyed power over their bodies, community, and legal standing.

Enslaved African peoples, then, were constantly vulnerable to sexual violence at the hands of settlers and constructed outside the category of ‘Survivor’ in this early settler colonial institution and context. Settlers who violated enslaved people did so with tremendous state power to own these survivors and call upon the state to punish and/or execute survivors for their acts of resistance. For instance, the settler colonial judicial system affirmed in the case of *The State of Missouri v. Celia (1855)* that 19-year-old Celia’s fatal resistance to rape was criminalizable. In 1850, Celia was a 14-year-old girl enslaved by Robert Newsom, a Missouri farmer and slaver. She was repeatedly raped by Newsom until she fatally struck him on June 23, 1855. The moral considerations in support of Celia, based in part on her testimonies to rape and self-defense, were deemed irrelevant in the case. Celia was convicted of first-degree murder and executed by the state, a conviction and sentence upheld by an appellate court (McLaurin, 1991; [The Celia Project](#); [Equal Justice Initiative](#)). The settler courts criminalized Celia for surviving years of state-sanctioned sexual violence, dismissing the relevance of Celia’s testimonies and actions within the nearly inescapable threat of sexual violence and inaccurately categorizing her as outside the category ‘Survivor.’ Further, as historical, replicating formation, a settler colonial obfuscation of survivorhood reappears across time.

During US formal segregation, Black women and girl rape survivors continued to navigate a hostile and exclusionary social and legal landscape. They were frequently denied legal standing in court, received limited/no public acknowledgement of intra-racial rape, and faced the white supremacist insistence that rape is a “Negro crime” against white women (McGuire 2010; Freedman 2013). This replicating formation constructs the contemporary, exclusionary pro-criminalization framework of survivors as ‘victims of crime’ outlined in the previous section. The US settler colonial obfuscation of survivorhood supports the contemporary sexual abuse to prison pipeline, whereby Black girl survivors face heightened violence from state agents and people in their community while also often being criminalized for their self-defense and survival tactics (Saar et al. 2016; Ritchie, 2017). The criminalization of Chrystul Kizer, as detailed in chapter two, happens within the intersection of this obfuscation and insatiable pipeline. The district attorney and judge in the case of Chrystul Kizer deny that she knowingly acted in self-defense and argue she knowingly acted with criminal intent. District Attorney, Michael David Graveley, charges Kizer with first-degree intentional homicide with use of a dangerous weapon alongside four other felony charges, including arson and car theft. (State of Wisconsin vs. Chrystul D. Kizer). Significantly, the settler colonial judicial system is a historical context in which settlers wield power while Black survivors are denied meaningful power to utilize their testimonies to violence as a defense. Within a US settler colonial obfuscation of survivorhood, Black girls must fight to be legally legible as survivors, recognized by the state and within public discourse, while primarily categorized as ‘non-victim criminals.’

The controlling image of “fast-tail swindlers”

Criminalized Black girl survivors’ knowledge claims are evaluated in a truly non-neutral court system. The US settler court system is historically rooted in *disregard for* the rape of Black girl survivors and the *empowerment of* settlers as unchecked sexual violators. In this geo-political landscape, settlers who rape, or otherwise sexually assault, Black girls enjoy legal legibility as victims at the hands of an “unrapeable Black murderesses,” while the survivors of their violations must fight for legibility as victims, like Celia and Chrystul Kizer. The US settler colonial obfuscation of survivorhood in the court system extends into cases of criminalized Black girl survivors who claim self-defense against those who sexually assaulted them. Criminalized Black girl survivors are structurally constructed outside the category of ‘survivor as victim of crime’, such that state actors are empowered to deny their knowledge claims of self-defense and import ‘knowing criminal intent’ onto their acts of survival. In this section, I explain the controlling image of Black girl survivors as “fast-tail swindlers,” a Black girl specific construction of a knowing subject with criminal intent.

The controlling image of Black girl survivors as “fast-tail swindlers” is a hegemonic construction of Black girls as insatiable, hypersexual beings who con or use adults via sexual favors. This hegemonic construction erases the power imbalance between children and adults to recast adults who assault and/or sexually groom Black girls, perceived as hypersexual “little grown women,” as victims (typically victims of a financial scheme). As Patricia Hill Collins (2009) articulates in *Black Feminist Thought*, controlling images are “powerful ideological justifications...designed to make racism, sexism, poverty, and other forms of social injustice appear to be natural, normal, and inevitable parts of everyday life” (pp. 76-77). The controlling image of “fast-tail swindlers” provides ideological justification for childhood sexual abuse of

Black girls by normalizing adult sexual encounters with children and third-person categorizations of Black girls as non-victim criminals. For example, fans and supporters of Robert Sylvester Kelly (or R. Kelly) used this controlling image to defend the singer against allegations of child rape, child enticement, and child pornography leading up to his 2008 acquittal in Chicago, Illinois (Streitfeld 2008; St. Clair & Ataiyero 2008).

Although the singer and a Black teenage girl, identified in a video of child pornography, denied their appearance in the video, the singer's numerous defenders argued that the girl could not be a victim because she was just a "fast-tailed" girl after Kelly's money. The weaponization of this awful image to support Kelly is discussed in the Lifetime documentary *Surviving R. Kelly* (2019) and *Surviving R. Kelly Part II: The Reckoning* (2020). In Part II, the series shows a news clip from Steve Greenberg, Kelly's attorney, responding to additional allegations from numerous survivors by saying, "All the women are lying. Everybody is trying to profit off R. Kelly" (2020). Greenberg is using the controlling image of Black girl survivors as "fast-tail swindlers" in his statement to dismiss and rewrite their testimonies to violence and danger. This powerful controlling image supported inaction to stop thirty years of sexual violence against mostly Black teen girls. Tiffany "Tia" Hawkins, the first public teen survivor of Kelly reflecting years later, makes this exceptionally clear when she shares, "I was the first girl, and nobody believed me. And it continued to happen again and again and again" (2020). Black girl survivors are categorized as not *really* victims and socio-epistemically assessed as knowing subjects. People internalize the controlling image and rationalize that if Black girl survivors are just con artists, then their testimonies to sexual violence are invalid and part of a longer con.

The controlling image of "fast-tail swindlers" implicitly depicts adults who violate Black girl children as helpless to the spell of insatiable children who "know what they're doing" when

those *adults* prey on their youthful vulnerability. Black queer/trans girls' experiences of violence are uniquely elided by this controlling image. Adults may draw from criminalizing mythologies of queer youth as hypersexual "juvenile superpredators" (Mogul et. al 2011) and/or as inherently "ungovernable" (Ware 2015) to misidentify queer and/or transgender girls as knowing little "fast-tail swindlers." Further, any adult gifts of goods and/or opportunities, like cash, toys, clothes, or introductions to celebrities, are normalized as kind, generous gestures of a conned adult, rather than acts of someone sexually grooming a child. With the obscurant controlling image, then, many Black girl survivors who testify to violence or the threat of violence are not viewed within the concurrent contexts of vulnerability and disempowerment. Third-person attributors inaccurately categorize Black girl survivors as "non-victim criminals." In this way, the controlling image of Black girl survivors as "fast-tail swindlers" combines Black girl stereotypes about hypersexuality (Morris 2016; Hill-Collins 2004) and inherent deviance (Morris 2016; Ritchie 2017, Wun 2016). Institutionally empowered actors, like teachers and prosecutors, draw on the controlling image to override Black girl survivors' knowledge claims, when facing violence or the threat of violence. This is largely possible because these third-person attributors leverage the controlling image of "fast-tail swindlers" as a justification for both the metaphysical categorization of non-victims and socio-epistemic assessments of a "knowing subject with criminal intent." Socio-epistemic assessments are third-person determinations of who some subject is as a potential knower of some p or broad p-relevant inquiry.

Through the controlling image of "fast-tail swindlers," rooted in the stereotype of the hypersexual Black girl, third-person attributors make a socio-epistemic assessment of Black girls as more naturally, knowledgeable about and experienced in sex. The image suggests that if Black girls *merely are* promiscuous and hypersexual non-victims, then they must know about sex.

Regina Rahimi and Delores D. Liston (2009) point out this trend with teachers in “What Does She Expect When She Dresses Like That? Teacher Interpretation of Emerging Adolescent Female Sexuality.” They found that their interviewed teachers assigned greater sexual activity and knowledge of sex to their Black female students by using their attire, growing bodies, and youthful discussions of sex in the classroom as evidence (Rahimi and Liston 2009, pp. 523). The majority white, female interviewees cite such as “evidence” by applying the readily available image of the “fast-tail swindler” as a justification for their inaccurate socio-epistemic assessment of Black girl. These teachers read their middle school and high school students through the hegemonic image such that they draw the conclusion that their students are more knowledgeable about sex. Hence, assignment of *knowing* participation negatively impacts how adults assess Black girls as constructed subjects when they testify to sexual violence.

The socio-epistemic and metaphysical construction of Black girls as “naturally more knowledgeable” about sex and “non-victims” is often leveraged a reason to override Black girl survivors’ testimonies to sexual violence. Notably, the teachers in the Rahimi and Liston (2011) study reported both that they had never witnessed Black female students “really, really being harassed” and that they witnessed them “letting” sexual harassment happen (p. 802). The contradiction reveals that leveraging the construction of the “fast-tail swindlers” is both about assigning hypersexuality to Black girls as “non-victims” and victim-blaming girls as knowingly “letting” sexual harassment and assault occur. In *Pushout* (2016), Monique Morris finds that school administrators and staff tend to characterize Black girls as “choosing a life of prostitution rather than being trafficked into it” (p. 114). Hence, many institutional actors regularly leverage the controlling image of “fast-tail swindlers” to categorize Black girls as non-victims. They can cite girls’ clothing, conversations, behaviors, and responses to violence as “proof” that specific

Black girls *merely are* “fast-tail swindlers,” lacking in youthful ignorance and innocence (also known as adultification) and thus not *real* child victims. Black girl survivors are assessed as acting with “knowledgeable consent” to any sexual encounter, including any experience on the spectrum of sexual violence, which overrides Black girls’ testimonies about their experiences of childhood sexual abuse. Institutionally empowered actors, here educators and staff, tend to assess Black girl survivors as “knowingly engaging in sexual contact with others,” or acting with knowledgeable intention. This is particularly problematic when leveraged to criminalize Black girl survivors who fatally resist sexual violence.

The controlling image of the “fast-tailed swindler” adds criminality to the stereotype of the “fast” Black girl in depicting Black girls as knowingly using sexual favors to con adults for financial gain. The combined metaphysical and socio-epistemic dimensions of the image support punitive attributors’ ability to override Black girls’ testimonies to self-defense and criminalize Black girls as non-victims knowingly acting with criminal intent. This image of Black girls warps (1) the age-based, gendered racial power imbalance between girls and adults, (2) adults’ exploitation of girls’ structured vulnerability to violence within concurrent contexts over time, and (3) girls’ responses to violence. Institutional actors are empowered to deny Black girl survivors’ testimonies to violence with regard to their constructed practical stakes, categorize them as non-innocent, knowledgeable victims, and punish them as constructed subjects who knowingly acted with criminal intent. As Alisa Bierria (2020) explains in “Racial Conflation: Rethinking Agency, Black Action, and Criminal Intent,” Black peoples’ acts of survival/resistance are constructed through racial conflation, a co-constitutive relation of ‘blackness’ and ‘criminality.’ She writes

But racial conflation is not just a belief, it is a linchpin: it holds meaning together, defining its coherence. Racial conflation is distinct from racist interpretation of intention; it bends the construction of intention among agents, accommodating competing information by absorbing it to serve its own logic, imposing nonexistent intentions onto black subjects, or even prompting the invention of nonexistent black agents. Racial conflation literally “makes” sense...The racial conflation of blackness and criminality always exists, but black action animates it in an important way in part because mobility brings attention to the constructed embodiment of threat. Crime may have a black face, but it is black action that materializes the consequences of conflation. Action’s ability to flip a switch from criminalizable to criminalized is the acute social condition in which black agents intend and act (2020, pg. 13-16).

Racial conflation for Bierria, then, is a ready-made sense making mechanism that constructs actions by black subjects (real or invented) as driven by criminal intent. The controlling image of “fast-tail swindlers” operates on racial conflation. Black girl survivors are constructed as merely “fast-tail swindlers,” constructed subjects knowingly acting with criminal intent. While punitive attributors may not personally believe Black girls’ testimonies to self-defense, their individual belief or interpretation is not the root of this problem. Their power to leverage this hegemonic image to criminalize Black girl survivors as categorically non-victim criminal knowers over and against Black girls’ knowledge claims to self-defense is the problem. This is a jarring quagmire where CPE is a failure-of-knowledge-attribution-problem conjoined with a criminalized construction of subjects as non-victims of sexual violence.

A very, very bad punitive situation

Let me conclude by returning to the question, “How can a US state actor leverage a constructed failure-of-knowledge-attribution-problem into an argument for the criminalization of survivors?”. Unlike the “very bad financial situation” presented in the first-person Bank Cases in chapter one where the subject could simply check the hours of bank operative, criminalized Black girl survivors’ experiences of pragmatic encroach in US settler courts are a tremendously difficult situation to address. As a powerful institution built on a settler colonial obfuscation of ‘sexual violence survivorhood’, the US criminal injustice system is an awful non-neutral world arrangement to address constructed pragmatic encroachment for Black girl survivors. Punitive state attributors have power to not only deny survivors claims to violence and self-defense with regard for their constructed practical stakes, but also their very construction as “fast-tailed swindlers.” The very subjects of “some S knows that some p” are constructed as not the kind of subjects they actually are, survivors. Black girl survivors in the US are readily legible within the settler courts as “fast-tail swindlers,” rather than as potential or actual subjects within ‘survivors as victims of crime.’ In other words, Black girl survivors navigate *a criminalizing metaphysical and socio-epistemic quagmire*, a very, very bad punitive situation whereby whole groups of people are metaphysically categorized and socio-epistemically assessed outside of legible, hegemonic survivorhood when they experience violence. And punitive state attributors, like police officers, prosecutors, and judges, are positioned by the settler state to determine whether Black girls’ responses to sexual violence warrant referral to pathways to healing or onto pathways to confinement (Morris 2016; Wun 2016).

Unfortunately, many state agents do leverage the controlling image of the “fast-tail swindler,” to use their punitive power to send Black girl survivors onto pathways to confinement as non-innocent victims “knowingly driven by criminal intent”. As “The Sexual Abuse to Prison Pipeline: The Girls’ Story” report in 2016 reveals, the U.S. juvenile justice system’s stewards disproportionately usher Black girls into confinement (Saar et al. 2016). Saar et. al (2016) find that

And in a perverse twist of justice, many girls who experience sexual abuse are routed into the juvenile justice system *because of* their victimization. Indeed, sexual abuse is one of the primary predictors of girls’ entry into the juvenile justice system. A particularly glaring example is when girls who are victims of sex trafficking are arrested on prostitution charges – punished as perpetrators rather than served and supported as victims and survivors...This is the girls’ sexual abuse to prison pipeline (pp. 5).

While there are sadly, many points of entry into the sexual abuse to prison pipeline, one is constructed through the controlling image of “fast-tailed swindlers,” where Black girls’ testimonies to sexual violence and acts of self-defense are overruled as criminal acts of knowing con artists. In the geo-political context of the US, agents of the settler colonial judicial system are empowered to leverage the controlling image of “fast-tail swindlers.”

By leveraging one’s power to dismiss Black girl survivors’ testimonies to violence and attribute criminal intent to girls’ acts of self-defense and survival, state agents in the US settler court system make use of a failure-of-knowledge-attribution-problem to prime girls for confinement. Their power to override Black girl survivors’ epistemic authority, as experts of their own experiences of self-defense in the face of sexual violence, and to import criminal intent

onto Black girl survivors' actions is institutionally and ideologically supported. Thus, as in the cases of Celia and Chrystul Kizer, Black girl survivors' knowledge claims to self-defense are nearly unintelligible in this set-up, requiring additional work to affirm what girls already know about their own experiences of violence. The controlling image of "fast-tail swindlers" supports a carceral machine with agents who can determine that consideration for Black girls' survivorhood is legally irrelevant, when those girls are non-innocent victims driven by criminal intent to harm adults who harmed them.

In this criminalizing metaphysical and socio-epistemic quagmire, punitive attributors, like prosecutors and judges, can require that Black girl survivors prove what they already know about their own experiences of sexual violence and self-defense within a state judicial system built on their categorical illegibility as constructed subjects who *are* factually survivors. State actors wield significant political and epistemic power to deny Black girl survivors' knowledge claims to self-defense and criminalize Black girl survivors as "non-innocent victims." The settler judicial system is historically designed to disregard Black girl children as victims of sexual violence and empower third-person attributors deny subjects' knowledge claims with regard to their constructed practical stakes. Again, the criminalization of Black girl survivors is not limited to whether individual state actors believe that Black girls are survivors. The problem is an on-going structural arrangement, whereby the settler state has power to override survivors' knowledge of their own experiences of sexual violence as a strategy to pursue state punishment. There is a non-accidental bait-and-switch maneuver in the court system, such that settler state actors can espouse neutrality or objectivity in their assessment of an accused survivors' *mens rea*, while actually leveraging a failure-of-knowledge-attribution-problem and a criminalizing metaphysical and socio-epistemic quagmire. This as a tactic of what Eve Tuck and K. Wayne

Yang (2012) call “settler moves to innocence” in “Decolonization is not a Metaphor.” They write, “settler moves to innocence are those strategies or positionings that attempt to relieve the settler of guilt or responsibility without giving up land or power or privilege, without having to change much at all” (2012, p. 10).

In the state case against Chrystul Kizer, the district attorney (DA) can attempt to relieve himself of guilt or responsibility for knowing Randall Volar violated numerous girls, many on videotape, including Kizer, by defending that his pursuance of prosecution of Kizer is a mere matter of falling outside the shield laws. He could also use his power to drop the charges against Kizer and examine the limitations of law and legal definitions of ‘victims of sex trafficking’ and ‘self-defense,’ but such a move requires contending with the legal system as an anti-Black gendered racist, settler colonial system. His role as a new age slave patroller might make him uncomfortable and change may mean giving up his job as a DA. It is easier to claim innocence without changing anything, “I’m not a racist or sexist...I believe she’s a survivor, just not the kind the laws are intended to protect.” This is also linked to what Ezgi Setler (2018) calls “institutional comfort” in migrant asylum cases in her article, “The Institution of Gender-Based Asylum and Epistemic Injustice: A Structural Limit.”

DA Graveley did use his power to not press charges, however, in another high-profile case where Officer Rusten Sheskey (white male) shot 29-year-old Jacob Blake (Black male) several times in the back, partially paralyzing him in Kenosha, Wisconsin. Graveley is quoted in the New York Times in the following, “the prosecutor said a case against the officer would have been very hard to prove, in part because it would be difficult to overcome an argument that the officer was protecting himself” (Chiarito et. al 2021). Graveley clearly affirms self-defense in choosing not to press any charges against Sheskey as a knowing subject constructed as an officer

of the law legibly acting in self-defense. The category ‘police officer’ (and its predecessor ‘slave patroller’) is constructed by the contingent settler colonial formations of ‘law enforcement’ and ‘state policing.’ Differently from the exclusionary category of ‘sexual violence survivors’ outside which it is easy for many subjects to land, the DA draws on a wide-reaching category that covers subjects potentially defending themselves in court with testimony to protection/self-defense. We should all question the discretionary state power of district attorneys to press charges and constructions some “knowing subjects” as easily legible as subjects who protect themselves against threat (here against a racial conflation of ‘threat’ and a Black man with his back turned facing his children) and easily illegible as subjects who defend themselves in the face of violence. The denial of Black girl survivors’ claims to self-defense and the affirmation of officers’ *potential* claim to self-defense follow from world arrangements that protect white male settler power in life and in death, here Officer Sheskey and Randall Volar. In the following chapter, I explicate non-accidental epistemic burdens for survivors to overcome constructive pragmatic encroachment leveraged by punitive attributors.

4- CPE as Epistemic Oppression

As a failure-of-knowledge-attribution-problem leveraged as an argument for criminalization, Black girl survivors' experiences of third-person punitive cases of constructed pragmatic encroachment (CPE) highlight an epistemic burdens-based epistemic oppression. In this chapter, epistemic oppression refers to 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, etc.). Epistemic authority is the ability to use what one knows within a given community of knowers in order to participate in knowledge production, especially to act as an expert of one's own experiences. When third-person knowledge attributors deny and override a survivor's knowledge claim with regard to a survivor's constructed practical stakes and constructed subjecthood, they introduce a non-accidental epistemic burden on the survivors. Constructed practical stakes, here, refers to the potential costs/consequences of acting on knowledge of some proposition for some subject. And constructed subjects are categories of potential and actual knowers constructed by contingent geo-political formations. A non-accidental epistemic burden, however, is a burden to strengthen one's epistemic position in relation to some proposition, p, despite having an adequate (or better) epistemic position in relation to some p.

In this chapter, I detail constructed pragmatic encroachment as a form of epistemic oppression by outlining non-accidental epistemic burdens in the lives of survivors of sexual

violence in the US. When punitive third-person attributors deny what survivors know with regard for their constructed practical stakes and constructed subjecthood, they introduce a non-accidental epistemic burden for survivors. Survivors are required to overcome non-accidental epistemic burdens by doing additional labor to prove what they know about their own experiences of sexual violence. This is epistemic oppression based on persistent and irregular epistemic burdens for differently situated survivors with varying constructed practical stakes and different categorizations as victims of crime or non-victim criminals. First, I explain that non-accidental epistemic burdens follow from CPE as a non-neutral epistemological problem. Second, I detail three levels of non-accidental epistemic burdens: non-accidental epistemic burdens within interpersonal relationships, group-sanctioned non-accidental epistemic burdens, and state-sanctioned non-accidental epistemic burdens. Finally, I claim that Chrystul Kizer and other criminalized Black girl survivors face epistemic oppression in the US criminal injustice system in the form of state-sanctioned non-accidental epistemic burdens.

CPE and Non-Accidental Epistemic Burdens

CPE is a knowledge attribution account of disparate pragmatic encroachment according to which real-world attributors attribute or deny knowledge to a subject based on the subject's constructed practical stakes in relation to some proposition, 'p,' and/or some broader p-relevant inquiry. The subject is constructed by contingent geo-political formations that establish different categories of potential and actual knowers, like knowing non-victim criminals as discussed in chapter three. In this chapter, I focus on punitive third-person cases of CPE where a third-person knowledge attributor denies and overrides a subject's knowledge claims with regard for their constructed practical stakes constructed subjecthood. These cases give rise to non-accidental

epistemic burdens. By *non-accidental epistemic burden*, I mean 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. It is non-accidental because it is a burden that is built into the structure of knowledge attribution as a mechanism to determine whether knowledge claims are actionable for subjects, rather than an accident of a fallible attributor or faulty epistemic resources for knowledge attribution. When cases of punitive CPE are frequent for some groups of subjects, they face non-accidental epistemic burdens as *persistent* and *irregular* epistemic burdens that undermine their epistemic authority. This hinders their participation in knowledge production by requiring that do *more* and *more frequent* labor than other knowers to prove what they already know in order to exercise their epistemic authority within an epistemic community.

When knowers must overcome a non-accidental epistemic burden, some third-person knowledge attributor(s) requires additional corroboration for a knower's knowledge claim. The additional labor a knower must do to procure knowledge attribution is primarily epistemic, like gathering additional evidence and/or presenting additional supporting arguments, but not exclusively, like affective labor in utilizing anger to passionately defend what one knows. This is epistemic oppression where third-person knowledge attributors gatekeep knowledge production by requiring knowers to address an extra-epistemic condition on knowledge to exercise epistemic authority within a given community. Notably, differently situated knowers can have vastly different constructed practical stakes and subjecthoods when making a knowledge claim about the same proposition in different contexts, e.g. "I know that the bank is open on Saturday or I know that I am in danger." This is due to various non-neutral features of the world, namely features of different geo-political contexts, that produce different costs and/or consequences for knowers depending on their situatedness and material circumstances. In turn, knowers with

“more at stake” are subjects who are disproportionately marginalized by compounding social and political oppressions and exclusionary metaphysical categorizations which shape their material conditions and legibility as certain kinds of subjects. This means marginalized knowers face more frequent (or persistent) non-accidental epistemic burdens that undermine their epistemic authority and impede their regular participation in knowledge production. As non-accidental epistemic burdens are not evenly distributed requirements for all knowers in a given community, they are persistent, irregular requirements that hinder marginalized knowers’ participation in knowledge production.

Thus, when punitive third-person CPE denials constitute epistemic oppression, their denials flow from a non-neutral, unevenly distributed epistemological problem. The people closest to the worst of the problem are asked to do the most labor to exercise their epistemic authority, resulting in delayed, limited, and/or gaps in knowledge production within a given community. Audre Lorde (1980) points to this kind of epistemic oppression in “Age, Race, Class, and Sex: Women Redefining Difference,” a paper delivered at Amherst College, when she says:

“For in order to survive, those of us for whom oppression is as american as apple pie have always had to be watchers, to become familiar with the language and manners of the oppressor, even sometimes adopting them for some illusion of protection. Whenever the need for some pretense of communication arises, those who profit from our oppression call upon us to share our knowledge with them. In other words, it is the responsibility of the oppressed to teach the oppressors their mistakes. I am responsible for educating teachers who dismiss my children’s culture in school. Black and Third World people are expected to educate white

people as to our humanity. Women are expected to educate men. Lesbians and gay men are expected to educate the heterosexual world. The oppressors maintain their position and evade responsibility for their own actions. There is a constant drain of energy which might be better used in redefining ourselves and deciding realistic scenarios for altering the present and constructing the future” (pp. 114-115).

Lorde highlights that marginalized peoples are expected to explain their knowledge to a class of oppressors as a sometimes, necessary communication. While she refers to this as a *constant drain* on marginalized peoples, it can also be further specified as a *persistent epistemic burden*. Non-accidental epistemic burdens function as structural barriers within a given epistemic community that can overwhelming require marginalized peoples to corroborate what they know over and over to powerful punitive attributors (or socio-epistemic oppressors), despite having an adequate or better epistemic position to some proposition, to oppressive others who do not face the same stakes. In other words, punitive third-person knowledge attributors who are empowered to deny and override marginalized peoples’ knowledge claims, then require that marginalized knowers overcome non-accidental epistemic burdens to procure attribution do not have the same “skin in the game.” They can “maintain their position of [socio-epistemic] power and evade responsibility” for how their denial(s) disproportionately undermine and hinder marginalized knowers’ epistemic authority and participation in knowledge production. Epistemically oppressive CPE is not about the fallibility of punitive attributors, but whether attributors certify that marginalized knowers’ knowledge claims are actionable for them given their constructed practical stakes and applicable categorizations of who they are as a subject relevant to some proposition.

CPE is enacted by third-person knowledge attributors, a socio-epistemic gatekeeping role within communities of knowers with significant socio-epistemic power over contributions to knowledge production. Their socio-epistemic power is what sets CPE in motion as non-accidental epistemic burdens that hinder knowers' contributions to knowledge production, rather than as merely nagging, skeptical community members who demand more corroboration of knowledge claims without any significant socio-epistemic gatekeeping power. Where knowers need punitive third-person knowledge attribution to contribute to knowledge production within an epistemic community or multiple epistemic communities, the socio-epistemic power to deny what some subject knows until they overcome a non-accidental epistemic burden is an instance(s) of CPE as a feature of a hierarchical, gatekeeping epistemological structure. If third-person knowledge attributors were not granted significant socio-epistemic power to gatekeep contributions to knowledge production, knowers could ignore third-person CPE denials as mere mistaken community members. This makes it epistemically oppressive CPE a structurally disempowering problem to address and pinpoint. For now, the next step in locating CPE as epistemic oppression is a breakdown of three levels of non-accidental epistemic burdens.

Three levels of non-accidental epistemic burdens (NAEB)

In this section, I adventure to locate epistemic oppression as epistemic burdens by examining the level of resistance non-accidental epistemic burdens pose for knowers. By level of resistance, I mean the extent to which third-person knowledge attributors can exert their epistemic power within a given community to undermine a knower's epistemic authority. Epistemic authority is the ability to use what one knows within a given community of knowers in order to participate in knowledge production, especially to act as an expert of one's own

experiences. Different levels of non-accidental epistemic burdens vary according to a third-person knowledge attributor's power to act as a barrier to knowers' participation in knowledge production. In addressing a persistent and irregular requirement to strengthen their epistemic position, knowers resist the inaccurate evaluation of their knowledge in order to exercise their epistemic authority within a given community. This is significant for knowers who aim to use what they know as a reason to perform some range of actions, especially where their given community can socially and/or politically challenge the permissibility of their actions. After all, CPE arises as a problem for knowers because real-world knowledge attribution concerns affirming that one's knowledge is actionable for them in their particular context at some specific time. Hence, levels of non-accidental epistemic burdens are distinguished by punitive third-person knowledge attributor's socio-epistemic power and differently situated knowers' epistemic authority.

There are at least three levels of non-accidental epistemic burdens (NAEB): *NAEB within interpersonal relationships*, *group-sanctioned NAEB*, and *state-sanctioned NAEB*. *NAEB within interpersonal relationships* are addressed within a knower's interpersonal relationship(s) with some third-person knowledge attributor, like a classmate or co-worker. A knower addresses this NAEB to exercise their epistemic authority within the interpersonal relationship(s) to affirm some range of actions within their interpersonal relationship(s). The third-person knowledge attributor acts as a kind of local mediator to assess whether some proposition/p-relevant inquiry is actionable for some knower in their particular context at some specific time. Their epistemic power is limited to this interpersonal role, meaning their ability to affirm or deny that some knower knows some proposition/p-relevant inquiry can be challenged by another third-person attributor with more epistemic power in the given community. This may be someone who serves

in an official group role, like a private school teacher or religious leader, which introduces a second level of NAEB. A *group-sanctioned NAEB* is addressed within a knower's relationship to some group(s) in which some third-person knowledge attributor has more epistemic power as a representative of that group(s). A knower addresses a group sanctioned NAEB to exercise their epistemic authority within the group(s). While there may be third-person attributors with different levels of epistemic power within the same group, the epistemic power of the group is limited to the group such that another entity, like a nation-state, can challenge their ability to affirm or deny that some knower knows some proposition/p-relevant inquiry such that it is actionable for them. A *state sanctioned NAEB* is a third level burden that a knower addresses within a state institution(s), like the US child welfare system or US criminal injustice system, to exercise epistemic authority within that institution(s). Third-person knowledge attributors at this level are state agents with different levels of epistemic power to undermine knowers' epistemic authority and socio-political power to leverage the resources of the state to challenge the permissibility of the knowers' actions based on some proposition/broad p-relevant inquiry. Hence, there is an important interplay between the epistemic power of third-person knowledge attributors, marginalized knowers, and the socio-political power of third-person knowledge attributors in a given community/overlapping communities importantly animates this kind of epistemic oppression.

As illuminated in chapters two and three, CPE is a non-neutral epistemological problem concerning the social and political costs/consequences knowers may face as a result of acting on what they know, or constructed practical stakes, and constructions of knowers as particular kinds of subjects located in the world. While third-person knowledge attributors are empowered to deny what marginalized knowers know with regard to their constructed practical stakes, they

may also be positioned within a specific relationship to initiate those costs/consequences for the knower who acted on their knowledge. Marginalized knowers who face a NAEB and are not yet using their knowledge of some p or broad p-relevant inquiry as a reason to perform some range of actions, may address the particular level of NAEB with a third-person knowledge attributor to safeguard against future challenges of their actions as not grounded on knowledge. However, marginalized knowers who acted on their knowledge of some p or broad p-relevant inquiry and face a NAEB, must address the particular level of NAEB with a third-person attributor to defend against a challenge of their actions as not grounded on knowledge of some p or broad p-relevant inquiry. This varies according to the third-person attributor's socio-political location within an interpersonal relationship(s), group(s), and/or state institution(s). They can leverage the socio-political resources of interpersonal relationship(s), group(s), state institution(s) to challenge a knower's action or range of actions as permissible or impermissible. There are different considerations for actions viewed as grounded on knowledge (or "truth"), rooted in ignorance (or "falsehoods"), or otherwise. This is perhaps most evident when marginalized survivors face different levels of NAEBs and punishment for acting on their knowledge of violence within a settler matrix of sexual violence.

The different levels of NAEB are sadly, extraordinarily apparent in the lives of Indigenous and Black survivors of sexual violence in settler states. As Dian Million (2009) articulates in "Felt Theory: An Indigenous Feminist Approach to Affect and History," Western colonial knowledge systems are structured to reinforce colonial constructions of the inherent deviance of Indigenous women and burden Indigenous women to articulate their alternative knowledge to a state which already "knows" them as immoral. Million (2009) vividly explains this problem in her analysis of Beatrice Culleton's (1983) novel:

[Beatrice] Culleton's *In Search of April Raintree* gives the first full account of the lived racialized duality of Métis experience, tracing the felt consequences through the lives of two sisters, one phenotypically Native and one who, "white" in appearance, valorizes being white. It is a story of family disintegration and the State's abuse of children. In Culleton's novel, almost everyone is acting on a different register of "truth" ...April is gang raped by three men who mistake her for her sister, Cheryl. April seeks justice and, in telling her truth, another is revealed—Cheryl's prostitution, which undermines everything April wants to believe about her sister while supporting her own deeply misguided dears about the nature of "Indian-ness." Cheryl, "revealed," begins the slide that ends in her suicide after she meets her father, whom she holds as her last illusion of a childhood that never existed. In the end, no matter what, at no time in their lives do these ill-used Métis children who become troubled women have their own truths, either directly or as a consequence of other "truths" in play that they cannot anticipate. April on the witness stand testifying to her abuse – while being judged for *her* "truthfulness"—is a profound metaphor for the conditions of Native discursive autonomy. Culleton's April and Cheryl as occupants of the colonial spaces "Indian" and "women" are already *known*. They inhabit an old Western colonial "knowledge" of Indian women's immoral "nature." They are Indian women versus the white patriarchal state, a state that first destroyed and then substituted itself for their family and that can then sit in paternal judgment of their "morality." They occupy the Canadian state's and the perpetrators shared social knowledge/imagination of their *deviance*. Thus, the burden of "truth" on April is the same as it is on Cheryl,

on Indian women, to prove they are not already guilty of being what the state believes them to be. In fact, in order to get justice in Canada or any other Western state, it is illustrative of the nature of colonialism today. Indian people who must tell their alternative truth go against the same state that is the protector of the civil truth that abuses them in both thought and deed. (pp. 59-60)

The fictional story showcases a real-world epistemological problem where state-level and group-level third-person knowledge attributors are *empowered to judge* an Indigenous survivor's knowledge of sexual violence, while *positioned to punish* an Indigenous woman for testifying to, or acting on, her knowledge of sexual violence.

In non-neutral, settler states, sexual violence against Black and Indigenous peoples is historically illegible in law and social imaginaries about these groups while their resistance to sexual violence is most legible as inherent criminality. Knowledge production in settler states establish and reinforce that Indigenous and Black women, girls, and gender non-conforming youth and adults are not *really* survivors, but inherently sexually deviant peoples who act on criminal intent, not knowledge of sexual violence. In this skewed socio-political landscape, Indigenous and Black survivors have historically, extraordinarily, high constructed practical stakes and are defined outside of hegemonic categorizations of subjects as survivors of sexual violence. Various third-person attributors are empowered within interpersonal relationships, groups, and/or state institutions to deny and override survivors' knowledge claims to sexual violence by contending that their current epistemic position is not strong enough to withstand potential punishment for acting on said claims and they are punishable non-victim criminals, a non-accidental epistemic burden that does not address the metaphysical problem but can address pending moves to punish a survivor. Facing the possibility of punishment or on-going

punishment for acting on knowledge of sexual violence within interpersonal relationship(s), group(s), and/or state institution(s), survivors are tasked with overcoming these NAEBs to exercise epistemic authority within an oppressive community. It is a structural, epistemological set-up at the cross sections of social and political material stakes, knowledge-attribution centered epistemological systems, and metaphysical constructions of subjects.

State-sanctioned NAEB and criminalized Black girl survivors

Epistemic oppression based on persistent and irregular epistemic burdens can be hard to identify in action given how it operates across historical, socio-political, metaphysical, and epistemological structures. Third-person constructed pragmatic encroachment, where US third-person knowledge attributors deny marginalized survivors' knowledge claims to sexual violence with regard to the potential punishment at stake in acting on said claims, is one illuminating site of this kind of epistemic oppression. Sadly, this is because the US criminal injustice system has a persistent history of criminalizing Black girl survivors who claim they knowingly acted in self-defense when someone, typically a white settler man, raped them.

From Celia in Missouri (McLaurin 2009), Joan Little in North Carolina (Davis 1975; Thuma 2019), Cyntoia Brown-Long in Tennessee (Brown-Long and Mauger 2019), Chrystul Kizer in Wisconsin (State of Wisconsin vs. Chrystul D. Kizer), to many other incarcerated and formerly incarcerated survivors of sexual violence (Richie 2012; Haley 2016; Thuma 2019), the US settler state punishes Black girl survivors as “knowingly acting with criminal intent,” despite testimony to self-defense. Black girl survivors in the US navigate a criminalizing metaphysical and socio-epistemic quagmire, as detailed in Chapter Three, as well as epistemic oppression as a persistent and irregular epistemic burden that undermines their epistemic authority and hinders

their participation in knowledge production. When punitive state attributors leverage the controlling image of “fast-tail swindlers,” they exploit a very, very bad punitive situation whereby Black girl survivors are metaphysically categorized and socio-epistemically assessed outside of hegemonically legible survivorhood. In this section, I show that Chrystul Kizer faces epistemic oppression, as a defendant and survivor in the US criminal injustice system, to affirm that her alleged actions are a direct result of sex trafficking protected by Wisconsin law. District Attorney Michael David Graveley denies Kizer’s knowledge claims of sex trafficking and on-going danger by Randall Volar as actionable reasons for her purported self-defense. More simply, the DA denies that Kizer “knowingly acted in self-defense” and pursues prosecution for “knowingly acting with criminal intent.” Kizer is burdened with a state sanctioned NAEB to exercise epistemic authority over her own experience of sexual violence in court.

First, knowledge production in the US settler state dominantly affirms Black girl criminality in legal, social, and cultural spheres. Sarah Haley (2016) captures this significant epistemological problem and backdrop to the criminalization of Black women and girls in *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity*:

“Carceral gendering reveals that gendered knowledge is produced not merely through male/female binaries but also through a complex of material and discursive knowledge projects; normative female gendering was produced through the spectacular cultural and legal production of the black female invert as a relational and trammled social category defined by deviant motherhood, physical grotesqueness, the capacity for hard labor, the impossibility of sexual, emotional, and physical injury, mental inferiority, and disposability” (pp. 6).

As Haley explains, the Western construction of a gender binary of male/female relies on the ongoing production of gendered knowledge that defines “the black female” as deviant, without injury and mental fortitude, and disposable. In this way, knowledge production is already skewed against Black girl survivors’ knowledge of their experiences of sexual violence and their epistemic authority as knowers to challenge this dominant production. Criminalized Black girl survivors, in particular, then, are especially disadvantaged by knowledge production that foregrounds “black female deviance” as exceptional criminality. Indeed, Angela Davis (2003) argues this in *Are Prisons Obsolete* when she writes:

Nevertheless, masculine criminality has always been deemed more “normal” than feminine criminality. There has always been a tendency to regard those women who have been publicly punished by the state for their misbehaviors as significantly more aberrant and far more threatening to society than their numerous male counterparts.... As the discourse on criminality and the corresponding institutions to control it distinguished the “criminal” from the “insane,” the gendered distinction took hold and continued to structure penal policies. Gendered as female, this category of insanity was highly sexualized. When we consider the impact of class and race here, we can say that for white and affluent women, this equalization tends to serve as evidence for emotional and mental disorders, but for black and poor women, it has pointed to criminality. (pp. 66-67)

Feminine criminality is socially and legally deemed especially punishable by the state as “more aberrant and far more threatening to society.” For Black and poor women and girls, this means they are far more likely to be “known” by the state, to connect back to Dian Million (2009), as criminals.

Third-person knowledge attributors who work for the state, like a district attorney, are far more likely to pursue and affirm knowledge of Black girl survivors as criminals, like the controlling image of “fast-tail swindlers,” than affirm Black girl survivors’ knowledge that challenges this available, dominant production. As detailed in Chapter Three, the controlling image of Black girl survivors as “fast-tail swindlers” is a hegemonic construction of Black girls as insatiable, hypersexual beings who con or use adults via sexual favors. In other words, third-person knowledge attributors deny Black girl survivors’ knowledge claims to self-defense as not equally viable as other available criminalizing constructions and do they do so in a powerful settler colonial socio-political landscape. Their denial(s) is well-supported by dominant knowledge production, metaphysical constructions of ‘Survivors,’ and socio-political power imbalances to utilize state punishment. If they use a Black girl survivor’s constructed practical stakes to justify their denial, they can sidestep claims of outright prejudice, even if applicable, by arguing that the survivors’ epistemic position in relation to the true or false sexual violence relevant inquiry alone is not strong enough to use as a reason to act on the true or false sexual violence relevant inquiry. This is often said in some form of the following, “Well, no one else was there. There is too much at stake to just take your word for what happened, a further, neutral investigation is needed to corroborate your testimony.”

If constructed practical stakes for survivors is ultimately the potential punishment for acting on one’s knowledge of sexual violence, then constructed practical stakes for Black girl survivors is always, already extraordinarily high and persistent across centuries in the US. The geo-political context of US anti-Black female criminalization is used against Black girl survivors as a barrier to knowledge attribution and legibility. Third-person denials from the state with regard to constructed practical stakes weave together criminalization, stakes, and knowledge

attribution. At the state level, criminalized Black girl survivors face epistemic oppression in the form of state sanctioned NAEBs to exercise epistemic authority over their own experiences of sexual violence and fight a carceral override of their experiences as “criminal intent.” This is a key feature of the unjust charges against Chrystul Kizer.

Chrystul Kizer is burdened with a state sanctioned NAEB to exercise epistemic authority over her own experiences of sexual violence as a survivor of sex trafficking. Again, a *state sanctioned NAEB* is a third level burden that a knower addresses within a state institution(s), like the US child welfare system or US criminal injustice system, to exercise epistemic authority within that institution(s). Third-person knowledge attributors at this level are state agents with different levels of epistemic power to undermine knowers’ epistemic authority and socio-political power to leverage the resources of the state to challenge the permissibility of the knowers’ actions based on some proposition/broad p-relevant inquiry. District Attorney Michael Graveley is utilizing his socio-epistemic power as a punitive state agent to undermine Kizer’s epistemic authority and punish her for acting on her knowledge of sex trafficking and on-going danger to defend herself. As a defendant and survivor, Kizer is burdened with an unjust, extraordinary uphill battle to corroborate her knowledge of sexual violence and range of actions in self-defense as a direct result of sex trafficking in court. This additional labor may include additional taxing and invasive interviews with investigators, meeting with more defense attorneys, meeting with anti-sex trafficking advocates, asking for and organizing public political pressure on the DA to drop the charges, and more, and more, and more. She is a knower with limited socio-epistemic power and epistemic authority within the US criminal injustice system, where knowers punished for being categorized beyond ‘survivors as victims of crime’ and not overcoming non-accidental epistemic burdens built into the system.

Conclusion

Learning from criminalized Black girl survivors, third-person constructed pragmatic encroachment reveals that state-sanctioned non-accidental epistemic burdens are a form of epistemic oppression that supports state punishment as a non-neutral epistemological problem for marginalized knowers. Epistemic oppression is a persistent and irregular epistemic burden that undermines knowers' epistemic authority, thus hindering their participation in knowledge production. The on-going criminalization of Black girl survivors in the US is a problem that requires dismantling social and political oppressions, epistemic oppressions, exclusionary metaphysics of Blackness, Black girlhood, and Crime. In the meantime, the district attorney can drop all charges against Chrystul Kizer, and others can do the same for other criminalized survivors in the US, all unfairly constructed as criminalizable and burdened to overcome an insatiable criminal injustice system designed to maintain settler power, not healing or justice for survivors of sexual violence.

Conclusion

While criminalized Black girl survivors in the US face social and political disempowerment, they also face epistemological disempowerment through state-sanctioned non-accidental epistemic burdens. As the US criminal injustice system requires survivors overcome state-sanctioned non-accidental epistemic burdens to claim self-defense, criminalized Black girl survivors are epistemically oppressed by a persistent and irregular epistemic burden to prove what they know about their own experiences of sexual violence. There are at least two major possible objections to this main argument, so I will address them each in this conclusion.

First, objectors may suggest that constructed pragmatic encroachment is a miscategorization of the real-world relationship between practical stakes and knowledge attribution. They could argue that the epistemological problem is actually real-world attributor contextualism in action. Attributor contextualism (contextualism henceforth) is “a theory according to which the truth-conditions of knowledge-ascribing and knowledge-denying sentences (sentences of the form ‘S knows that p’ and ‘S does not know that p’ and related variants of such sentences) vary in certain ways according to the context in which they are uttered” (DeRose, 2009, p. 2)⁶. Building on the work of Peter Unger, Keith DeRose (2009) argues that it is the attributor’s context that determines the shifting knowledge standards, such that a first-person knowledge-ascribing sentence may have a different truth-value in different contexts and may differ from the truth-value of a third-person knowledge-ascribing sentence about the same subject. For the contextualist position, then, pragmatic encroachment is best understood as the pragmatic encroaching on the strength of a subject’s epistemic position, such

⁶ Also see Cohen (1999; 2019) and Amour-Garb (2011).

that an ascribing speaker's practical environment shifts the standards for knowledge-ascription in different contexts.

The objection would be that criminalized Black girl survivors are subjected to higher epistemic standards in legal contexts because attributors have higher stakes in those contexts than non-legal contexts – state agents are under oath, it is their job to vet testimonies to violence, they pursue “justice,” etc. Hence, state attributors require that survivors who claim self-defense must meet a higher standard of knowledge in legal contexts. This approach would explain that Chrystul Kizer, as first-person ascriber, speaks truthfully when she affirms that she knowingly acted in self-defense and the district attorney and judge speak truthfully when they deny her knowledge claim to self-defense. A contextualist approach to criminalized responses to sexual violence almost comes to the same conclusion as a constructed pragmatic encroachment approach. The approach would affirm that the burden of proof falls on Chrystul Kizer. However, it affirms that the state agents' denials are truthful statements about Kizer and it errs in naming shifting contexts over actionable propositions or broad-p relevant decision. Kizer is the expert of her own experience of sexual violence. The district attorney and judge do not have a bird's eye view into Kizer's knowledge possession to make a true or false statement about what she knows about danger, vulnerability, and violence. They can, at best, make an accurate or inaccurate evaluation of Kizer's claim to self-defense. Additionally, the DA, judge, and Kizer are all in a high-stakes legal context, so shifting contexts does not clearly make sense of the case. They each face *very* different potential costs/consequences for affirming or denying that Kizer knowingly acted in self-defense, differently from traditional hypothetical cases of ascribers in high-stakes contexts and subjects in low-stakes contexts. The problem, here, is whether Kizer's knowledge claims are actionable for her in accordance with Wisconsin law, regardless of an attributor's

different stakes. A contextualist approach ultimately does not capture how historical replicating socio-political and epistemological structures produce this problem.

Second, objectors might argue that criminalized Black girl survivors face persistent and irregular epistemic burdens in the US criminal injustice system due to prejudicial attributors operating with *epistemic vices*, perhaps regularly assigning less credibility to Black girls in general. José Medina (2013) explains epistemic vices in *The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and Resistant Imaginations*:

Epistemic vices (such as epistemic arrogance) are flaws that are not incidental and transitory, but *structural and systematic*: they involve attitudes deeply rooted in one's personality and cognitive functioning. Epistemic vices are composed of attitudinal structures that permeate one's entire cognitive life: they involve attitudes toward oneself and others in testimonial exchanges, attitudes toward the evidence available and one's assessment of it and so on. These vices affect one's capacity to learn from others and from the facts; they inhibit the capacity of self-correction and of being open to corrections from others (which requires some amount of epistemic humility and open-mindedness) (pp. 31).⁷

State-sanctioned attributors, like a district attorney, might persistently and irregularly require that Black girl survivors strengthen their epistemic positions due to their own flaws. The burdens on survivors, then, are the fault of lots of individual attributors with epistemic vices, like epistemic arrogance and close-mindedness. As virtue epistemologists, these objectors could suggest that to counter oppressive epistemic burdens attributors need to develop epistemic virtues, like

⁷ Also see Miranda Fricker's (2007) *Epistemic Injustice: Power and the Ethics of Knowing* for more on epistemic virtues and vices.

epistemic humility and open-mindedness, through engagement with sexual violence awareness and implicit bias training. This would essentially be an argument that prejudicial attributors should work harder to believe survivors. It is a laudable, but incomplete suggestion and analysis. While attributors can absolutely have epistemic vices that lead them to tend to deny survivors' knowledge claims, attributors' possible epistemic vices do not explain or address a structure of knowledge attribution itself that empowers attributors to adjudicate survivors' testimonies at all.

Given the long history of criminalizing Black girl survivors from Celia in 1855 to Chrystul Kizer in 2021 and after and an insatiable sexual abuse to prison pipeline, the problem is more than a lot of flawed attributors in positions of power. There are social and political structures operating as designed to punish and dismiss survivors (intersections of racism, patriarchy, homophobia, and more) and at least one epistemological structure operating as designed (knowledge attribution). Constructed pragmatic encroachment as a knowledge attribution account helpfully brings these structures into focus to further explain persistent and irregular epistemic burdens in survivors' lives, even when attributors disavow prejudice and cite survivors' stakes to deny their claims. This dissertation project importantly brings into question the epistemological role of knowledge attributors as powerfully hierarchal and oppressive. More research on real-world relationships between knowledge attribution and action can further elucidate maneuvers to deny survivors' own experiences of sexual violence.

My journey as a survivor-scholar began in 2012 on the campus of Spelman College. Since then, I had the incredible fortune to become a Black feminist epistemologist and work with innovative Black girl survivors across multiple generations in the United States. It is through these experiences over several years that I came to see a connection between denials of survivors' experiences of sexual violence and punishment as an epistemological problem.

Various people's power to punish survivors within interpersonal relationships, communities, and state institutions appear deeply tied to mechanisms of knowledge attribution in the US. The question, "Are you sure it was rape," is both a probe to verify whether survivors *really know* that they experienced sexual violence and a probe to assess whether attributors should support, ignore, or punish survivors. With potential punishment as a gradient cost and consequence of testifying to one's experiences of sexual violence, various people's and institutions' power to punish survivors pose substantial socio-political barriers for survivors. How might survivors' lives change in the aftermath of violence if facing potential punishment was not a barrier to overcome in the courtroom, classroom, or home, for example?

Beyond merely believing survivors, especially Black girl survivors, US mainstream anti-violence organizations and advocates should make political demands to move beyond punishment and confinement as responses to sexual violence. This is necessary to shift the social and political landscape for survivors to affirm their knowledge of sexual violence. I am not the first, and I likely will not be the last, survivor to note the role of punishment and potential punishment to maintain sexual violence as a structure of interlocking systems of domination (see especially Richie 2012, INCITE 2006, and Kaba 2021).⁸ This dissertation project, however, is an entry point and/or invitation to others to examine a thicker real-world relationship between knowledge attribution and action as an undercurrent of criminalization. Epistemologies of criminalization must be decoded and dismantled for liberated futures for survivors of sexual

⁸ Mariame Kaba's (2021) *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice* was released as I was wrapping up this manuscript. Although I did not engage her book for my dissertation, I look forward to growing and learning from her book soon. I chose not to skim the book to extract quotes but to give myself time to truly sit with her Black feminist gift in the future. I'm not being shady in noting a quick extraction practice, instead I am noting that sitting with Black feminists' words for how they may challenge and expand my thinking is key to my methodological practices.

violence. Tracking epistemic oppression in the lives of Black girl survivors can help us point to exits from criminalizing metaphysical and socio-epistemic quagmires.

Toni Morrison, an incredible novelist, editor, and professor, insightfully explains that the point of writing about extraordinary violence against Black people is to identify processes of violence and point to real exits in “An Interview with Toni Morrison, and a Commentary about her Work” (Frias et. al 1994). In the interview with Wayne Pond for his radio program in 1991, she responds to a harsh, popular criticism of her work that suggests that she “enjoys being a victim” with the following answer:

I don't enjoy being a victim, but I enjoy identifying the process by which one is victimized in order to point the finger at exits. Not as escape hatches based on fantasy and wishful thinking, not as escape hatches based on re-inventing the world the way you would desire it, but real ones. Ones in which the knowledge of the past – wide-eyed, confrontational -- makes it possible for one to go forward honestly, carefully (1994, pp. 275-276).

As a Black girl survivor and scholar, I am clear that my liberation and the liberation of all survivors are deeply tied to the freedom of criminalized Black girl survivors. The state's power to punish some of the most vulnerable survivors is a consequential barrier to dismantling the interlocking structures that empower people who sexually assault and/or harass others. From state-sanctioned violence to interpersonal violence, it is all interrelated. This dissertation is a mapping of the process by which Black girl survivors are simultaneously oppressed by socio-political and epistemological structures. It is one more map to identify processes of victimization and point to exits. Forward to real escape hatches beyond sexual violence.

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