# Resolved: In a democracy, the public’s right to know ought to be valued above the right to privacy for candidates.

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## Topic Overview

At the heart of the resolution, “Resolved: in a democracy, the public’s right to know ought to be valued above the right to privacy for candidates”, is a question of informed voting. The public’s “right to know” has typically been used to refer to the belief that voters should have access to a variety of pertinent details about candidates running for election to public office.

Supporters of a “right to know” typically contend that informed voting decisions are crucial to the democratic process and political participation on a variety of fronts. For instance, many contend that they have the “right to know” information about who has contributed to a political campaign. Following the 2010 *Citizens United v. Federal Election Commission (FEC)* Supreme Court ruling, political action committees (PACs) and super political action committees (Super PACS) have substantially greater ability to donate to candidates. Supporters of the “right to know” argue that knowing contribution information helps keep politicians accountable, prevents them from being “bought out” by corporations, and allows them to be punished by voters if they accept unethical campaign contributions while running for office. Other arguments used by those in the “right to know” camp contend that it is important to know details about a candidate’s personal life, particularly if they have histories of inappropriate or unethical behavior. Lastly, advocates of the “right to know” suggest that disclosure of a candidate’s physical and mental health is important to address their capability for public office and if they can handle the trials and tribulations of the job.

Opponents of a “right to know” come from various fronts as well. Some opponents argue that a “right to know” is not an enumerated right in the constitution, and that compelling private information about a candidate would violate founding principles of the country. Other critics contend that anonymity actually serves campaign contributions and the political process better, reasoning that it compels smaller donations to vote because they do not feel “bought out” by corporations. Still more critics reason that forced disclosure about aspects of a candidate’s personal life produce stigma toward disability and mental health issues, referencing Thomas Eagleton’s removal from George McGovern’s presidential campaign ticket after it was revealed that Eagleton had hidden his electroshock therapy for depression. There is also a constitutional question that suggests mandating the “right to know” violates First Amendment rights.

It is important to note that the “right to privacy” is not an enumerated right guaranteed in the Constitution, but rather one that has been developed via interpretation and precedent from the Bill of Rights. Similarly, the “right to know” is not a guaranteed right either.

Overall, this debate is a question as to the consequences of disclosing information about a candidate and its consequences, both positive and negative. Given issues raised regarding the current presidential administration, including President Trump’s decision not to release tax returns and his relationship to Russia, the “right to know” has gained new political significance that will inform debates on this topic in LD.

## 1AC

### Value and Criterion

It is because I believe that candidates have a moral obligation to disclose to the public in order to reduce political corruption, allow voters to elect prepared candidates, and hold candidates accountable for their personal behavior that I am proud to affirm “Resolved: In a democracy, the public’s right to know ought to be valued above the right to privacy for candidates.”

My value for todays’ debate is democratic governance.

**New York University** *Democratic Governance: Theory and Practice in Developing Countries.* [course syllabus] New York, New York: **G. Shabbir Cheema. “Democratic governance is the range of processes through which a society reaches consensus on and implements regulations, human rights, laws, policies and social structures –in pursuit of justice, welfare and environmental protection.** Policies and laws are carried out by many institutions: the legislature, judiciary, executive branch, political parties, private sector and a variety of civil society. In this sense **democratic governance brings to the fore the question of how a society organizes itself to ensure equality (of opportunity) and equity (social and economic justice) for all citizens.”**

My criterion for today’s debate is the right to vote.

**Streiffer**, R., **Rubel**, A., & **Fagan**, J. **(2006).** Medical Privacy and the Publics Right to Vote: What Presidential Candidates Should Disclose. Journal of Medicine and Philosophy, 31(4), 417-439. doi:10.1080/03605310600860825 **“On any plausible conception of democratic governance, citizens have the right to vote, and it is therefore morally problematic if voters do not have access to important facts about matters they vote on.** For example, it would be problematic if citizens were unable to learn about candidates’ views on important policy matters before they choose between them. There are numerous democratic principles that underwrite the right to vote: that those who govern should do so with the consent of the governed; that the government should represent the people; and that **the people should be able to hold the government accountable.** In turn, **these principles underwrite ancillary rights: the right to physical access to the polls; the right to information about candidates’ voting records; and the right to information about campaign financing.** The moral importance of access to candidates’ health information arises out of one of these democratic principles, that those who govern do so with the consent of the governed. The right to vote secures the consent of the governed in two ways. First, it involves citizens in their governance in a way that makes them willing to submit to the rule of law and that justifies that willingness. More importantly, though, electing government officials by vote is itself a way in which the community as a whole gives consent to be governed by those elected. Although it is difficult to state precisely the way in which voting (or democracy more generally) secures the consent of the governed, or indeed the sense of “consent” in which those in a democracy do consent to be governed, the idea that voting is essential to government by consent is a familiar one**. It is also a commonplace that the meaningfulness of any sort of consent depends on the availability of information to the decision maker**.”

I reserve the right to clarify during cross-examination.

### Contention 1: Voters have a right to know who donates to a candidate’s political campaign under democratic governance.

#### Sub-Point A: Current campaign practices allow undisclosed campaign contributions, including Super PACs.

**Square**, Z. P. **(2016**, January 19). Do We Really Need Campaign Finance Reform? Retrieved from <http://time.com/4182502/campaign-finance-reform/>

Federal candidates’ reporting requirements allow them to submit campaign donor information on a quarterly basis and sometimes on handwritten documents that must be manually typed in by data-entry specialists**. Super PACs, the more formidable big-money vehicles that emerged from the Citizens United decision, can accept unlimited contributions but need only file donors’ information quarterly in general election years and on a semi-annual basis in odd-numbered years. As a result, the identity of the largest donors to super PACs cannot be determined until months after the contributions were made.**

**The picture is no brighter with so-called “secret money groups”—organizations such as 501(c)(4) social welfare groups that are not required to disclose their donors under current IRS rules despite increasing levels of political activity. These groups are playing a large role in campaign finance precisely because they are able to operate entirely beyond the realm of disclosure and can exert their influence by funding candidates and super PACs in anonymity.**

Better disclosure rules would require more frequent filing deadlines for entities that do file, with mandatory 24-hour reporting for large contributions. They would require a complete move away from any forms without machine-readable data. And they would need appropriate enforcement in tandem from the Federal Election Commission, the six-commissioner elections watchdog agency that unfortunately continues to be gridlocked by partisanship. These improvements would not only assist the journalists, researchers, and members of the public working to expose big money’s influence on politics in real-time, but would also potentially deter some of the most egregious cases of such influence by increasing accountability more generally.

The 2016 election promises to be the most expensive in history, but the problem with money in politics isn’t the sheer amount being spent. Instead**, the problem is a political system in which the overwhelming majority of political contributions come from a tiny number of individuals.** In the first part of the 2016 election campaign cycle, just 158 families, along with companies they own or control, contributed nearly half of all the money that was raised to support the presidential candidates. Meanwhile, a huge number of people around the country are so disillusioned with government that they don’t even vote, let alone contribute to political causes.

**We need to find new ways to engage more individuals in the political process, so that public policy decisions can reflect the input of all citizens, not just those of the donor class**. To do so, some states are introducing constitutional amendments aimed at encouraging voter participation and civic engagement by improving disclosure of the true sources of political spending. Other states are experimenting with public financing of political campaigns. One promising development comes from Seattle, where a recently approved program will provide all qualified voters with four $25 vouchers they can use to support the candidates of their choosing.

#### Sub-Point B: Undisclosed financial contributions compromise federal and local elections.

**Burgam**, C. (**2015**, September 23). Best Practices for Disclosure of Local Candidates' Campaign Finance Data. Retrieved from <https://www.followthemoney.org/research/institute-reports/best-practices-for-disclosure-of-local-candidates-campaign-finance-data>

Interest in state and federal campaign finance has soared, following the Supreme Court’s landmark Citizens United v. FEC ruling in 2010. Discussions of Super PACs and 501(c) groups are now commonplace, and candidates’ campaign accounts are meticulously watched for hints of strength or weakness. However, **political contributions are flowing in large amounts to a widely overlooked destination: local elections.**

**Although these races often do not receive the headlines of their state and federal counterparts, the election results can have a great effect on people’s everyday lives. School curriculum, zoning, and local tax code are just some examples of policy determined by the elected local boards, councils, and executives who carry out local governance. Knowing who funded their campaigns is an essential component of maintaining an effective, accountable democracy.**

### Contention 2: The release of candidate health information is needed to make informed voting decisions.

#### Sub-Point A: Lack of knowledge about the health of political candidates undermines the democratic process.

**Streiffer**, R., **Rubel**, A., **& Fagan**, J. **(2006).** Medical Privacy and the Publics Right to Vote: What Presidential Candidates Should Disclose. Journal of Medicine and Philosophy, 31(4), 417-439.

But **if voters have a right that their valid consent be obtained, and if consent is not valid unless it is informed, it follows that voters have a right to the information necessary to make an informed voting decision.** A fortiori **if certain kinds of medical information are necessary for making informed voting decisions, voters have a right to that medical information.** This explains why the historical examples we mentioned above are problematic**. The Wilson case is clearest in this regard: his illness resulted in the effective disenfranchisement of the entire American people who had no idea that their vote for Wilson would give the power to make presidential decisions to his wife.** **Tsongas’s unsuccessful 1992 presidential campaign also clearly highlights how complete confidentiality could undermine voters’ rights to make informed voting decisions. If Tsongas had been elected, it was unlikely that he would have lived through his term, due to his recurrent lymphoma. Clearly, those voters who would have voted for Tsongas had he run without disclosing his condition, but who would not have voted for him if they knew about his recurrent cancer, would not have been making an informed voting decision.** A second group might have voted for him even had they known about his recurrent cancer; even so, they would likely have considered access to that information important in their deliberations. Thus, their vote would not have been fully consensual in light of the fact that they were deprived of that information, and their vote would still have not been fully consensual even if Tsongas had been elected and had not suffered any complications of his cancer.

Similarly, Eisenhower’s failure to disclose his medical conditions illustrates a situation in which the voters were denied the ability to make an informed voting decision even though the medical condition did not have the expected outcome. Finally, Roosevelt’s 1944 re-election campaign illustrates a situation in which withholding information from the voters can render their decision uninformed even though, because of Roosevelt’s overwhelming popularity, the information probably would not have altered the outcome of the election.

#### Sub-Point B: Feasible disclosure of candidate health is both possible and benefits the right to vote.

**Pollack**, H. (**2017**, August 07). We have a political problem no one wants to talk about: Very old politicians. Retrieved from https://www.vox.com/the-big-idea/2017/8/7/16105120/politicians-elderly-death-disability-mccain-supreme-court

**One useful reform would be to subject all candidates for major office to a proper medical review from nonpartisan authorities. Presidential candidates might be examined by the staff of Bethesda Naval Hospital. They should be entitled to privacy regarding matters that don’t affect their capacities to hold public office, but qualified and nonpartisan medical authorities should have an opportunity to examine them and to review their records.**

In this, as in so many other areas, President Trump made a mockery of the process by submitting a gonzo health report from his Manhattan physician. ("If elected, Mr. Trump … will be the healthiest individual ever elected to the presidency.") That seemed funny when the smart money assumed a Clinton presidency. It’s less funny now, as we depend upon Trump’s health and mental acuity as he negotiates with North Korea.

We should also scrap lifetime appointments to the Supreme Court in favor of fixed 18-year terms. Under such a system, each presidential administration could appoint one Supreme Court justice every two years on a predictable schedule. (It’s noteworthy that these changes would increase the prospects for older jurists to be appointed in the first place. Today, a president would be foolish to nominate a 65-year-old to the high court, but the calculus changes if terms are limited.)

Aware of the challenges facing elderly judges, **the Ninth Circuit Court of Appeals has several sensible programs. It “offers a battery of mental health assessments, hosts discussions with neurological experts and has created a hotline where staff may report signs of cognitive decline in their colleagues,” notes the law professor and biographer David J. Garrow, who has long expressed concern about cognitive decline on the bench. The Supreme Court could take a cue.**

**Justices should take personal responsibility too. Justices should not serve 30 or 40 years, particularly when they can be replaced by someone from their own party.** In 2011, Randall Kennedy called upon Justices Ginsburg and Breyer to immediately retire. They should have done so.

### Contention 3: The public has the right to know about a candidate’s personal character.

#### Sub-Point A: Content warning: gender-based violence - Disclosure about candidates’ histories of violence holds them accountable and empowers new candidates for public office.

**Gabriel**, T., **& Bidgood**, J. (**2018**, February 20). Sexual Misconduct Spurs New Elections: The #MeToo Races. Retrieved from https://www.nytimes.com/2018/02/20/us/elections-sexual-harassment.html

**In Oklahoma, a state senator was charged with sexual battery after a female Uber driver said he tried to kiss her. In California, a state assemblyman was accused of following a lobbyist into a restroom and masturbating in front of her. And in Minnesota, a lobbyist said a state representative repeatedly propositioned her**, including by sending a text that read: “Would it frighten you if I said that I was just interested in good times good wine good food and good sex?”

**These and other allegations of sexual misconduct led to resignations by nearly a dozen state and federal lawmakers in recent months, setting off a flurry of special elections around the country to fill seats suddenly left open by the #MeToo reckoning.**

Yet the candidates running to replace these disgraced men — many of whom are women — are hesitating to put sexual harassment front and center as an issue in their campaigns. In at least eight state legislative and two congressional races, including special elections in Minnesota and Oklahoma that were held last week, the subject has rarely been mentioned in advertisements, rallies or when knocking on doors.

“You get an eye roll and that’s it,” said Tami Donnally, a Republican running to fill a Florida State Senate seat on April 10 after the resignation last year of Jeff Clements, a powerful Democrat who admitted to an affair with a lobbyist. Ms. Donnally, vice-chairwoman of the Republican Party of Palm Beach County, said voters shrug off the issue: “‘Oh well, another one bites the dust, let’s move on, tell me what you’re interested in.’”

In Minnesota, Karla Bigham, a Democrat who won a special election on Feb. 12 to replace a disgraced member of her own party, found slightly more interest in the issue, though it did not dominate conversations.

**“People were well aware of why we were having a special election,” Ms. Bigham, who has been a union organizer, said. “They expected a change and I talked about that on the doors in Minnesota — we need a cultural change in the Capitol.”**

#### Sub-Point B: The right to know information including tax returns better reveals information about a candidate’s character, including possible conflicts of interest.

**Yeager**, M. (**2016**, October 26). Why is the tax return a big deal and what information can you learn from it? Retrieved from https://sunlightfoundation.com/2016/07/27/why-is-the-tax-return-a-big-deal-and-what-information-can-you-learn-from

We believe **tax returns**, when considered in conjunction with financial disclosure forms**, help paint a fuller picture of the candidate’s financial dealings. It’s a snapshot of their financial positions and interests**. For more than four decades, presidential candidates have seemed to agree with our perspective, and every candidate since Carter has released tax returns voluntarily to the public.

What do we glean from these separate pieces of information?

**From tax returns we learn:**

 **Yearly income of the candidate**

 **How much the candidate paid in taxes and the tax rate**

 **What deductions and tax credits claimed**

 **Real estate taxes and abatements**

 **Investments**

 **How much the candidate gave to charity (which could shed light on their values and priorities)**

 **To whom the candidate owes money**

 **Who are the candidates in business with and the financial positions of those companies (whether they have had gains or losses)**

 **May indicate if money is being held offshore**

On the financial disclosure forms:

 Outside Income

 Gifts

 Assets/property owned

 Specific investments/trusts

 Possible conflicts of interest

 Certain transactions/agreements made with businesses and people

 Positions held at different companies outside of the government

 Liabilities

It’s also important to remember that unlike Congress, presidents are exempt from conflict-of-interest laws.

**This makes disclosure of income tax returns especially important to shed light on areas of possible conflicts of interest. Yearly salaries are often reported in the news but tax returns reveal so much more about the character of the candidate. Their debts give us a broader sense of the state of their finances, and perhaps more importantly an idea to whom they could feel beholden. We learn how much (or little) they paid in taxes, and whether they utilized loopholes in tax law to avoid paying those taxes. It sheds light on whether they conducted activity that they have criticized on the campaign trail.**

**Learning about candidates businesses, business partners and the state of those activities can help understand how their judgment might be affected by their financial transactions and debts.**

**We learn their values and priorities from learning which charities they support.**

There is a reason why banks use tax returns when evaluating mortgages: the forms offer a snapshot of a person’s financial position and their financial decision making processes. Financial disclosure forms simply don’t offer a complete picture. The two documents together may give voters a better sense of how a candidate makes financial decisions. Voters should be able to evaluate the information contained in these documents together before deciding who to vote for in November.

I now stand open for cross-examination.

## 1NC

### Value and Criterion

It is because I believe that the “right to privacy” for candidates for pubic office improves the democratic process, prevents stigma of mental health, and upholds the constitution, that I proudly negate “Resolved: In a democracy, the public’s right to know ought to be valued above the right to privacy for candidates.”

My value for today’s debate is the right to privacy.

Right Of Privacy Legal Definition **Merriam-Webster**. (**2018**.). Retrieved from https://www.merriam-webster.com/legal/right of privacy

**The right of a person to be free from intrusion into or publicity concerning matters of a personal nature.** Although not explicitly mentioned in the U.S. Constitution, **a penumbral right of privacy has been held to be encompassed in the Bill of Rights**, **providing protection from unwarranted governmental intrusion** into areas such as marriage and contraception.

My criterion for todays’ debate is political legitimacy

Legitimacy | **Encyclopedia Princetoniensis.** (**2018**). Retrieved from <https://pesd.princeton.edu/?q=node/255>

**Legitimacy is** commonly **defined in political science and sociology as the belief that a rule, institution, or leader has the right to govern. It is a judgment by an individual about the rightfulness of a hierarchy between rule or ruler and its subject and about the subordinate’s obligations toward the rule or ruler. When shared by many individuals, legitimacy produces distinctive collective effects in society, including making collective social order more efficient, more consensual, and perhaps more just.** Tom Tyler says that **if authorities “are not viewed as legitimate, social regulation is more difficult and costly”** (Tyler 2001, 416). This accounts for the interest rulers show in legitimating their rule.

### Contention 1: The right to privacy improves legitimacy in the political process, including anonymous campaign contributions.

#### Sub-Point A: Anonymity, rather than the “right to know”, better supports the interests of voters.

**Ayers,** I. (**2001**). Should Campaign Donors Be Identified? - **Yale Law School**. Retrieved from http://www.bing.com/cr?IG=42D3DA346C9D4644B88911F3D1383527&CID=3ADFC9842732685F13D5C5B626CF69A9&rd=1&h=6q4xEE-tHMpgR22cRld6nXv8Ovaus9fZFOj0YJa1GL8&v=1&r=http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1014&context=lepp\_papers&p=DevEx.LB.1,5535.1

Mandatory anonymity — even if perfectly implemented — is not a panacea. Candidates would still have incentive to take certain positions in order to generate contributions, and the wealthy would continue to have a disproportionate voice in electioneering. But **the donation booth offers three key benefits** over the current system: **Anonymity would make it more difficult for politicians to reward their contributors. Anonymity would substantially reduce the number of large donors. Anonymity might increase the number of small donors. In contrast, mandatory disclosure is much less likely to produce those outcomes. Monetary influence and inequality could only be deterred if voters punished candidates who pandered to contributors or received disproportionate contributions because of their position favoring wealthy contributors. America’s experience with mandatory disclosure is that the benefits to a candidate of having extra contributions for the campaign almost always outweigh any possibility that some voters will be put off by the fact of the contribution itself.** At the end of the day, **a workable regime of mandated anonymity is likely to have a much larger effect than mandated disclosure on monetary influence It would be difficult for candidates to provide favors or special access to contributors without knowing the contributors’ identities. Regulation and inequality for the simple reason that it is likely to reduce the number of five- and six-figure contributions.**

#### Sub-Point B: Anonymity better supports constitutional rights, including freedom of speech.

**Parks**, Z. (**2014**, January 13). Protecting Anonymous Speech Used to be 'Common Sense'. Retrieved from https://www.ifs.org/2014/01/10/protecting-anonymous-speech-used-to-be-common-sense/

Today, we celebrate the anniversary of one of the most important pieces of writing in American history – **Thomas Paine’s Common Sense**. Originally published 238 years ago on January 10, 1776, the pamphlet **is famous as one of the most influential essays in history, credited with convincing large portions of the American colonies that independence from Great Britain was necessary. Without Paine’s work, the American Revolution as we know it may not have happened.**

Common Sense is a favorite here at CCP. We’ve been known to give away copies of it at conferences we attend and talk it up as **an example of how important free speech is and how ridiculous modern rhetoric surrounding so-called “dark money” has become.**

When it was first published in 1776, Common Sense did not credit its author. Its publisher, the wealthy Benjamin Rush, was also anonymous. **For many months, while the pamphlet was the talk of the colonies, the public didn’t know who wrote or published it. Paine wanted it that way, both because his arguments against British rule would bring government retaliation, and because he shared the Enlightenment belief that ideas were more important than the identity of the speaker expressing them.**

**Today’s political climate is not friendly to the anonymity that protected Paine and Rush.** Few take seriously the threats that are faced by those who criticize the government, despite the evidence that such threats are still quite real. Perhaps more significantly, the idea that speech should be judged apart from its speaker has eroded. **Modern political rhetoric romanticizes ‘sunlight,’ ‘transparency,’ ‘disclosure,’ and calls to ‘follow the money.’ The notion that we should focus on concepts rather than contributors seems sadly archaic. If Common Sense was published today, it would likely be demonized as the work of “dark money operatives” seeking to secretly manipulate public opinion. The substance of Paine’s argument would be pushed aside in favor of a debate over the personal virtues and vices of Paine and Rush.**

**This is a sad sign for free speech and democracy. If an idea is persuasive, it shouldn’t be seen as manipulation. That’s just free speech and the marketplace of ideas at work. The public once understood this, and anonymous publishing was commonplace as a result. The incredibly influential Federalist Papers, which helped win ratification of the Constitution as well as explain its meaning, were also published anonymously (for those playing historical trivia, the authors were Alexander Hamilton, James Madison, and John Jay).**

**It is nothing short of incredible that advocates of greater disclosure can deny that people should be able to remain anonymous when speaking out, when the founders themselves did exactly that.** Indeed, from the most influential pamphlet urging the American Revolution to the most important text for understanding the Constitution, anonymous speech has long been a major force for good in American society.

**The idea that speech matters more than its speaker isn’t particularly popular** in today’s disclosure-crazy politics**, but it’s worth reclaiming**. Celebrating important examples of anonymous speech like Common Sense is a good first step to showing people that total disclosure, even if it were possible, is not desirable, and that there is a legitimate role for anonymous political speech to influence public opinion.

### Contention 2: Forced outing of the “right to know” a candidate’s mental health produces stigma.

#### The case study of Thomas Eagleton as George McGovern’s vice presidential running mate shows that forced outing of mental illness perpetuates ableism and stigma.

**Johnson**, J. (**2010**). The Skeleton on the Couch: The Eagleton Affair, Rhetorical Disability, and the Stigma of Mental Illness. Rhetoric Society Quarterly, 40(5), 459-478. doi:10.1080/02773945.2010.517234

After the press conference, although the opinions on whether Eagleton should be removed from the ticket varied wildly, **the editorial pages were ‘‘almost unanimous’’ in their criticism of Eagleton’s failure to reveal his medical history to McGovern at the moment he was asked to join the ticket** (Kreger 30). It was not only McGovern who had a right to know, one editorial in the Chicago Tribune intoned, the American voters had a right to know as well. Although the editorial maintained that ‘‘the fact that a man has had psychiatric counseling and even shock treatments should not in itself disqualify him forever for responsible public service,’’ **it insisted that Eagleton was obligated to reveal his ‘‘skeleton’’ to the American public. ‘**‘Mr. Eagleton may still be able to erase the blot on his medical record,’’ the editorial concluded, but only ‘‘if he recognizes that the people are entitled to know all of the facts about the emotional stability of a man who could become President’’ (‘‘Sen. Eagleton’s Past’’). **The effect of Eagleton’s disclosure on his rhetoricability was considerable. Eagleton was burdened with the stamp of bad character, which was compounded by the accusations of fraud and deception that accompanied his forced outing; in addition, to be visible as mentally ill also carried a threat to rhetoricability** that I will call the ‘‘diagnostic hermeneutic,’’ an interpretive frame in which the audience takes on the diagnostic gaze of the physician, searching body and speech for symptoms. The roots of this hermeneutic are similar to what Prendergast describes as the denial of signification to schizophrenic speech and writing, in that mental illness is almost always interpreted via language. It would be inaccurate to describe Thomas Eagleton’s speech as evacuated of signification, however. If anything, Eagleton’s speech signified too much, illustrated by the editorial I used as the epigraph for this section, which warned **that ‘‘his audiences will note every tic, twitch, or quaver for signs that the doctors fell short of their goal.’’ Read through the diagnostic hermeneutic, even the smallest bodily movements - this gesture, that facial expression, this stammer—act as signs, symptoms of the illness hidden beneath, and in Eagleton’s case, taken as a warning that someone of unsound mind might be about to assume a position that demanded extraordinary reason and judgment.** For most people, trembling hands might be the sign of too much caffeine. Within the diagnostic hermeneutic, however, a tremble is never just a tremble. One can only imagine the campaign literature the Nixon team would have crafted on the theme of Eagleton’s ‘‘trembling finger on the nuclear button’’ (Hart, qtd. in Giglio 671). Media reports of the press conference invariably read Eagleton’s physical comportment through the diagnostic hermeneutic. The New York Times, for example, described the senator as ‘‘manifestly nervous,’’ revealed by the fact that his ‘‘hands and his face’’ seemed to ‘‘quiver slightly’’ (Lydon). During Eagleton’s Face the Nation appearance at the height of the Affair, the moderator wondered out loud during the program if ‘‘there was some unsettling significance to Eagleton’s perspiration and the tremors in his hands’’ (McGinniss 30). After the show aired, one of Eagleton’s colleagues in the Senate complimented him for keeping his temper when interacting with a reporter who had falsely accused him of driving drunk. ‘‘Well, I had to,’’ Eagleton replied, ‘‘if I had gotten mad everybody would have said, look at that Eagleton, no self-control, he doesn’t belong on the ticket’’ (McGinniss 30).

### Contention 3: The “right to know” fundamentally violates the principles of the Constitution, undermining political legitimacy.

#### Sub-Point A: Forced disclosure laws, including disclosure of tax returns, would violate the constitution.

**Sammin**, K. (**2017**, March 10). No, States Can't Make Presidential Candidates Release Tax Returns. Retrieved from http://thefederalist.com/2017/03/10/no-states-dont-get-make-presidential-candidates-release-tax-returns/

**Democratic state legislators across the country are proposing bills that would require candidates for President to publicly disclose their tax returns in order to qualify for the ballot.** Failure to do so would mean that candidates, even if they meet the constitutional qualifications for office, would be barred from receiving votes in the state in question.

All but ignored by the national media, state legislators emerge from obscurity only rarely. Usually an article surfaces with the headline “GOP Lawmaker Proposes [something insane and unconstitutional].” The news cycle then moves on and the offending legislator is released back into the obscurity of Carson City or Little Rock.

Democratic state legislators usually get a different treatment, no matter how stupid their ideas. They are most often ignored—but occasionally, as in this article in The Hill, their bad and unconstitutional ideas are given serious treatment, even elevated to the level of legitimate policy proposals.

Why Is This Happening Now?

As the article notes, 32 versions of these bills have been proposed in 19 states. There are two reasons for the upwelling of legislative proposals on this topic. The first is understandable: people remain incensed at President Trump’s refusal to release his tax returns during the 2016 campaign. His proffered excuse—that he was unable to do so because of an ongoing audit—was absurd, and was debunked almost as soon as the words left his mouth. Nevertheless, he persisted. And amazingly, it worked.

Beginning with Richard Nixon in 1952, most presidential and vice-presidential candidates have released at least some of their tax returns. Since the 1970s, the practice has become standard. Hillary Clinton released the last eight years of her tax records promptly, and other candidates did as well (Jeb Bush released an unheard-of 33 years of returns). Trump upset that emerging tradition when he refused to release his. There was considerable uproar over it, but the public ultimately shrugged at the lack of transparency, or at least found it preferable to the problems presented by his opponent. In wanting to know more, these state legislators are not completely out of line, but merely out of step with a public that has moved on.

The second reason for this sudden interest in transparency is in response to the demands of the far-left so-called “Resistance.” The enraged and energized Left demand some anti-Trump action from the politicians they support. For state legislators, this presents a problem, since they do not interact directly with the President. An attempt to stymie his potential bid for re-election—three years in advance!—gives Democrats in state offices something to do, something to brag about to their hardcore supporters, and most importantly, something to put in their fundraising letters and e-mails. Does it make sense? Is it constitutional? They don’t seem to care.

Legislators Ignore the Constitution, But Courts Won’t

**Politicians may ignore the Constitution they swore to uphold, but courts do not have that luxury. If any of these bills become laws, they will face immediate court challenges, and rightfully so.** What these legislators are proposing is fairly revolutionary: they think they have the right to change the qualifications for the office of the presidency. The Hill quotes Professor Richard L. Hasen, who says on his election law blog that whether such laws pass constitutional muster is still “an open question.” In fact, any reasonable look at the law and precedents shows that these efforts are doomed to fail.

While changing the qualifications for the presidency is a new idea for state legislatures, they have meddled in federal electoral law before, specifically by attempting to impose term limits on members of Congress. Back in the early 1990s, when Newt Gingrich and his Contract with America channeled voters’ discontent with Washington into a Republican majority in Congress, term limits became popular again. The issue was not a new one. **The Articles of Confederation contained term limits, and they were considered but rejected at the Constitutional Convention in 1787.** Their popularity waxes and wanes with the political climate, and in the 1990s they were again in vogue. After a federal constitutional amendment to limit congressional terms fell short of passage in 1995, some states enacted limits on federal officeholders on their own.

**Arkansas was one of those states, and the law they passed quickly found its way into court. The case, U.S. Term Limits, Inc. v. Thornton, was appealed to the Supreme Court, which held that the term limits were unconstitutional. The opinion by Justice John Paul Stevens cut right to the logical inconsistency of states altering the qualifications for federal offices.**

#### Sub-Point B: The federal government is barred from forcing disclosure on candidate information.

**Simmons**, A. **(2012**, August 27). Public figures, private records. Retrieved from https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-summer-2012/public-figures-private-reco

In particular, **information related to a political contender’s finances** has always been of general public interest, but **does not fall into the category of records that can be accessed under most transparency laws.** But as the upcoming 2012 election nears, the secrecy that shrouds personal finances often draws attention to the still-unsolved quandary regarding the private records of public figures — an issue that is of importance to journalists, the aspiring politicians they cover and the citizens they hope to serve.

Recently, government transparency advocates and political opponents have called on Republican presidential candidate Mitt Romney to disclose more of his past income tax returns, in order to shed light on his offshore bank accounts, family trusts and working relationship with Bain Capital, a private equity firm that he founded.

But by releasing his 2010 returns and 2011 estimated taxes, “Governor Romney has dutifully and according to law filed all of his financial disclosure requirements,” said Romney aid Kevin Madden to host Bob Schieffer on CBS’ “Face the Nation” in July. “He’s gone above the law.”

Madden is right: **under current government ethics statutes and Federal Election Commission regulations, Romney and other presidential candidates are under no legal obligation to release information related to their private tax history. The Internal Revenue Service protects the privacy of all citizens — including U.S. presidents — and is barred from releasing any taxpayer information to the public.** But since the wave of political scandal that broke out in the 1970s, candidates running for public office have traditionally chosen to release their tax returns in an effort to appear transparent.

## Aff Extensions/Answers

#### AT: Voters don’t care - The Pew Research Center demonstrates that voters care about a candidate’s personal character.

**Rosentiel**, T. (**2011**, May 16). When Private Lives Become Public. Retrieved from <http://www.pewresearch.org/2011/05/16/when-private-lives-become-public/>

**Generally, the issues matter most in voters’ judgments about presidential candidates, but personality, character and values are not far behind. This is especially the case in the primaries where differences between candidates of the same party tend to be modest.**

**Fully 62% of Republicans said they would be less willing to vote for a candidate who had committed adultery. For example, leadership and personal qualities were more important to Republican voters in New Hampshire in 2008 than positions on issues.** And a victorious John McCain bested Mitt Romney from neighboring Massachusetts by a huge margin on the personal dimension — though there is no one way that voters size up the personal dimension.

In past Pew Research Center surveys, **voters said that honesty is the single most important thing they wanted to know about a candidate. However, significant numbers also think that it is important to learn about a candidate’s openness, personal background and the candidate’s spouse.**

With regard to a candidate’s personal life, divorce is not much of a consideration — it has been a long time since Gov. Nelson Rockefeller’s presidential aspirations were derailed by divorce. In 2007, just 9% of voters said that they would be less willing to vote for a divorced candidate. But adultery is another matter; as many as 39% said they would be less willing to vote for a candidate who had had an extra-marital affair.

Republicans are especially reluctant to vote for a candidate who has had an affair. Fully 62% said they are less likely to do so. Many fewer Democrats, having stood by President Clinton during the Lewinsky scandal, drew that line. Only 25% said such a candidate would likely lose their vote.

#### AT: Stigma – TURN: Failure to provide medical information only leads to pseudo-diagnoses that make stigma worse.

**Baldwin**, M. (**2017**, July 10). Playing Politics with Mental Illness. Retrieved from https://www.psychologytoday.com/us/blog/beyond-schizophrenia/201707/playing-politics-mental-illness

**Regardless of how one views the President, those who care about the well-being of persons with serious mental illness ought to unanimously condemn the accusations of mental illness being lodged against him. In the absence of any diagnosis by a qualified professional, the accusations amount to nothing more than careless generalities. Such unsubstantiated allegations of mental illness are not merely inappropriate, but harmful. They reinforce the negative stereotypes and pervasive stigma associated with mental disorders. The harm extends beyond the intended target, to the millions of people who are actually struggling to recover from clinically diagnosed mental illness.**

For decades, the psychiatric profession has tried to combat stigma by educating the public that serious mental illnesses are diseases of the brain. Serious mental illness has distinct physiological causes, just like other illnesses. Treatments for mental illness are available, just like for most other illnesses. Hence, mental illness is not an attitude, like racism or sexism; and it is not a behavior, like collaborating with enemies. To treat it as such for political purposes is to deny the science underlying the diagnosis.

President Trump is not the first national politician to be ‘accused’ of mental illness sans diagnosis. Perhaps the most impactful case occurred during the 1964 Presidential election. During the campaign, Fact magazine conducted a survey in which more than 12,000 psychiatrists were asked whether Senator Goldwater was "psychologically fit" for the Presidency. Among the 2,400 psychiatrists (less than 20%) who responded, nearly half said that Goldwater was psychologically ‘unfit for office.’ Despite the low response rate, and the fact that none of the psychiatrists had personally examined Senator Goldwater, Fact published the results. Senator Goldwater eventually won a defamation lawsuit against the magazine, but the damage (to the Senator and the psychiatric profession) had been done. [1]

In the aftermath, the American Psychiatric Association (APA) implemented the Goldwater Rule. According to the rule, implemented in 1973, it is acceptable for psychiatrists to respond to questions from the media on issues related to their profession. It is unethical, however, to offer a professional opinion on the psychiatric state of any individual without conducting a personal examination of that individual. The APA provides three main rationales for the rule (italics added):

 "When a psychiatrist comments about the behavior, symptoms, diagnosis, etc. of a public figure without consent, that psychiatrist has violated the principle that psychiatric evaluations be conducted with consent or authorization."

 "Offering a professional opinion on an individual that a psychiatrist has not examined is a departure from established methods of examination, which require careful study of medical history and first-hand examination of the patient. Such behavior compromises both the integrity of the psychiatrist and the profession."

 "When psychiatrists offer medical opinions about an individual they have not examined, they have the potential to stigmatize those with mental illness." [1]

**By including mental illness among the list of negatives they associate with President Trump, his detractors are exploiting the stigma associated with mental illness for political purposes. That stigma derives from negative stereotypes of persons with mental illness as dangerous, incompetent, unpredictable, unstable, weak, and irredeemable (they will never recover).** It follows that such a person must not be allowed to hold any position of importance, least of all the most powerful job in the world. But the stereotypes are false. There are many persons who have been diagnosed with serious mental illness who hold positions with considerable responsibility and authority (e.g. professors, lawyers, accountants, etc.). Their success is cause for celebration, not fear.

As the mother of a young man with schizophrenia, I personally resent the fact that mental illness has been included among the accusations leveled against the President. When mental illness appears along with fascist, sexist, racist, in the list of characteristics ascribed to President Trump, the implication is that being mentally ill is one of the worst things you can be. Indeed, numerous studies of attitudes toward persons with disabilities have documented the intensity of stigma associated with mental illness. In studies spanning five decades, four continents, and people age 5 to 65, mental disorders consistently evoke more intense stigma than physical disorders.

**The stigma against mental illness is intense, enduring, and pervasive**. It is also so acceptable. In today’s world, the derogatory terms once used to describe women, racial and ethnic groups, and persons with physical disabilities, are no longer acceptable in polite speech. Many people find it offensive that a football team is called the Redskins. Yet, terms like ‘crazy,’ ‘maniac,’ and ‘schizo’ are both common and acceptable.

#### AT Constitutionality - TURN: The Supreme Court has demonstrated that disclosure is good for public interest.

**Shaw**, K. (**2016**, April 16). Taking Disclosure Seriously. Retrieved from https://ylpr.yale.edu/inter\_alia/taking-disclosure-seriously

Citizens United, of course, is best known for striking down long-standing limits on corporate spending in federal elections.[3] But **the Court** in that case also **confronted a First Amendment challenge to federal law’s disclosure and disclaimer provisions**. In Part IV of its opinion—a tiny portion of the overall discussion—the Court soundly rejected the petitioners’ arguments**. The Court explained that the disclosure and disclaimer provisions advanced the government’s “informational interest”—that is, an “interest in ‘provid[ing] the electorate with information’ about the sources of election-related spending”[4]—and thus easily survived the “exacting scrutiny” the Constitution required**.[5] The Court reasoned **that disclosure furthered important democratic values, explaining that “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”[6]** “[D]isclosure . . . can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions . . . . The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way.”[7]

Just a few months after Citizens United, the Court decided Doe v. Reed.[8] After a successful signature drive led to a Washington state referendum on, and ultimate rejection of, a domestic partnership bill, a number of groups sought access to the referendum petitions under the state’s public records law.[9] The petition’s sponsor and certain petition signatories brought a First Amendment challenge to the public-records law. Construing the case as presenting a facial challenge, the Court held that the law, though it did implicate First Amendment interests, was justified by the government’s compelling interest in “preserving the integrity of the electoral process.”[10] And Justice Scalia wrote separately to question whether petition signatories even possess any protectable First Amendment interests in anonymous speech; without providing a definitive answer, he wrote that the state was not only constitutionally permitted, but also to be lauded, for making its petitions publicly available: “Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.”[11]

Finally, nearly two years ago, the Court in McCutcheon v. FEC struck a similarly pro-disclosure note in the course of invalidating the federal aggregate limits on campaign contributions.[12] McCutcheon featured no challenge to disclosure, and so its discussion was pure dicta; but the Court’s description of the power of disclosure, invoking an informational interest with anti-corruption dimensions, was nonetheless striking. **The Court explained that “[w]ith modern technology, disclosure now offers a particularly effective means of arming the voting public with information . . . minimiz[ing] the potential for abuse of the campaign finance system.”[13]**

#### The public has a right to know a candidate’s tax records.

**Wonderlich**, J. (**2016**, October 26). Congress should mandate tax return disclosure for presidential candidates. Retrieved from https://sunlightfoundation.com/2016/05/12/congress-should-mandate-tax-return-disclosure-for-presidential-candidates/

**Presidential candidates and sitting presidents should be required by law to publicly disclose their tax returns.**

For four decades, candidates and sitting presidents have disclosed their tax returns, recognizing that public expectations for transparency demand no less. According to the Tax History Project’s research on presidential tax returns, every president of the United States since Jimmy Carter has disclosed at least one year of returns prior to taking office. Once presidents assume office, it has become common practice for them to release tax returns annually. The vast majority of their challengers have either matched or exceeded that standard.

Recent questions about when and whether candidates will publicly disclose their returns, however, have raised new doubts about the strength of our political norms. A detailed public view of candidates’ financial backgrounds can’t be taken for granted.

Congress can and should fix this. Just as presidential candidates are required to submit personal financial disclosure forms to the Federal Election Commission, they could be required to submit their tax returns for public review. An orderly, enforceable, rule-based process would let us skip the drama and doubts, and ensure access to what we already expect of our candidates: a reasonably clear view into their financial lives.

**We shouldn’t be naive about privacy or the gravity of imposing mandatory disclosure requirements. Tax returns contain sensitive information.** Americans still share a fundamentally private approach to personal finance and real estate. In much of the world, political opposition candidates face persecution from politically motivated law enforcement. Despite these concerns, declared American presidential candidates should be held to a higher standard of transparency. **Tax return disclosure for presidential candidates can inform the public without creating a significant risk of abuse. Decades of experience have taught us that the finances of presidents and candidates are essential to our public understanding and political dialogue.**

## Neg Extensions/Answers

#### AT: Candidate personal behavior matters – value voters have largely disappeared in the wake of a Trump presidency and partisan politics.

**Coppins**, M. (**2017**, December 07). 'You Need to Think About It Like a War'. Retrieved from https://www.theatlantic.com/politics/archive/2017/12/the-vanishing-values-voter/547772/

**For decades, the belief that private morality was essential to assessing the worthiness of politicians and public figures was an animating ideal at the core of the Christian right’s credo.** As with most ideals, the movement did not always live up to its own standards. So-called “values voters” pursued a polarizing, multi-faceted agenda that was often tangled up in prejudice and partisanship. They fiercely defended Clarence Thomas when he was accused of sexually harassing Anita Hill, for example, and then excoriated Bill Clinton for his affair with Monica Lewinsky.

But even when they were failing to hold their own side accountable, they still clung to the idea that “character counts.” **As recently as 2011, a poll by the Public Religion Research Institute found that only 30 percent of white evangelicals believed “an elected official who commits an immoral act in their personal life can still behave ethically and fulfill their duties in their public and professional life.” But by the time Donald Trump was running for president in 2016, that number had risen sharply to 72 percent. White evangelicals are now more tolerant of immoral behavior by elected officials than the average American. “This is really a sea change in evangelical ethics,” Robert P. Jones, the head of the institute and the author of The End of White Christian America,** recently told me.

**Conservative values voters seem to have largely abandoned their search for moral exemplars in the political arena**—as my colleague Yoni Appelbaum wrote last year—**and are now content to settle for any candidate who will fight abortion and protect their religious freedom.**

“In an ideal world, you would have both character and [the right policy positions], but we don’t live an ideal world—we live in a fallen world,” Robert Jeffress, a pastor of First Baptist Dallas and a Trump adviser, told me. “That’s not to say character isn’t important. It’s certainly important. But it’s one of many factors you have to look at … character, competence, policy. Depending on where the country is at the time, you have to determine which of those is most important.”

Character still counts, in other words, but its market value has plummeted.

At a time when sexual misconduct allegations against powerful men are rocking many of America’s institutions, some Christians lament this deemphasizing of morality. “This really is a moment in which we ought to be having a conversation about how much character counts in all walks of life,” said David P. Gushee, a Baptist pastor and professor of Christian ethics at Mercer University in Georgia. “Instead, it is mainly a moment in which our side points to the character flaws of their side, and so on.”

Why did the values voters surrender on the character question? Gushee blames “hyper-partisanship”—and, indeed, it’s hard not to see Trump-era tribalism at work here. But leading conservative Christians told me the reasons extend beyond the latest election.

Albert Mohler, president of the Southern Baptist Theological Seminary, said that many of his fellow evangelicals have simply lost faith in the caliber of America’s political leaders. “In the 1960 presidential election, the voters basically assumed the basic moral probity of both Richard Nixon and John F. Kennedy,” he told me. “Forty years later, voters came to understand that one was a serial philanderer and the other was a paranoid leader who was a habitual liar … We live in an entirely different information environment, and I do think that changes a lot.”

**With modern technology and media making it more common than ever for politicians’ private transgressions to be exposed, Mohler said, conservative Christians are adjusting their expectations accordingly.** And while Mohler couldn’t bring himself to support Trump in 2016—he’d been an outspoken critic of Clinton during the Lewinsky scandal, and felt it would be hypocritical to give Trump a pass—he says he understands how other evangelicals justified their vote for the Republican nominee. “I’m not going to throw them under the bus,” he told me. “They’re not wrong that important issues are at stake.”

#### AT: Disclosure helps women – TURN – disclosure forces a double standard on women running for public office.

**Chira**, S. (**2017**, March 14). Mothers Seeking Office Face More Voter Doubts Than Fathers. Retrieved from https://www.nytimes.com/2017/03/14/us/women-politics-voters.html

Even voters who worried that fathers might shortchange either their young children or their office were reassured if the candidates issued statements addressing that concern. But they continued to hold the strongest doubts about married mothers of young children after they issued similar statements.

**“We confirmed that traditional gender roles are still powerful, influencing what we perceive to be acceptable and appropriate behavior for men and women,”** said Adrienne Kimmell, executive director of the foundation. “**For example, despite sweeping societal changes, many people still assume motherhood is a central role for women.** **That,** in turn, **affects how they view women candidates.”**

Many women who have run for office echoed the study’s findings.

**Jane Swift**, who was pregnant while she **was campaigning for lieutenant governor of Massachusetts** in 1998, set off a national debate about political office and motherhood. Later, she **drew criticism for asking aides to babysit for her daughter and for using a state helicopter so she could fly home to see her when she was sick and avoid Thanksgiving traffic.** Her pregnancy with twins when she was serving as acting governor renewed the debate.

Ms. Swift believes a double standard still operates.

**“The governor dad who takes his kids along to the county fair is a huge political asset, but it doesn’t work as well for the governor mom,”** said Ms. Swift, now the chief executive of Middlebury Interactive Languages, an education company. **“Being with children was seen as being distracted from doing your job. I found that part of my challenge was that whenever folks started to think about my children, it just took all the oxygen out of the room. Nobody knew all the work I was doing on educational reform or the work I did to improve the lives of foster children.”**

Annise Parker, right, then the mayor of Houston, with her wife, Kathy Hubbard, in 2015. Ms. Parker said that when the couple adopted children, it helped her make connections with voters.

She said that the criticism had prompted her to wall off her professional and personal lives, but that doing so also had a political cost**. “I was most successful politically when I shut down the ability for the public to have a view into my private life,” she said. “That’s unfortunate, and it made it harder for me to be relatable to folks.”**

The new study suggests that women in office or seeking it must confront any criticism, and it offered templates for how to do so based on the focus group and survey responses.

#### Autonomy is improved when people have right to privacy on campaign spending disclosure.

There are, however, many other legitimate reasons for people to make political statements anonymously. As the Court explained in McIntyre, "**The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible.** "All of these penalties could apply to contributions. There are two intertwined types of privacy costs, one consequential but concrete, the other more direct but more abstract. The concrete costs occur when disclosure leads to specific negative results for the contributor.

The NAACP members and socialists who are protected explicitly in current doctrine are extreme examples, but **contributors can suffer significant harm from disclosure in a variety of other contexts. Individuals also have a direct but abstract interest in shaping their identity in the world, rooted in rights of dignity and autonomy.-Control over personal information maximizes their autonomy by increasing their ability to be the authors of their own lives, at least as perceived by others. Loss of that control injures personal dignity because others learn information that is "none of their business."**

## Citations/Future Research

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