

STUDENT PRESS LAW CENTER
REPORT
FALL 2018 VOL. XXXIX, NO. 2

HEAD COUNT

Concussions are a serious problem in youth sports. But in many states, it's nearly impossible to get accurate numbers about them.

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The Student Press Law Center *Report* (ISSN 0160-3825), published by the SPLC, summarizes current cases and controversies involving the rights of the student press.

The *Report*, Vol. XXXIX, No. 2, Fall 2018, is published by the Student Press Law Center Inc., 1608 Rhode Island Ave. NW, Suite 211, Washington, D.C. 20036, (202) 785-5450. Copyright © 2018 Student Press Law Center. All rights reserved. Contributions are tax-deductible.



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INSIDE THIS ISSUE

COVER STORY:

12 HEAD COUNT

Concussions are a serious problem in youth sports. But in many states, it is difficult to get the numbers behind them.

3 COVERING SEXUAL ASSAULT

How student journalists are addressing criticism, financial burdens, legal threats and other barriers to reporting Me Too stories.

11 PRESS FREEDOM AWARDS

Meet the 2018 winners of SPLC's high school and college press freedom awards.

REGULAR FEATURES

8 CHEAT SHEET

Your handy reference guide to protecting yourself from auto-generated copyright infringement notices.

9 QUIZ: COPYRIGHT

How well do you understand copyright law? Take our quiz and find out.

FIND MORE ONLINE

Don't forget that much more SPLC content is available online at splc.org, including:

- **Monthly podcasts:** Learn about cybersecurity for student journalists, how to report on DACA, newsroom diversity and more. Subscribe in iTunes.
- **Stories of censorship:** How student journalists and their advisers are standing up to threats to their First Amendment rights.
- **New Voices updates:** Learn the latest about the grassroots student-driven movement to give student journalists and advisers protection from censorship.



CRITICIZED SUED AND OVERCHARGED

Are barriers to reporting on sexual assault surmountable for student journalists?

by: Gabriel Greschler

On the morning of Oct. 10, 2017, five days after *The New York Times* released its groundbreaking investigative article on Hollywood movie mogul Harvey Weinstein, Mitchell Koch, then managing editor at University of Memphis' *The Daily Helmsman*, published a story he had been working on for a little over a month.

The article told the story of Caroline (a pseudonym), a female student who was allegedly raped twice in 20 days in April 2017. A University of Memphis student who was arrested for one of the incidents "was suspended from the university for only the summer 2017 semester, but ... was allowed to come back to campus August 27, the beginning of the fall semester," Koch reported.

University President M. David Rudd was quick to criticize Koch's reporting. "I said the article in *The Helmsman* was irresponsible and I'm going to say it again," Rudd said at a Q&A held eight days after Koch's article was published. He was disappointed that the newspaper had written about an ongoing

investigation.

Student journalists face a multitude of challenges when it comes to reporting on allegations of sexual assault or harassment on their campuses:

- They are routinely criticized by their administrations for reporting about sexual assault, being cast as too young or too inexperienced.
- Universities have sued their own student news organizations to prevent documents from being released, causing student newsrooms with already tight budgets to scramble for legal assistance.
- Universities charge upwards of hundreds or even thousands of dollars for public records requests, a cost most student publications — and even many commercial news outlets — cannot cover.

Criticism from universities

President Rudd criticized Koch's reporting at a

crucial time for journalism. “It just so happened that it was when all the Me Too stuff was happening,” Koch said.

Three days before the university’s Q&A, in light of Weinstein’s fallout, actress Alyssa Milano tweeted, “If you’ve been sexually harassed or assaulted write ‘me too’ as a reply to this tweet.” Milano’s tweet, inspired by civil rights activist Tarana Burke, who coined Me Too, created a firestorm. Thousands of women on social media started to write their own stories of sexual harassment and assault. The movement was born.

Koch thought he had done his due diligence in corroborating the story. He says four or five media professors and an attorney from the Student Press Law Center were consulted before the article was published. “I had that [article] run through so many people,” Koch said. He also reached out to the student who was charged with the crime. While Koch was unable to get a response, he had tried to “give another side of the story.”



Reflecting back on the Q&A, Koch laments, “I very much disagree with [President Rudd]. I think it is our responsibility to publish things like that.”

Koch isn’t the only student journalist to face criticism from administrators for covering this kind of story.

In October 2016, University of Kentucky, Lexington President Eli Capilouto sent a campus-wide letter to students explaining why the university had chosen to sue the student newspaper.

The *Kentucky Kernel* had started an investigation into universities across the state, requesting public records regarding sexual misconduct investigations. UK denied the *Kernel*’s requests and upped the ante by filing a lawsuit against the paper.

As part of the letter, Capilouto blamed the *Kernel* for a drop in the number of students who were coming to the university for help with sexual assault or harassment incidents. Thirty-eight people had reported sexual assault or harassment to UK in fall 2016. This was 21 people fewer than

the previous year.

“The decline in the number of clients ... underscores the chilling impact that news reports are having on the willingness of victim-survivors to come forward,” Capilouto said. He was alluding to a number of articles the *Kernel* had published about a former professor with multiple sexual assault and misconduct accusations.

The *Kernel* didn’t disclose assault and harassment survivor names in their articles.

Then editor-in-chief of the *Kernel*, Marjorie Kirk, disagreed with Capilouto’s conclusions. “I think it’s the victims [that] know that there’s questionable behavior going on at the university and they probably just have more distrust in that option,” Kirk said in an interview with local news station LEX18.

A *Lexington Herald-Leader* news article published shortly after Capilouto’s letter showed the dip in students reporting sexual crimes to the university wasn’t a new phenomenon.

Public universities sue student news organizations

The *Kernel*’s public records request was denied when UK claimed they were protected under the Family Educational Rights and Privacy Act. The paper then asked for an independent ruling by Kentucky Attorney General Andy Beshear.

Beshear asked for a private review of the requested records to see if they were, indeed, under the protection of FERPA, a process that is unique to the state of Kentucky.

UK refused to hand over the records to Beshear. At this point, Beshear sided with the *Kernel*, ordering UK to turn over the records. The only option left for UK was to sue the *Kernel* on the grounds of having a court decide whether the records were FERPA-protected.

There are two different lawsuits now. The first is whether the *Kernel* can have access to the records. The second is whether Beshear has the right to privately review them.

The SPLC led a coalition to file an amicus brief in the first case in support of the *Kernel*.

In January 2017, a circuit court ruled in favor of UK, citing that the records were protected. In a second August 2017 ruling, the court ruled against Beshear, saying that he has no authority to

compel UK to turn over the records to him.

Both the *Kernel* and Beshear have appealed these rulings.

To pay for the legal costs, the *Kernel* launched a GoFundMe page, which raised \$13,476 as of May 2018. This has been enough to temporarily cover legal costs at the *Kernel*, but Kirk said it won't be able to sustain the legal costs long term.

Kirk's story is emblematic of how far a university will go to keep documents private.



Marjorie Kirk

"There is a great public interest in making most of these records public," said Kirk, who now attends law school at the University of California, Davis. "I don't think the privacy interests or economic interests of a school outweigh that."

How do journalists balance protecting the identities of survivors

with maintaining transparency? S. Daniel Carter, president of Safety Advisors for Educational Campuses and an expert on campus safety issues, said it starts with journalists creating an environment where survivors feel comfortable talking about their experiences to build trust with the campus newspaper.

"I don't know of any professional or responsible student media outlet that would name a sexual assault survivor without their consent," Carter said. "Including information that might allow someone to identify them is where it gets more challenging."

This requires more careful, extensive editing, Carter said. "It's not just a matter of doing ethical reporting, it's a matter of building up confidence of the campus community so that survivors are comfortable speaking to that outlet."

The *Kernel* isn't the only paper being threatened with legal action. In February 2017, Western Kentucky University in Bowling Green sued both its campus paper, *The College Heights Herald* and the *Kernel*. The *Herald* had requested records of sexual misconduct allegations against university employees. Beshear ordered the university to hand them over.

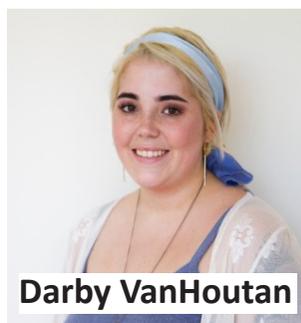
"It's troubling the university is suing its own

newspaper for practicing good journalism," Michael Abate, the attorney representing the *Herald*, said in an interview with the paper. The SPLC spearheaded an effort to collect donations that were forwarded to the *Herald* to help cover ongoing legal costs.

WKU, just like UK, is suing to have the court make a precedent regarding FERPA. Oral arguments for the case were heard on April 6, and the judge presiding over the case is considering letting Beshear review the public records requested by the *Herald*.

Will universities become more lenient with public records requests?

"It could go either way," Kirk said. "I think universities have a great interest in keeping these records private for a lot of reasons."



Darby VanHoutan

"It's a tough question," said Darby VanHoutan, who is investigations editor for *The University Daily Kansan*, University of Kansas' student paper. "Optimistically, I want to say it will because [universities] realize that

they don't have to protect the brand of the school or any office or institution as much as they need to protect students."

Conner Mitchell, who was editor-in-chief of the *Daily Kansan* during fall 2017, isn't as hopeful.

"The legal aspects of reporting on this is going to stay difficult, unless there is a change in [Kansas] law," Mitchell said.

Mitchell and VanHoutan haven't been sued by their university. The main barrier for them in accessing public records has been cost.

High costs student papers can't cover

On Nov. 30, 2016, Mitchell, then associate news editor of the *Daily Kansan*, published "How universities do, and don't, inform the public about sexual misconduct cases." The newspaper had made a number of records requests to the university for the article. The university complied, but set a high cost.

The University of Kansas handed over cases of sexual assault and violence occurring at the

university spanning from May 2012 to Aug. 2016, charging the paper \$561.

Public records costs at University of Kansas, Lawrence	
Administrator compiling records	Rate
Senior manager	"Based upon the highly paid employee's annual salary/hourly pay rate"
Manager	\$65 per hour
Staff rate	\$33 per hour
Specialized computer retrieval	\$50 per hour

In an editor's note at the top of his article, Mitchell wrote that the university was charging an additional \$132.50 if he wanted the most recent documents for the 2016-2017 academic year. "We ended up letting that go," Mitchell said. "Finances were tight and I felt like the point of the story still got across."

While the Kansas Open Records Act states, "Reasonable fees, not exceeding actual cost, may be charged for access to records, copies of records, and staff time for processing your request," there is little guidance about what that means in practice.

"It stops a lot of the stories from being written," Mitchell said. "I have filed records requests, looked at the bill, and given up on the story."

Kansas State University in Manhattan charged *The Collegian* \$1,375 for sexual assault records the paper requested in September 2016 in collaboration with the *Daily Kansan*.

These hefty fees are not unusual. When the Central Michigan University chapter of the Society of Professional Journalists requested "board of trustees expenses, presidential discretionary spending and sexual assault police incident reports" from 15 Michigan universities, the cost for the public records totaled over \$20,000.

The Me Too effect

How has the Me Too movement and the flood of stories about sexual misconduct affected the cost of public records?

The movement may have helped Mitchell pay for a separate set of sexual assault records requests for the *Daily Kansan*. He created a GoFundMe page in October 2017, right around the time the Me Too movement was heating up. Through donations from university alumni and community members,

Mitchell succeeded in raising the money. The university's bill was \$528.75 after the university lowered it from \$1,057.50.

VanHoutan attributes the timing of the fundraiser to its success. "I don't think that [it] would've happened without the Me Too movement," VanHoutan said.

Carley Lanich, the former editor-in-chief of Indiana University's *Indiana Daily Student*, published an 11,000-word series in September 2017 detailing and criticizing how the university handled sexual assault cases on campus. The series was given accolades by the Hearst Journalism Awards Program and Women's Press Club of Indiana.

Since Me Too, the *IDS* has been "taking a look at different approaches" in reporting on sexual assault, Lanich said. In February 2018, freshman staff writer Jake Taylor wrote a personal essay about sexual harassment he had experienced in high school.



"We just opened up space in the paper and said [to Taylor], 'We're going to give you guidance but we're not going to shape your story. We'll let you tell it,'" Lanich said.

Lanich thinks the Me Too movement was integral in making Taylor's article possible. "I don't know that there would have been the voices ready to step up and make that big, public step of sharing [this] story before the Me Too movement." The style of the essay was also novel. "This is Jake telling his story directly to our audience," Lanich said.

In March, an IU female student who had read Taylor's essay approached Lanich to write about her own account of sexual assault. The essay is still in the works, Lanich said, since the student was not yet emotionally prepared to write it.

This isn't the only instance where student journalists are finding sources who are more willing to come forward.

"Before this movement, every woman that I talked to, I had to come up with some kind of encouragement [for them to speak]," Kirk said. "So after the movement began ... it was invigorating.

And not just for the people who had stories to tell, but for the [journalists] who had previously been fearful of telling these stories.”

Mike Hiestand, the SPLC’s senior legal counsel, provides legal guidelines to student journalists and advisers. The SPLC has seen a dramatic increase in the amount of requests for help on stories about sexual assault and harassment since the fall of 2017.

“We’ve not seen anything like this before,” said Hiestand, who has been affiliated with the SPLC for three decades. “Not to this degree.”

While the sheer number of sources coming forward is helping student journalists, universities are set up in a way that make it hard to do reporting.

Hiestand made the important distinction that in a professional work setting, a sexual assault claim would go through an HR department and the judicial system. “There’s accountability and oversight,” Hiestand said.

But in campus judicial systems, there is “a built-in model for how to keep this stuff quiet.”

He is optimistic for the future of student-led reporting on the topic. “The way that it has changed now, victims [of sexual assault] will not keep quiet.”

Student journalists taking a stand

In East Lansing, Michigan State University’s *The State News* started writing investigative articles about USA and MSU team gymnastics physician Larry Nassar before his years of sexually abusing gymnasts became a national story. The paper

devoted an entire reporting position to the Nassar beat. On Jan. 18, 2018 it ran a front page editorial calling for MSU President Lou Anna K. Simon to resign.

“It’s really extraordinary to see a front-page editorial of any kind, which is advisedly a rare departure for a newspaper, and doubly so when it directly takes on the sitting administration,” SPLC Senior Legal Fellow Frank LoMonte said. “The editorial functions as a smack across the face to the people in power.”

Amid national pressure, Simon stepped down six days later.

In response to the Nassar case, *The Kentucky Kernel* also published a January 2018 front page editorial titled “How Many More.” It called for universities to be more transparent when sexual assault occurred on campus.

“The Me Too movement has emphasized that complicity in this kind of secrecy leads to tragedy,” the editorial said.

And Koch’s article about Caroline, which was criticized by his

university’s president, may turn into one of the more hopeful stories to come out of student-led reporting on sexual assault. It contributed to some small policy changes.

Ten days after his article was published, President Rudd announced seven new steps to tackle sexual assault on campus. These included studies conducted on sexual assaults within each university department.

“I think a lot of good has come out of [the story].” Koch said. “The campus has really changed positively.” ♦

“I don’t know that there would have been the voices ready to step up and make that big, public step of sharing [this] story before the Me Too movement.”

Carley Lanich

Former editor-in-chief, *Indiana Daily Student*

Resources for sexual assault survivors:

- RAINN National Sexual Assault Hotline: (800) 656-4673
- The Clery Center—a list of organizations who focus on preventing campus sexual assault
- National Women’s Law Center— campus resources for preventing sexual assault

Resources for reporters at SPLC.org:

- Webinars about reporting on sexual assault
- Public records letter generator
- Guide to covering campus crime
- Information about FERPA

CHEAT SHEET:

Copyright infringement notices and how to respond to them

TERMS TO KNOW:

- **Copyright** — the creator of a work’s right to control how the work is copied, distributed, displayed, performed and whether new derivative works can be made.
- **Copyright infringement** — Using someone else’s copyright-protected work without permission.

WHAT ARE AUTO-GENERATED COPYRIGHT INFRINGEMENT NOTICES?

Copyright owners can now use bots to find improper uses of their work. These programs can then automatically generate and send a notice of infringement also known as a “cease and desist” letter to whoever was misusing the copyrighted work. These notices typically ask for money and for the infringing material to be removed.

HOW CAN I MAKE SURE I’M NOT INFRINGING COPYRIGHT?

- **Ask Permission:** Copyright owners can give permission to use their work.
- **Pay for a License:** Many copyright holders will let you use their work in exchange for a fee.
- **Use Works in the Public Domain:** Some creative works are not copyrighted or their rights have expired. (Alternative, find works with a Creative Commons License)
- **Create Your Own Work:** Always the best option.

WHAT CAN I DO IF THIS HAPPENS TO ME?

- **Remove the Material:** If possible, try to stop the infringement. This could be something as easy as taking a picture down from a blog post.
- **Research:** Find out who is making the claim. Are they, in fact, the legitimate owner of the copyrighted work? Is this a scam?
- **Check Your Work:** Is your work truly infringing? Did you ask permission, or just copy and paste from another source? Is it fair use?
- **Check the Statute of Limitations:** A statute of limitations sets a cut-off point in time for particular legal claims. A copyright holder can only sue for infringement within three years of discovery.
- **Respond in Writing and Ask for More Information:** Sending an email is a good way to keep a record of what was said.
- **Play the Student Media Card:** Letting the claimant know that you are working on a nonprofit student-edited website with very limited resources may help your case. This is not a legal argument but it may cause them to back down.
- **DO NOT IGNORE THE NOTICE:** Even if you feel that you have done nothing wrong, do not simply ignore the notice. In some cases, this can be interpreted as willful infringement, leading to higher statutory damages or even criminal penalties.

To learn more about copyright, visit SPLC.org

If you receive a copyright infringement notice or want to talk to an attorney about copyright, contact our legal hotline at splc.org/legalhelp.



SPLC QUIZ:

How well do you know copyright law?

(Key at the bottom)

1. Works without copyright notices (for example, “© Copyright 2018 The Student Times”) are not validly copyrighted and can be freely used.
 True False
2. A work can be copyrighted without being formally registered with the U.S. Copyright Office.
 True False
3. Copyright protection for some works — once validly secured — lasts forever.
 True False
4. A school always owns the copyright to work created for school-sponsored student media by student journalists.
 True False
5. Plagiarism and copyright infringement are the same thing.
 True False
6. As long as you accurately credit or attribute a work (for example, “AP Photo/Johnny Doe”) you cannot be held liable for copyright infringement.
 True False
7. As long as you use less than 30 seconds of a copyright-protected song or less than 50 words of copyright-protected text, you cannot be held liable for copyright infringement.
 True False
8. In order to publish copyrighted material that does not belong to you, you must always obtain permission from the copyright owner.
 True False
9. Minors can be sued for copyright infringement.
 True False
10. Facts cannot be protected by a copyright.
 True False

Welp.

0-5

We won't confiscate your pen or keyboard, but you might want to do some reading about student press law.

Not bad.

6-7

... but not great either. You've got some of the basics, but make sure to keep the SPLC bookmarked for all your legal questions.

Outstanding!

8-10

Wipes away tear
We're just so proud!
You have an excellent grasp of the legal issues most likely to confront student media.
Keep it up!

KEY: 1) FALSE, 2) TRUE, 3) FALSE, 4) FALSE, 5) FALSE, 6) FALSE, 7) FALSE, 8) FALSE, 9) TRUE, 10) TRUE

JAN. 30, 2019

**STUDENT
PRESS
FREEDOM
DAY**

Plan an event ♦ Write an editorial
Post on social media ♦ Use your voice!

SPLC.org/student-press-freedom-day

COURAGE IN STUDENT JOURNALISM AWARD (HIGH SCHOOL)

For their ingenuity and daring to publish a story about the firing of a popular teacher on a website they created after it was censored from their newspaper, Conor Spahr and Max Gordon are the recipients of the 2018 Courage in Student Journalism Award.

Read more about *The Telegraph* (later, *The Telegram*) at SPLC.org



“ I hope our story can show all high school journalists that if there is a story you feel is important, go for it.

Max Gordon
Editor-in-chief, *The Telegram*

REVEILLE SEVEN PRESS FREEDOM AWARD (COLLEGE)



For doggedly exposing controversies involving campus and local police, *The Southwestern College Sun* is the recipient of the Student Press Law Center’s 2018 Reveille Seven College Press Freedom Award.

Read more about *The Sun’s* coverage at SPLC.org

“ We ignored all the hate and pushback and did our jobs as journalists.

Alyssa Pajarillo
Editor-in-chief, *The Sun*

“ The culture at *The Sun* is to speak truth to power and hold the powerful accountable.

Hadar Harris
Executive Director, Student Press Law Center



HEAD COUNT

Concussions are a serious problem in youth sports. But in many states, it's nearly impossible to get accurate numbers about them.

by: Taylor Potter

Photo: Flickr / Ron Cogswell

Over the last decade, sports concussions have become an increasingly high-profile topic at all levels of competition, from children's leagues to professionals.

Research and coverage have sparked calls from former NFL players to keep children from playing tackle football until high school. In 2011, more than 20,000 former players sued the NFL and accused the league of hiding the dangers of concussions and head trauma.

Munro Cullum Ph.D, a professor of psychiatry, neurology, and neurotherapeutics and neurological surgery with the Peter O'Donnell Brain Institute at the University of Texas Southwestern, says youth sports concussions are not an issue to be taken lightly. Cullum said one of the biggest issues is identifying a concussion in an athlete and removing them from play before they sustain another serious hit.

"What we want to avoid in those cases is them getting another concussion before the brain is healed," Cullum said. "That's the so-called 'Second Impact Syndrome.' If the brain sustains some swelling from one hit, and it's not protected, and another ... concussion occurs within that window of prior recover, the swelling can become significant and the symptoms may get either really bad or potentially [lead to] death."

According to the Weill Cornell Concussion and Brain Injury Clinic, about 500,000 children visit emergency rooms each year for traumatic brain injuries, making them the leading cause

for emergency room trips for adolescents. Children often take longer to recover from a concussion than adults. While most children are able to recover from a concussion, subsequent concussions before the brain is fully recovered can have life-altering consequences.

But reporters looking at concussions at the high school and college level face significant barriers in obtaining the data needed for these stories. School officials often deny requests for generalized concussion data, incorrectly citing privacy laws such as the Family Educational Rights and Privacy Act. Sometimes concussion information isn't being tracked in the first place.

PRIVACY LAWS

As part of his sports beat assignment for class at Doane University in Crete, Nebraska, Trey Perry wanted to do more than the cut-and-dry game coverage and athlete features on the sports beat. He decided to take a look at athlete health at Doane, specifically concussions and CTE, a degenerative brain disease sometimes found in those with a history of repetitive head injuries.

When he did a story on the school's new concussion protocol, the athletic department was happy to help. But as soon as he started asking for concussion numbers — specifically, the number of concussions in all sports for the last five years — he was stonewalled.

"They have been declining hardcore in giving me any numbers," Perry, a junior, said. "And I made

it clear that I don't want to get anybody's names because I know that would violate privacy [laws]."

Perry said when he first asked the school's head athletic trainer for the numbers, the trainer cited FERPA and the Health Insurance Portability and Accountability Act. He said his subsequent requests were denied when officials cited only HIPAA.

Mike Hiestand, senior legal counsel for the Student Press Law Center, said the two statutes shouldn't apply to concussion statistics.

"Both FERPA and HIPAA require that, in order to be a violation, there has to be information that personally identifies somebody," Hiestand said. "Statistical data doesn't identify people."

Hiestand also said that, even if the data could be used to identify someone, the concussion records may not count as an educational record, which FERPA was designed to protect.

"A medical, statistical report that says 'we had three football players injured this year, suffered concussions,' that doesn't have anything [to do] with the student's educational life," he said.

While working on his story, Perry contacted at least 17 different people or places in looking for information, including the office that supervises the university's athletic trainers and the local hospital, but with little success.

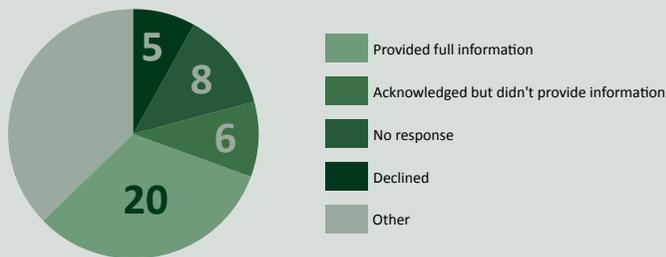
Perry's situation isn't unique. In December 2016, *Media Milwaukee*, the student newspaper at the University of Wisconsin-Milwaukee, published a story on their attempt to obtain concussion data from state high schools and districts.

Over the course of the three-month investigation, the *Media Milwaukee* team sent open records requests to more than 200 school districts. Only 68 responded, and, of those, just 19 provided any concussion or football injury data. According to the report, some of the districts that declined argued that privacy laws prevented them from releasing the information. Others said they were "too busy" to fulfill the request or said the district did not keep that information.

Reporters for *The Atlanta Journal-Constitution* did a story on the concussion data for 62 college athletic programs, but several programs did

not provide the information. The University of Alabama also cited privacy statutes. The University of Kentucky refused to release numbers broken down by sport — citing federal student privacy laws — though it did release totals for all sports. Of the 62 teams surveyed, five declined to give the information, eight did not respond and six acknowledged the request, but never provided the information.

The *Atlanta Journal-Constitution* surveyed 62 college athletic programs about concussions. 19 didn't provide the information.



Lee van der Voo, an Oregon-based journalist and managing director for Investigate West, a nonprofit news organization that focuses on investigative and explanatory journalism in the Pacific Northwest, requested "return to play" forms from Oregon's 235 public high schools.

She said the Oregon Schools Board Association told schools to redact the majority of the form because it believed much of the information could not be disclosed due to FERPA. She said they got a form from one school that was useless after the redaction. But Voo said they won an appeals process, which has sped up the process.

"We have a [district attorney] opinion that...even though it only applies to this particular set of records, it seems to be persuasive enough in other circumstances that it's helping us get things rolling," she said.

With the number of schools involved and some of the confusion over privacy laws, Voo said it was a "herding cats" situation. She said one district believed the records couldn't be released because they were subject to HIPAA.

"It seems to me like such a serious thing that they may want to be monitoring it."

Jessica McBride

Professor, University of Wisconsin – Milwaukee

The main issue, though, were schools that simply did not respond. She said they have had to send numerous follow-up requests to get a response. Out of the 235 schools contacted, 135 did not respond, she said.



After his numerous attempts to get Doane's concussion data, Perry published a story in April about Doane's lack of concussion tracking policies.

"Since concussions are such a huge issue, I feel like the public, especially the students here at Doane, would definitely appreciate somebody writing something on it," Perry said. "It's just snowballed into this huge thing."

CONCUSSION TRACKING

In many cases, the availability of concussion data depends on whether the school actually tracks the numbers in question. Many states and high school athletic organizations do not require districts to record concussion or injury data, and neither the National Association of Intercollegiate Athletics or the National Collegiate Athletic Association require member schools to track concussion numbers, though the NCAA embarked on a \$30 million partnership with the Department of Defense for a concussion study.

The *Atlanta Journal-Constitution's* report noted that a number of high-profile athletic programs, including Auburn, Florida State, LSU and Ole Miss, said they did not have records tracking concussions by sport.

The *Media Milwaukee* report also found that the Wisconsin Interscholastic Athletic Association did not require schools to have a written concussion program, and the state's central collection point for injury data only included "catastrophic"

injuries, such as a broken neck or paralysis. The paper's research indicated the state did not have a requirement that schools record or report concussion data.

State standards for tracking concussion data vary widely from state to state. For example, California has no centralized data collection system for concussion information, nor does it require individual schools or districts to track concussion data.

States that do not require schools to track concussion data include:

- Arizona
- California
- Georgia
- Iowa
- Kansas
- Nebraska
- North Carolina
- Oregon
- Wisconsin
- Wyoming

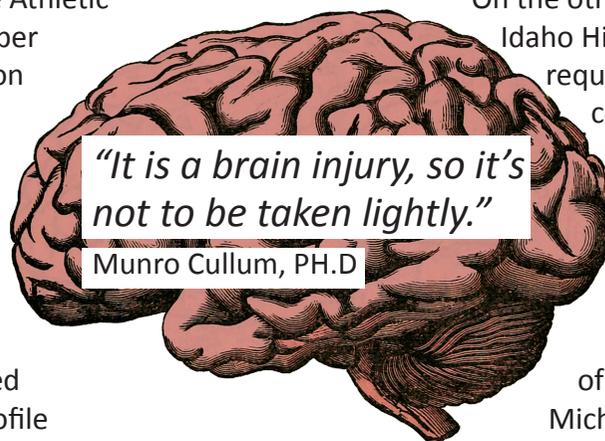
Some states that require schools to track, but do not have a reporting system:

- Delaware
- Ohio
- Utah
- Washington

On the other end of the spectrum, the Idaho High School Activities Association requires schools to report their concussion numbers for each sanctioned activity through a portal on the organization's website. Michigan, Connecticut and Hawaii have similar practices. Michigan, for example, posts a summary of their concussion data on the Michigan High School Athletic Association website.

Some states with a mandatory central reporting system:

- Connecticut
- Hawaii
- Idaho
- Michigan



Some states with an optional central reporting system:

- Indiana
- New Mexico
- Texas

CONCUSSION REGISTRY

In 2016, Texas, which has more high school athletes than any other state, according to the National Federation of State High School Associations' participation survey, launched the nation's largest effort to track concussions among high school athletes.

Texas' University Interscholastic League — its main body for high school activity governance — began a partnership with the University of Texas Southwestern Medical Center's Peter O'Donnell Jr. Brain Institute to monitor concussions across the state. Cullum, who heads the institute, said the goal is to learn how many concussions are happening and to determine some best practices with the data.

When a school or district signs on to the program, the athletic trainer is expected to submit information to the registry through a mobile app. It is an extra step, Cullum said, but most of the information trainers already collect as part of the routine concussion evaluation.

The system is currently optional, though Cullum said the UIL has indicated it may be willing to make it mandatory starting in fall of 2018.

"We've got about a third of districts expressing interest in participating in the registry," Cullum said. "We're getting there. We're moving in the right direction."

Creating this new process wasn't without its problems. Cullum said there have been some roadblocks, such as parents' concerns about privacy, though he said the registry has a HIPAA

and FERPA-secure cloud-based system.

The Indiana High School Athletic Association also has a centralized reporting system, though it has been plagued by other issues. IHSAA Assistant Commissioner Robert Faulkens said the system is optional and many schools have stopped reporting. He said they also often reported suspected concussions as confirmed concussions, so the number of incidents was "grossly misrepresented."

Still, a central reporting process can make obtaining the data easier for reporters. Instead of sending hundreds of requests to schools in a state, they could potentially contact the organization spearheading the registry. Many of the states with centralized reporting publish annual reports showing the number of concussions, such as Michigan.

Jessica McBride, the University of Wisconsin-Milwaukee professor who oversaw students' work on the concussion story, said their project would have been doable if Wisconsin had a central reporting system like Michigan.

"It would have allowed us to know, and it would have been easy," McBride said. "It seems to me like such a serious thing that they may want to be monitoring it."

Though there are challenges in implementing complex reporting systems, the results — like those the UIL system hopes for — could have a huge role in improving player safety. And with the NFL reporting a six-year high for concussions in 2017, tracking instances of concussions could be more important than ever.

"It is a brain injury, so it's not to be taken lightly," Cullum said. "Public awareness has certainly grown with respect to the identification of a concussion. I think it's on many people's minds now, certainly more so than it was 10 or 20 years ago." ♦

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